

SCHEDULE

Amendment of primary and secondary legislation

PART 1

Amendment of primary legislation

Amendment of the Maintenance Orders Act 1950

- 9.**—(1) The Maintenance Orders Act 1950(1) is amended as follows.
- (2) In section 15 (service of process), omit subsection (1)(a)(vi) and the “or” following it.
- (3) In section 22 (discharge and variation of maintenance orders)—
- (a) in subsection (1), omit “Subject to subsection (1ZA),”;
 - (b) omit subsection (1ZA).

Amendment of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966

- 10.**—(1) The Maintenance and Affiliation Orders Act (Northern Ireland) 1966(2) is amended as follows.
- (2) In section 10 (orders to which this Part applies)—
- (a) omit subsection (6);
 - (b) omit subsection (7).
- (3) In section 13A, in subsection (1), omit “or section 10(6)”.

Amendment of the Administration of Justice Act 1970

- 11.** In Schedule 8 (maintenance orders for purposes of 1958 Act and Part II of this Act) to the Administration of Justice Act 1970(3) omit paragraph 13B.

Amendment of the Attachment of Earnings Act 1971

- 12.** In Schedule 1 (maintenance orders to which this Act applies) to the Attachment of Earnings Act 1971(4) omit paragraph 14A.

Amendment of the Maintenance Orders (Reciprocal Enforcement) Act 1972

- 13.**—(1) The Maintenance Orders (Reciprocal Enforcement) Act 1972(5) is amended as follows.
- (2) In section 4 (power of sheriff to make provisional maintenance order against person residing in reciprocating country)—
- (a) for subsection (1) substitute—

“(1) In any action where the sheriff has jurisdiction by virtue of subsection (2) and the defender resides in a reciprocating country, any maintenance order granted by the sheriff shall be a provisional order.”;

(1) 1950 c. 37. Section 15(1) was amended by paragraph 11 of Schedule 3 to the Administration of Justice Act 1977 (c. 38.) and S.I. 2011/1484. There are other amending instruments but none is relevant.

(2) 1966 c. 35 (N.I.). Section 10(5) was inserted by paragraph 5 of the Schedule to the Maintenance Orders (Reciprocal Enforcement) Act 1972. The other relevant amending instruments are S.I. 1993/1576 (N.I. 6), 2011/1484, S.R. 2012/413.

(3) 1970 c. 31; relevant amending instruments are S.I. 2011/1484, 2012/2814, 2014/605 (L. 9).

(4) 1971 c. 32; relevant amending instruments are S.I. 2011/1484, 2012/2814, 2014/605 (L. 9).

(5) 1972 c. 18. Sections 35 and 35A were substituted by paragraph 16 of Schedule 1 to the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56). The other relevant amending instrument is S.I. 2012/2814.

(b) after subsection (1) insert—

“(2) In matters relating to maintenance, a person may be sued in the courts for the place where the pursuer is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which has jurisdiction to entertain those proceedings, provided that an action for adherence and aliment or of affiliation and aliment shall be treated as a matter relating to maintenance which is not ancillary to proceedings concerning the status of a person.”;

(c) omit subsection (7).

(3) In section 35 (further provisions with respect to variation etc. of orders by the family court in England and Wales) omit—

(a) subsection (1B);

(b) subsection (4).

(4) In section 35A (further provisions with respect to variation etc of orders by magistrates’ courts in Northern Ireland) omit—

(a) subsection (1B);

(b) subsection (4).

Amendment of the Matrimonial Causes Act 1973

14.—(1) The Matrimonial Causes Act 1973(6) is amended as follows.

(2) In section 27 (financial provision orders in cases of neglect to maintain), for subsection (2), substitute—

“(2) The court may not entertain an application under this section unless—

(a) the applicant or the respondent is domiciled in England and Wales on the date of the application;

(b) the applicant has been habitually resident there throughout the period of one year ending with that date; or

(c) the respondent is resident there on that date.”.

