
STATUTORY INSTRUMENTS

1993 No. 1577

NORTHERN IRELAND

**The Family Law (Northern Ireland
Consequential Amendments) Order 1993**

Made - - - - 23rd June 1993

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the 23rd day of June 1993

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 38(2) of the Northern Ireland Constitution Act 1973(1) as extended by paragraph 1(7) of Schedule 1 to the Northern Ireland Act 1974(2), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

Title, commencement, extent and application

1.—(1) This Order may be cited as the Family Law (Northern Ireland Consequential Amendments) Order 1993.

(2) This Order comes into force on such day or days as may be appointed by order made under Article 1(3) of the Family Law (Northern Ireland) Order 1993(3).

(3) This Order extends to the whole of the United Kingdom.

(4) In the application of any amendment made by this Order which has effect in relation to orders made, confirmed or registered by a court, it is immaterial whether the making, confirmation or registration occurred before or after the coming into force of the amendment.

(1) 1973 c. 36; section 38 was amended by paragraph 6 of Schedule 2 to the Northern Ireland Act 1982 (c. 38).

(2) 1974 c. 28.

(3) S.I. 1993 1576 (N.I. 6). Provision is made by Article 1(3) and (5) of that Order for the coming into force of this Order.

Amendment of the Maintenance Orders Act 1950

2.—(1) The Maintenance Orders Act 1950(4) shall have effect subject to the following provisions of this Article.

(2) In section 18(3)—

(a) for “shall apply accordingly” there is substituted “shall, subject to the modifications specified in subsection (3ZA) of this section, apply accordingly”;

(b) at the end of subsection (3) there is inserted—

“(3ZA) Article 98 (enforcement of sums adjudged to be paid) shall have effect—

(a) as if for paragraph (7)(a) there were substituted the following sub-paragraph—

“(a) if the court is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to exercise its power under paragraph (8C)(b)”;

(b) as if for paragraphs (8B) to (8D) there were substituted the following paragraphs—

“(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under paragraph (8C).

(8C) The powers mentioned in paragraph (8B) are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(8D) In deciding which of the powers under paragraph (8C) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor (within the meaning of Article 85).

(8E) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 98(8C), and”.

(3) In section 19—

(a) in subsection (2) the words “unless, in the case of a court of summary jurisdiction in Northern Ireland, it is satisfied that it is undesirable to do so” are hereby repealed;

(b) in subsection (3) for paragraph (b) there is substituted—

(4) 1950 c. 37; section 18(3) was amended by paragraph 5 of Schedule 6 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26) (“the 1981 Order”); section 19(2) and (3) were amended by paragraph 4 of Schedule 1 to the Maintenance Enforcement Act 1991 (c. 17) (“the 1991 Act”); section 17(5) was amended by paragraph 5 of Schedule 6 to the 1981 Order; sections 22(1E) and 24(5A) were added by paragraphs 5 and 6 of Schedule 1 to the 1991 Act.

“(b) by a court of summary jurisdiction in Northern Ireland may be varied or revoked by an exercise of the powers conferred by virtue of section 18(3ZA) or section 22(1F) or (1J) of this Act.”;

(c) subsection (5) is hereby repealed.

(4) In section 22, after subsection (1E) there is inserted—

“(1F) The power of a court of summary jurisdiction in Northern Ireland to vary a maintenance order under subsection (1) of this section shall include power, if the court is satisfied that payment has not been made in accordance with the order, to vary the order by exercising one of its powers under subsection (1G) of this section.

(1G) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the Order of 1981.

(1H) In deciding which of the powers under subsection (1G) of this section it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.

(1I) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (1G) of this section as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 22(1G) of the Maintenance Orders Act 1950, and”.

(1J) Paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance order) shall apply in relation to a maintenance order for the time being registered under this Part of this Act in a court of summary jurisdiction in Northern Ireland as they apply in relation to a maintenance order made by a court of summary jurisdiction in Northern Ireland but—

(a) as if in paragraph (4) for sub-paragraph (b) there were substituted—

“(b) payments under the order are required to be made to the collecting officer by any method of payment falling within Article 85(7) (standing order, etc.)”;

and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts”;

(b) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with paragraph (a) of section 22(1G) of the Maintenance Orders Act 1950”;

(c) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;

(d) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “section 22(1G) of the Maintenance Orders Act 1950”;

(e) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(9) In deciding which of the powers under section 22(1G) of the Maintenance Orders Act 1950 it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 22(1G) of the Maintenance Orders Act 1950, and”.””””

(5) In section 24, after subsection (5A) there is inserted—

“(5B) On the cancellation of the registration of a maintenance order registered in a court of summary jurisdiction in Northern Ireland, any order—

(a) made in relation thereto by virtue of the powers conferred by section 18(3ZA) or section 22(1F) or (1J) of this Act, and

(b) requiring payment to the collecting officer in Northern Ireland (whether or not by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981),

shall cease to have effect; but until the person liable to make payments under the maintenance order receives the prescribed notice of the cancellation, he shall be deemed to comply with the maintenance order if he makes payments in accordance with any such order which was in force immediately before the cancellation.”

N. H. Nicholls
Clerk of the Privy Council

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Maintenance Orders Act 1950 applying in the whole of the United Kingdom, being amendments consequential on the Family Law (Northern Ireland) Order 1993.