

## SCHEDULES

### SCHEDULE 12

Sections 15(4), 23(2) and 36(6).

#### CONSEQUENTIAL AMENDMENTS

##### PART I

###### AMENDMENTS CONSEQUENTIAL ON PART I OF THIS ACT

###### *Army Act 1955 (c. 18) and Air Force Act 1955 (c. 19)*

- 1 In section 150 of the Army Act 1955 and in section 150 of the Air Force Act 1955 (enforcement of maintenance and other orders by deduction from pay), in subsection (5), after " Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 " insert " or Part I of the Civil Jurisdiction and Judgments Act 1982 ".

###### *Naval Discipline Act 1957 (c. 53)*

- 2 In section 101 of the Naval Discipline Act 1957 (service of process in maintenance and other proceedings), in subsection (5), after " Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972" insert " or Part I of the Civil Jurisdiction and Judgments Act 1982 ".

###### *Maintenance Orders Act 1958 (c. 39)*

- 3 In section 1 of the Maintenance Orders Act 1958 (scope of application of Part I), in subsection (4), for the words from " within the meaning " to " the said Part I" substitute " which is registered in a magistrates' court under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 or Part I of the Civil Jurisdiction and Judgments Act 1982 ".

###### *Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35) (N.I.)*

- 4 In section 10 of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (orders to which Part II of that Act applies), in subsections (2) and (5), after " Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 " insert " or Part I of the Civil Jurisdiction and Judgments Act 1982 ".

###### *Administration of Justice Act 1970 (c. 31)*

- 5 In Schedule 8 to the Administration of Justice Act 1970 (orders which are " maintenance orders " for the purposes of Part II of that Act and Part II of the Maintenance Orders Act 1958), after paragraph 12 insert—

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“13 A maintenance order within the meaning of Part I of the Civil Jurisdiction and Judgments Act 1982 which is registered in a magistrates' court under that Part.”.

*Attachment of Earnings Act 1971 (c. 32)*

6 In Schedule 1 to the Attachment of Earnings Act 1971 (orders which are " maintenance orders" for the purposes of that Act), after paragraph 12 insert—

“13 A maintenance order within the meaning of Part I of the Civil Jurisdiction and Judgments Act 1982 which is registered in a magistrates' court under that Part.”.

*Magistrates' Courts Act 1980 (c. 43)*

7 In section 65 of the Magistrates' Courts Act 1980 (definition of " domestic proceedings " for the purposes of that Act)—

(a) in subsection (1), after paragraph (l) insert—

“(m) Part I of the Civil Jurisdiction and Judgments Act 1982, so far as that Part relates to the recognition or enforcement of maintenance orders ;”;

(b) in subsection (2)(a), after " (k) " insert " and (m) ".

*Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))*

8 (1) In Article 88 of the Magistrates' Courts (Northern Ireland) Order 1981 (definition of " domestic proceedings " for the purposes of that Order), in paragraph (a), after " Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 " insert " or under Part I of the Civil Jurisdiction and Judgments Act 1982 so far as that Part relates to the recognition and enforcement of maintenance orders ".

(2) In Article 98 of that Order (enforcement of orders for periodical payment of money), in sub-paragraph (b) of paragraph (11), after " Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 " insert " or Part I of the Civil Jurisdiction and Judgments Act 1982 ".

## PART II

### AMENDMENTS CONSEQUENTIAL ON SCHEDULE 8

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (c. 42)*

1 In the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 after section 4(2) there shall be inserted the following subsection—

“(3) This section does not apply—

(a) in the case of an agreement entered into after the dispute in respect of which the agreement is intended to have effect has arisen ; or

(b) where the contract is one referred to in Rule 3 of Schedule 8 to the Civil Jurisdiction and Judgments Act 1982.”.

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*Maintenance Orders Act 1950 (c. 37)*

- 2 In section 15(1)(b) of the Maintenance Orders Act 1950 for the words " for separation and aliment " there shall be substituted the words " which contains a conclusion for aliment not falling within the scope of paragraph (a)(i) above ".

*Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)*

- 3 (1) In section 4 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (power of the sheriff to make a provisional maintenance order against a person residing in a reciprocating country) the following subsection shall be substituted for subsections (1) and (2)—

“(1) In any action where the sheriff has jurisdiction by virtue of Rule 2(5) of Schedule 8 to the Civil Jurisdiction and Judgments Act 1982 and the defender resides in a reciprocating country, any maintenance order granted by the sheriff shall be a provisional order.”.

- (2) In subsections (3), (4) and (5) of that section for the words " in which the sheriff has jurisdiction by virtue of " there shall be substituted in each place where they occur the words " referred to in ".