(3) In section 35 (alteration of agreements by court during lives of parties)—

(a) in subsection (1), omit “, subject to subsections (1A) and (3) below,”;

(b) omit subsection (1A).

(4) In section 52 (interpretation), in subsection (1), omit the definition of “the Maintenance Regulation”.

Amendment of the Domicile and Matrimonial Proceedings Act 1973

15.—(1) The Domicile and Matrimonial Proceedings Act 1973(7) is amended as follows.

(2) In section 5 (jurisdiction of High Court and family court)—

(a) in subsection (1A)—

(i) omit the definition of “the Council Regulation”;

(ii) omit the definition of “Contracting State”;

(6) 1973 c. 18, amended by S.I. 2011/1484; there are other amending instruments but none is relevant.

(7) 1973 c. 45. Section 5 was amended by paragraph 66 to Schedule 11 of Crime and Courts Act 2013 (c. 22) and S.I. 2001/310; 2005/265, section 10 was amended by S.I. 2011/1484 and schedule 1 was amended by S.I. 2001/310. There are other amending instruments but none is relevant.

- (b) in subsection (2) for the words from “if)—” to the end substitute “if) on the date of the application—
- “(a) both parties to the marriage are habitually resident in England and Wales;
 - (b) both parties to the marriage were last habitually resident in England and Wales and one of them continues to reside there;
 - (c) the respondent is habitually resident in England and Wales;
 - (d) the applicant is habitually resident in England and Wales and has resided there for at least one year immediately before the application was made;
 - (e) the applicant is domiciled and habitually resident in England and Wales and has resided there for at least six months immediately before the application was made;
 - (f) both parties to the marriage are domiciled in England and Wales; or
 - (g) either of the parties to the marriage is domiciled in England and Wales.”;
- (c) in subsection (3) for the words from “if)—” to the end substitute “if) on the date of the application—
- “(a) both parties to the marriage are habitually resident in England and Wales;
 - (b) both parties to the marriage were last habitually resident in England and Wales and one of them continues to reside there;
 - (c) the respondent is habitually resident in England and Wales;
 - (d) the applicant is habitually resident in England and Wales and has resided there for at least one year immediately before the application was made;
 - (e) the applicant is domiciled and habitually resident in England and Wales and has resided there for at least six months immediately before the application was made;
 - (f) both parties to the marriage are domiciled in England and Wales; or
 - (g) either of the parties to the marriage—
 - (i) is domiciled in England and Wales; or
 - (ii) died before the application was made and either was at death domiciled in England and Wales or had been habitually resident in England and Wales throughout the period of one year ending with the date of death.”;
- (d) omit subsection (6A).
- (3) In section 10 (ancillary and collateral orders) omit—
- (a) subsection (1C);
 - (b) subsection (1D).
- (4) In Schedule 1 (staying of matrimonial proceedings (England and Wales)), in paragraph 9(1), omit “, other than proceedings governed by the Council Regulation.”.

Amendment of the Matrimonial Causes (Northern Ireland) Order 1978

- 16.**—(1) The Matrimonial Causes (Northern Ireland) Order 1978⁽⁸⁾ is amended as follows.
- (2) In Article 2 (interpretation) omit the definition of “the Maintenance Regulation”.
- (3) In Article 37 (alteration of agreements by the court, or by a court of summary jurisdiction, during the lives of the parties)—
- (a) in paragraph (1), for “paragraphs (1A) and” substitute “paragraph”;

⁽⁸⁾ S.I. 1978/1045 (N.I. 15), relevant amending instruments are S.I. 2001/660, 2005/265, 2011/1484.

