SCHEDULES

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Magistrates' Courts Act 1980 (c. 43)

8 For section 95 of that Act (power to remit arrears) there shall be substituted the following section—

"**95 Remission of arrears and manner in which arrears to be paid**

(1) On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court may remit the whole or any part of the sum due under the order.

(2) If, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court orders that the whole or any part of the sum due under the order be paid by instalments (an "instalments order"), then—

(a) if the maintenance order is an English maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of section 59(3) above in relation to the instalments order;

(b) if the maintenance order is a non-English maintenance order, the court shall at the same time exercise one of its powers under subsection (3) below in relation to the instalments order.

(3) The powers of the court referred to in subsection (2)(b) above are—

(a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates' court;

(b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates' court, by such method of payment falling within section 59(6) above as may be specified;

(c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.

(4) The court may in the course of any proceedings concerning an instalments order or the magistrates' court maintenance order to which it relates vary the instalments order by exercising—

(a) in respect of an English maintenance order, one of the powers referred to in subsection (2)(a) above;

(b) in respect of a non-English maintenance order, one of its powers under subsection (3) above.

(5) In respect of an English maintenance order, subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (2)(a) and (4)(a) above as they apply for the purposes of that section.

(6) In respect of a non-English maintenance order—

(a) subsection (4) of section 59 above shall apply for the purposes of subsections (2)(b) and (4)(b) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

"(a) the court proposes to exercise its power under paragraph (b) of section 95(3) below;"; and

(b) in deciding which of the powers under subsection (3) above it is to exercise the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).

(7) In this section—

"English maintenance order" has the same meaning as it has in section 94A above;

"non-English maintenance order" means—

(a) a maintenance order registered in, or confirmed by, a magistrates' court—

(i) under the Maintenance Orders (Facilities for Enforcement) Act 1920;

(ii) under Part II of the Maintenance Orders Act 1950;

(iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972; or

(iv) under Part I of the Civil Jurisdiction and Judgments Act 1982;

(b) an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958 and registered under Part I of that Act in a magistrates' court; or

(c) a maintenance order made by a magistrates' court by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972."