*Consumer Credit Act 1974 (c. 39)*

- 4 In section 141 of the Consumer Credit Act 1974 the following subsections shall be substituted for subsection (3)—

“(3) In Scotland the sheriff court shall have jurisdiction to hear and determine any action referred to in subsection (1) and such an action shall not be brought in any other court.

- (3A) Subject to subsection (3B) an action which is brought in the sheriff court by virtue of subsection (3) shall be brought only in one of the following courts, namely—

- (a) the court for the place where the debtor or hirer is domiciled (within the meaning of section 41 or 42 of the Civil Jurisdiction and Judgments Act 1982);
- (b) the court for the place where the debtor or hirer carries on business ; and
- (c) where the purpose of the action is to assert, declare or determine proprietary or possessory rights, or rights of security, in or over moveable property, or to obtain authority to dispose of moveable property, the court for the place where the property is situated.

- (3B) Subsection (3A) shall not apply—

- (a) where Rule 3 of Schedule 8 to the said Act of 1982 applies ; or
- (b) where the jurisdiction of another court has been prorogated by an agreement entered into after the dispute has arisen.”.

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### PART III

#### AMENDMENTS CONSEQUENTIAL ON SECTION 36

##### *Maintenance Orders Act 1950 (c.37)*

- 1 (1) The Maintenance Orders Act 1950 is amended as follows.
- (2) In section 18 (enforcement of registered orders), after subsection (3A) insert—
- “(3B) Notwithstanding subsection (1) above, no court in Northern Ireland in which a maintenance order is registered under this Part of this Act shall enforce that order to the extent that it is for the time being registered in another court in Northern Ireland under section 36 of the Civil Jurisdiction and Judgments Act 1982.”.
- (3) In section 21(2) (evidence admissible before court where order registered)—
- (a) in paragraph (a) after " 1958 " insert " or under section 36 of the Civil Jurisdiction and Judgments Act 1982 " ;
- (b) after " that Act " (twice) insert " of 1958 " ;
- (c) after paragraph (b) insert—
- “(c) registered in a court in Northern Ireland under section 36 of the Civil Jurisdiction and Judgments Act 1982”.
- (4) In section 24(3) (notice of cancellation of order to be given to other courts interested), after " Part I of the Maintenance Orders Act 1958 " insert " or section 36 of the Civil Jurisdiction and Judgments Act 1982 " .

##### *Maintenance Orders Act 1958 (c. 39)*

- 2 In section 23(2) of the Maintenance Orders Act 1958 (provisions which extend to Scotland and Northern Ireland) after " section 2 " insert " section 2A " .

##### *Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35) (N.I.)*

- 3 (1) The Maintenance and Affiliation Orders Act (Northern Ireland) 1966 is amended as follows.
- (2) At the beginning of section 9 (introductory provisions relating to registration in one court of maintenance order made by another) insert " Without prejudice to section 36 of the Civil Jurisdiction and Judgments Act 1982, " .
- (3) In section 10 (orders to which Part II applies), after subsection (1) insert—
- “(1A) This Part, except sections 11, 11A and 14(2) and (3), also applies in accordance with section 36 of the Civil Jurisdiction and Judgments Act 1982 to maintenance orders made by a court in England and Wales or Scotland and registered in Northern Ireland under Part II of the Maintenance Orders Act 1950.”.
- (4) In section 13 (variation of orders registered in courts of summary jurisdiction), after subsection (7) insert—
- “(7A) No application for any variation in respect of a registered order shall be made to any court in respect of an order made by the High Court of Justice in

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England or the Court of Session and registered in that court under section 36 of the Civil Jurisdiction and Judgments Act 1982.”.

*Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/266 (N.I. 6))*

- 4 In Article 98 of the Judgments Enforcement (Northern Ireland) Order 1981, (powers of courts to make attachment of earnings orders), in sub-paragraph (iv) of paragraph (a) at the end add " but not subsequently registered in a court of summary jurisdiction under section 36 of the Civil Jurisdiction and Judgments Act 1982 ".

*Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))*

- 5 (1) In Article 88 of the Magistrates' Courts (Northern Ireland) Order 1981 (definition of " domestic proceedings " for the purposes of that Order)—
- (a) in paragraph (a), delete the words " or the Maintenance Orders Act 1950 " ;
  - (b) after paragraph (a) insert—
    - “(aa) in relation to maintenance orders registered in a court of summary jurisdiction under the Maintenance Orders Act 1950 or Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 or section 36 of the Civil Jurisdiction and Judgments Act 1982, under that Act of 1950 or Part II of that Act of 1966”.
- (2) In Article 98 of that Order (enforcement of orders for periodical payment of money), in sub-paragraph (d) of paragraph (11), at the end add—
- “or under section 36 of the Civil Jurisdiction and Judgments Act 1982”.