- (b) omit paragraph (1A).
- (4) In Article 49 (jurisdiction of court)—
 - (a) in paragraph (2), for the words from “if)—” to the end substitute “if) on the date of the application—
 - “(a) both parties to the marriage are habitually resident in Northern Ireland;
 - (b) both parties to the marriage were last habitually resident in Northern Ireland and one of them continues to reside there;
 - (c) the respondent is habitually resident in Northern Ireland;
 - (d) the applicant is habitually resident in Northern Ireland and has resided there for at least one year immediately before the application was made;
 - (e) the applicant is domiciled and habitually resident in Northern Ireland and has resided there for at least six months immediately before the application was made;
 - (f) both parties to the marriage are domiciled in Northern Ireland; or
 - (g) either of the parties to the marriage is domiciled in Northern Ireland.”;
 - (b) in paragraph (3), for the words from “if)—” to the end substitute “if) on the date of the application—
 - “(a) both parties to the marriage are habitually resident in Northern Ireland;
 - (b) both parties to the marriage were last habitually resident in Northern Ireland and one of them continues to reside there;
 - (c) the respondent is habitually resident in Northern Ireland;
 - (d) the applicant is habitually resident in Northern Ireland and has resided there for at least one year immediately before the application was made;
 - (e) the applicant is domiciled and habitually resident in Northern Ireland and has resided there for at least six months immediately before the application was made;
 - (f) both parties to the marriage are domiciled in Northern Ireland; or
 - (g) either of the parties to the marriage—
 - (i) is domiciled in Northern Ireland; or
 - (ii) died before the application was made and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of one year ending with the date of death.”;
 - (c) omit paragraph (3A);
 - (d) for paragraph (5) substitute—
 - “(5) The court has jurisdiction to entertain an application for financial provision under Article 29 if (and only if)—
 - (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application;
 - (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
 - (c) the respondent is resident there on that date.”;
 - (e) omit paragraph (8).
- (5) In paragraph 9 of Schedule 1 (staying of matrimonial proceedings), in sub-paragraph (1), omit “, other than proceedings governed by the Council Regulation.”

Amendment of the Domestic Proceedings (Northern Ireland) Order 1980

17. In Article 32 (jurisdiction) of the Domestic Proceedings (Northern Ireland) Order 1980(9)—
- (a) in paragraph (1), omit “paragraph (1A) and to”;
 - (b) omit paragraph (1A);
 - (c) omit paragraph (6).

Amendment of the Magistrates’ Courts (Northern Ireland) Order 1981

- 18.—(1) The Magistrates’ Courts (Northern Ireland) Order 1981(10) is amended as follows.
- (2) In Article 86 (revocation, suspension, variation, etc., of orders for periodical payments), in paragraph (1A), omit sub-paragraph (a).
- (3) In Article 87 (remission of arrears and manner in which arrears to be paid)—
- (a) in paragraph (1A), omit sub-paragraph (a);
 - (b) in paragraph (7), in the definition of “non-Northern Ireland maintenance order”—
 - (i) at the end of paragraph (b) insert “or”;
 - (ii) omit paragraph (d) and the “or” preceding it.
- (4) In Article 88 (nature of domestic proceedings), in paragraph (a), omit “or under Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark”.
- (5) In Article 98 (enforcement of orders for periodical payment of money)—
- (a) in paragraph (1A), omit sub-paragraph (a);
 - (b) in paragraph (11), omit sub-paragraph (bb);
 - (c) in paragraph (13), omit sub-paragraph (a).

Amendment of the Senior Courts Act 1981

19. In Schedule 1 (distribution of business in High Court) to the Senior Courts Act 1981(11) omit paragraph 3(f)(v).

Amendment of the Civil Jurisdiction and Judgments Act 1982

- 20.—(1) The Civil Jurisdiction and Judgments Act 1982(12) is amended as follows.
- (2) In section 1 (interpretation of references to the Conventions and Contracting States)—
- (a) in subsection (1), omit the definition of “the Maintenance Regulation”;
 - (b) in subsection (3), omit the definition of “Maintenance Regulation State”.
- (3) In section 16 (allocation within UK of jurisdiction in certain civil proceedings), in subsection (4), omit “Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011,”.
- (4) In section 18 (enforcement of UK judgments in other parts of the UK), in subsection (7), omit “or by virtue of the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011”.

(9) [S.I. 1980/563 \(N.I. 5\)](#). Article 32 was amended by paragraph 34 of Schedule 1 to the Family Law Act 1986 (c. 55), paragraph 81 of Schedule 1 to the Justice Act (Northern Ireland) 2015 and [S.I. 2011/1484](#). There are other amending instruments but none is relevant.

(10) [S.I. 1981/1675 \(N.I. 26\)](#), amended by [S.I. 2011/1484](#); there are other amending instruments but none is relevant.

(11) [1981 c. 54](#). The Senior Courts Act 1981 was renamed by paragraph 1(1) of Schedule 11 to the Constitutional Reform Act 2005 (c. 4), the other relevant amending instrument is [S.I. 2005/265](#).

(12) [1982 c. 27](#), amended by [S.I. 2011/1484](#); there are other amending instruments but none is relevant.

(5) In section 20 (rules as to jurisdiction in Scotland), omit subsection (3)(b) and the “and” preceding it.

(6) In section 24 (interim relief and protective measures in cases of doubtful jurisdiction)—

(a) in subsection (1), omit paragraph (d);

(b) in subsection (2), omit paragraph (d).

(7) In section 25 (interim relief in England and Wales and Northern Ireland in the absence of substantive proceedings)—

(a) in subsection (1)—

(i) in paragraph (a), omit “or a Maintenance Regulation State”;

(ii) in paragraph (b), omit—

(aa) “within the scope of the Maintenance Regulation as determined by Article 1 of that Regulation,”;

(bb) “, the Maintenance Regulation,”;

(b) in subsection (3)—

(i) in paragraph (a), omit “or a Maintenance Regulation State”;

(ii) in paragraph (b), omit “the Maintenance Regulation as determined by Article 1 of that Regulation”.

(8) In section 27 (provisional and protective measures in Scotland in the absence of substantive proceedings)—

(a) in subsection (2)—

(i) in paragraph (a), omit “in another Maintenance Regulation State,”;

(ii) in paragraph (b), omit “is within scope of the Maintenance Regulation as determined by Article 1 of that Regulation or”;

(b) in subsection (3)—

(i) in paragraph (a), omit “Maintenance Regulation State or”;

(ii) in paragraph (b), omit “the Maintenance Regulation as determined by Article 1 of that Regulation or”;

(iii) in paragraph (d), omit “Maintenance Regulation State”.

(9) In section 28 (application of s 1 of Administration of Justice (Scotland) Act 1972), omit subsection (2).

(10) In section 32 (overseas judgments given in proceedings brought in breach of agreement for settlement of disputes), in subsection (4), in paragraph (a) omit “or the Maintenance Regulation”.

(11) In section 33 (certain steps not to amount to submission to jurisdiction of overseas court), in subsection (2), omit “the Maintenance Regulation or”.

(12) In section 48 (matters for which rules of court may provide)—

(a) in subsection (1), omit “the Maintenance Regulation,”;

(b) in subsection (2), omit—

(i) paragraph (b);

(ii) paragraph (c);

(c) in subsection (3)—

(i) omit “the Maintenance Regulation,”;

(ii) in paragraph (a), in both places, omit “Maintenance Regulation State or”;

- (iii) in paragraph (b), omit “Maintenance Regulation States or”;
 - (iv) in paragraph (e), omit “Maintenance Regulation State or”;
 - (v) in paragraph (g), omit “Maintenance Regulation States or”.
- (13) In section 50 omit the definitions of—
- (a) “the Maintenance Regulation”;
 - (b) “Maintenance Regulation State”.

Amendment of the Matrimonial and Family Proceedings Act 1984

- 21.**—(1) The Matrimonial and Family Proceedings Act 1984(**13**) is amended as follows.
- (2) In section 15 (jurisdiction of the court)—
- (a) omit “Subject to subsections (1A) and (2) below,”;
 - (b) omit subsection (1A);
 - (c) omit subsection (3).
- (3) In section 16 (duty of the court to consider whether England and Wales is appropriate venue for application)—
- (a) in subsection (1), omit “Subject to subsection (3),”;
 - (b) omit subsection (3);
 - (c) omit subsection (4).
- (4) In section 28 (circumstances in which a Scottish court may entertain application for financial provision)—
- (a) in subsection (1), omit “, subject to subsections (3A) and (4) below,”;
 - (b) omit subsection (3A);
 - (c) omit subsection (5).

Amendment of the Child Abduction and Custody Act 1985

- 22.**—(1) The Child Abduction and Custody Act 1985(**14**) is amended as follows.
- (2) In section 1 (the Hague Convention), omit—
- (a) subsection (3);
 - (b) subsection (4).
- (3) In section 12 (the European Convention), omit—
- (a) subsection (3);
 - (b) subsection (4).

Amendment of the Family Law Act 1986

- 23.**—(1) The Family Law Act 1986(**15**) is amended as follows.
- (2) In section 2 (jurisdiction: general)—
- (a) in subsections (1)(a), (2C)(a) and (3)(a), omit “the Council Regulation or”;

(13) 1984 c. 42, as amended by S.I. 2011/1484; there are other amending instruments but none is relevant.

(14) 1985 c. 60, amended by S.I. 2005/42, 2005/265.

(15) 1986 c. 55. Section (2C) was inserted by section 9(6) of the Children and Families Act 2014 (c. 6). The other relevant amending instruments are S.I. 1995/755, 2005/265, 2010/1898.

- (b) in subsections (1)(b), (2C)(b) and (3)(b), for the words from “neither” to “applies” substitute “the Hague Convention does not apply”.
- (3) In section 5 (power of court to refuse application or stay proceedings)—
 - (a) in subsection (2)—
 - (i) at the end of paragraph (b) insert “or”;
 - (ii) omit paragraph (c) and the “or” following it;
 - (iii) in the words after subsection (d), omit “Article 15 of the Council Regulation or”;
 - (b) omit subsection (3A);
 - (c) in subsection (3B)—
 - (i) omit “or (3A)”;
 - (ii) omit “, (3A)”;
 - (d) in subsection (4), omit “so far as it relates to proceedings not governed by the Council Regulation”.
- (4) In section 19 (jurisdiction: general)—
 - (a) in subsections (1)(a) and (3)(a), omit “the Council Regulation or”;
 - (b) in subsections (1)(b) and (3)(b), for the words from “neither” to “applies” substitute “the Hague Convention does not apply”.
- (5) In section 22 (power of court to refuse application or stay proceedings)—
 - (a) in subsection (2)—
 - (i) at the end of paragraph (b) insert “or”;
 - (ii) omit paragraph (c);
 - (iii) in the words after subsection (d), omit “Article 15 of the Council Regulation or”;
 - (b) omit subsection (3A);
 - (c) in subsection (4), omit “so far as it relates to proceedings not governed by the Council Regulation”.
- (6) In section 42 (general interpretation of Part I), in subsection (1), omit the definition of “the Council Regulation”.
- (7) In section 45—
 - (a) in subsection (1), omit “subsection (2) of this section and to”;
 - (b) omit subsection (2).
- (8) In section 54, in subsection (1), omit the definition of “the Council Regulation”.

Amendment of the Debtors (Scotland) Act 1987

- 24.**—(1) The Debtors (Scotland) Act 1987(16) is amended as follows.
- (2) In section 54 (current maintenance arrestment to be preceded by default)—
- (a) in subsection (1)(a)(i), omit “, (aa)”;
 - (b) in subsection (1)(a)(ii), omit “, (ga)”;
 - (c) in subsection (2)(a), omit “, (ga)”;
 - (d) omit subsection (5).

(16) 1987 c. 18; relevant amending instruments are S.I. 2011/1484, S.S.I. 2012/301.

(3) In subsection 55 (review and termination of current maintenance arrestment), in subsection (9), omit “, (ga)”.

(4) In section 66 (recall and variation of conjoined arrestment order), in subsection (5), omit “, (ga)”.

(5) In section 73 (interpretation of Part III), in subsection (1), in the definition of “decree or other document”, omit paragraph (f).

(6) In section 73A (arrestment and action of furthcoming to proceed only on decree or document of debt), in subsection (4), in the definition of “document of debt”, omit paragraph (c).

(7) In section 106 (interpretation) omit—

(a) the definition of “the 2011 Regulations”;

(b) in the definition of “maintenance order”—

(i) paragraph (aa);

(ii) paragraph (ga);

(c) the definition of “the Maintenance Regulation”.

Amendment of the Children Act 1989

25.—(1) Schedule 1 (financial provision for children) to the Children Act 1989⁽¹⁷⁾ is amended as follows.

(2) In paragraph 10 (alteration of maintenance agreements) omit—

(a) in sub-paragraph (2), “Subject to sub-paragraph (2A),”;

(b) sub-paragraph (2A);

(c) sub-paragraph (2B).

(3) For paragraph 14 (jurisdiction in matters relating to maintenance) substitute—

“**14.**—(1) Where one parent of a child lives in England and Wales and the child lives outside England and Wales with—

(a) another parent of the child;

(b) a guardian or special guardian of the child; or

(c) a person in whose favour a child arrangements order is in force with respect to the child,

the court has power, on an application made by any of the persons mentioned in paragraphs (a) to (c), to make one or both of the orders mentioned in paragraph 1(2)(a) and (b) against the parent living in England and Wales.

(2) Any reference in this Act to the powers of the court under paragraph 1(2) or to an order made under paragraph 1(2) includes a reference to the powers which the court has by virtue of sub-paragraph (1) or (as the case may be) to an order made by virtue of sub-paragraph (1).”.

Amendment of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989

26.—(1) The Matrimonial and Family Proceedings (Northern Ireland) Order 1989⁽¹⁸⁾ is amended as follows.

(2) In Article 19 (jurisdiction of the court)—

⁽¹⁷⁾ 1989 c. 41; relevant amending instruments are S.I. 2011/1484, 2012/2814.

⁽¹⁸⁾ S.I. 1989/677 (N.I. 4), amended by S.I. 2011/1484; there are other amending instruments but none is relevant.

- (a) in paragraph (1), omit “Subject to paragraphs (1A) and (2),”;
 - (b) omit paragraph (1A);
 - (c) omit paragraph (3).
- (3) In Article 20 (duty of the court to consider whether Northern Ireland is the appropriate venue for application)—
- (a) in paragraph (1), omit “Subject to paragraph (3),”;
 - (b) omit paragraph (3);
 - (c) omit paragraph (4).

Amendment of the Child Support Act 1991

27. In section 44 (jurisdiction) of the Child Support Act 1991(19) omit—
- (a) subsection (4);
 - (b) subsection (5).

Amendment of the Child Support (Northern Ireland) Order 1991

28. In Article 41 (jurisdiction) of the Child Support (Northern Ireland) Order 1991(20) omit—
- (a) paragraph (4);
 - (b) paragraph (5).

Amendment of the Social Security Administration Act 1992

29. In section 108 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State) of the Social Security Administration Act 1992(21)—
- (a) in subsection (4), omit paragraph (aa);
 - (b) omit subsection (9).

Amendment of the Social Security Administration (Northern Ireland) Act 1992

30. In section 103 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department) of the Social Security Administration (Northern Ireland) Act 1992(22)—
- (a) in subsection (4), omit paragraph (aa);
 - (b) omit subsection (9).

Amendment of the Children (Northern Ireland) Order 1995

- 31.—(1) Schedule 1 to the Children (Northern Ireland) Order 1995(23) is amended as follows.
- (2) In paragraph 12 (alteration of maintenance agreements)—
- (a) in sub-paragraph (2), omit “Subject to sub-paragraph (2A),”;

(19) 1991 c. 48, amended by S.I. 2011/1484; there are other amending instruments but none is relevant.

(20) S.I. 1991/2628 (N.I. 23), amended by S.I. 2011/1484; there are other amending instruments but none is relevant.

(21) 1992 c. 5. Section 108 was amended S.I. 2011/1484; section 108 is prospectively repealed by sections 9(3)(b) and 58(1) of and Schedule 7 to the Welfare Reform Act 2009 (c.24). There are other amending instruments but none is relevant.

(22) 1992 c. 8. Section 103 was amended by S.I. 2011/1484; section 103 is prospectively repealed by sections 9(3)(b) and 34(1) of and Schedule 4 to the Welfare Reform (Northern Ireland) Act 2010 (c.13 (N.I.)). There are other amending instruments but none is relevant.

(23) S.I. 1995/755 (N.I. 2), amended by S.I. 2011/1484.

- (b) omit sub-paragraph (2A);
 - (c) omit sub-paragraph (2B).
- (3) For paragraph 16 (jurisdiction in relation to matters relating to maintenance) substitute—

“**16.**—(1) Where one parent of a child lives in Northern Ireland and the child lives outside Northern Ireland with—

- (a) another parent of the child;
- (b) a guardian of the child; or
- (c) a person in whose favour a residence order is in force with respect to the child,

the court has power, on an application made by any of the persons mentioned in heads (a) to (c), to make one or both of the orders mentioned in paragraph 2(2)(a) and (b) against the parent living in Northern Ireland.

(2) Any reference in this Order to the powers of the court under paragraph 2(2) or to an order made under paragraph 2(2) shall include a reference to the powers which the court has by virtue of sub-paragraph (1) or (as the case may be) to an order made by virtue of sub-paragraph (1).”.

Amendment of the Debt Arrangement and Attachment (Scotland) Act 2002

32. In section 10 (attachment) of the Debt Arrangement and Attachment (Scotland) Act 2002(24), in subsection (5)—

- (a) omit the definition of “the 2011 Regulations”;
- (b) in the definition of “document of debt”—
 - (i) for paragraph (c) substitute—
 - “(c) a court settlement or authentic instrument (within the meaning of Article 3 of the Hague Convention) which is registered in the sheriff court under the Hague Convention;”;
 - (ii) omit the definition of “the Maintenance Regulation” and the “and” which precedes it.

Amendment of the Civil Partnership Act 2004

33.—(1) The Civil Partnership Act 2004(25) is amended as follows.

(2) In section 227 (Scottish ancillary and collateral orders)—

- (a) in subsection (3), for “subsections (3A) and (3B)” substitute “subsection (3A)”;
- (b) omit subsection (3B);
- (c) omit subsection (6).

(3) In Schedule 5 (financial relief: provision corresponding to provision made by Part 2 of the Matrimonial Causes Act 1973), in Part 9 (failure to maintain: financial provision (and interim orders)), in paragraph 39 (circumstances in which orders under this Part may be made)—

(a) for sub-paragraph (2) substitute—

“(2) The court must not entertain an application under this paragraph unless—

- (a) the applicant or the respondent is domiciled in England and Wales on the date of the application,

(24) 2002 asp. 17, amended by S.S.I 2012/301.

(25) 2004 c. 33, amended by S.I. 2011/1484.

- (b) the applicant has been habitually resident there throughout the period of 1 year ending with that date, or
 - (c) the respondent is resident there on that date.”;
- (b) omit sub-paragraph (5).
- (4) In Schedule 5, in Part 13 (consent orders and maintenance agreements), in paragraph 69 (alternation of agreements by court during lives of parties)—
 - (a) in sub-paragraph (1), omit “Subject to sub-paragraph (1A),”;
 - (b) omit sub-paragraph (1A);
 - (c) omit sub-paragraph (7).
- (5) In Schedule 6, in Part 8 (financial relief: provision corresponding to provision made by the Domestic Proceedings and Magistrates’ Courts Act 1978: supplementary), in paragraph 47 (provisions as to jurisdiction and procedure), omit—
 - (a) sub-paragraph (1A);
 - (b) sub-paragraph (5).
- (6) In Schedule 7 (financial relief in England and Wales after overseas dissolution etc. of a civil partnership), in Part 1 (financial relief) —
 - (a) in paragraph 7 (jurisdiction of the court)—
 - (i) in sub-paragraph (1), omit “Subject to sub-paragraph (6),”;
 - (ii) omit sub-paragraph (6);
 - (iii) omit sub-paragraph (7);
 - (b) in paragraph 8 (duty of the court to consider whether England and Wales is appropriate venue for application)—
 - (i) in sub-paragraph (2), omit “Subject to sub-paragraph (4),”;
 - (ii) omit sub-paragraph (4);
 - (iii) omit sub-paragraph (5).
- (7) In Schedule 11, in Part 2 (circumstances in which the court may entertain application for financial provision), in paragraph 2—
 - (a) in sub-paragraph (1), omit “Subject to sub-paragraphs (3A) and (4),”;
 - (b) omit sub-paragraph (3A);
 - (c) omit sub-paragraph (5).
- (8) In Schedule 15—
 - (a) in Part 8 (failure to maintain: financial provision (and interim orders)), in paragraph 34—
 - (i) for sub-paragraph (2) substitute—

“(2) The court must not entertain an application under this paragraph unless—

 - (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application,
 - (b) the applicant has been habitually resident there throughout the period of 1 year ending with that date, or
 - (c) the respondent is resident there on that date.”;
 - (ii) omit sub-paragraph (5);
 - (b) in Part 12 (consent orders and maintenance agreements), in paragraph 62—
 - (i) in sub-paragraph (1), omit “Subject to sub-paragraph (1A),”;

- (ii) omit sub-paragraph (1A);
- (iii) omit sub-paragraph (7).

(9) In Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc of a civil partnership), in Part 1 (financial relief)—

- (a) in paragraph 7—
 - (i) in sub-paragraph (1), omit “Subject to sub-paragraph (6),”;
 - (ii) omit sub-paragraph (6);
 - (iii) omit sub-paragraph (7);
- (b) in paragraph 8—
 - (i) in sub-paragraph (2), omit “Subject to sub-paragraph (4),”;
 - (ii) omit sub-paragraph (4);
 - (iii) omit sub-paragraph (5).

Amendment of the Mental Capacity Act 2005

34. In Schedule 3 (international protection of adults) to the Mental Capacity Act 2005⁽²⁶⁾, in paragraph 4(2) omit—

- (a) “either of”;
- (b) paragraph (b).

Amendment of the Bankruptcy and Diligence etc. (Scotland) Act 2007

35. In section 221 (interpretation) of the Bankruptcy and Diligence etc. (Scotland) Act 2007⁽²⁷⁾ omit—

- (a) the definition of “the 2011 Regulations”;
- (b) in the definition of “document of debt” omit paragraph (d);
- (c) the definition of “the Maintenance Regulation”.

Amendment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

36. In the Legal Aid, Sentencing and Punishment of Offenders Act 2012⁽²⁸⁾, in Schedule 1 (civil legal services), in Part 1 (services)—

- (a) in paragraph 17 (EU and international agreements concerning children), in the heading, for “EU” substitute “Transitional EU arrangements”;
- (b) in paragraph 18 (EU and international agreements concerning maintenance), in the heading, for “EU” substitute “Transitional EU arrangements”.

Amendment of the Mental Capacity Act (Northern Ireland) 2016

37. In Schedule 9 (international protection of adults) to the Mental Capacity Act (Northern Ireland) 2016⁽²⁹⁾, in paragraph 6(1)—

- (a) omit “either of”;
- (b) omit paragraph (b).

⁽²⁶⁾ 2005 c. 9, amended by S.I. 2010/1898.

⁽²⁷⁾ 2007 asp. 3, amended by S.S.I 2012/301.

⁽²⁸⁾ 2012 c. 10.

⁽²⁹⁾ 2016 c. 18 (N.I.).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 No. 519*