SCHEDULE 2

PART I OF THE ACT AS MODIFIED BY SCHEDULE 1

Orders made by courts in the Republic of Ireland

Registration in United Kingdom court of maintenance order made in the Republic of Ireland.

- **6.**—(1) This section applies to a maintenance order made whether before, on or after 5th April 1993 by a court in the Republic of Ireland.
- (2) Where a certified copy of an order to which this section applies is received by the Lord Chancellor or the Secretary of State from the responsible authority in the Republic of Ireland, and it appears to him that the payer under the order is residing in the United Kingdom, he shall send the copy of the order and the accompanying documents to the prescribed officer of the appropriate court.
- (3) Where the prescribed officer of the appropriate court receives from the Lord Chancellor or the Secretary of State a certified copy of an order to which this section applies, he shall, subject to the following subsections, register the order in the prescribed manner in that court.
- (4) Before registering an order under this section an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order and the accompanying documents to the Lord Chancellor or, as the case may be, the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the payer.
 - (5) The order shall not be registered—
 - (a) if such registration is contrary to public policy;
 - (b) if the payer did not appear in the proceedings in the Republic of Ireland and he was not served in accordance with the law of the place where he was residing with the summons or other notice of the institution of the proceedings in sufficient time to enable him to arrange for his defence;
 - (c) if the order is irreconcilable with a judgment given in the United Kingdom in proceedings between the same parties.
- (6) If the order is registered under this section, the prescribed officer of the appropriate court shall serve notice in a prescribed form on the payer and give notice to the payee that the order has been registered.
- (7) The payer may within one calendar month from the date of service of the said notice appeal to the court in which the order is registered to set aside the registration of the order on one of the grounds set out in subsection (5) above.
- (8) If the payer appeals to the appropriate court to set aside the registration of the order, the prescribed officer of the court shall give notice to the payee of the appeal and of the date of the hearing of the appeal.
- (9) If the payer appeals to the appropriate court to set aside the registration of the order, the court may, on the application of the payer, stay, or in Scotland sist, the proceedings if either—
 - (a) enforcement of the maintenance order has been suspended in the Republic of Ireland pending the determination of any form of appeal; or
 - (b) the time for an appeal has not yet expired and enforcement has been suspended pending the making of an appeal,

and in the latter case the court may lay down the time within which the proceedings will be stayed or sisted.

- (10) If the order is not registered by virtue of subsection (5) above, the prescribed officer shall give notice to the payee in a prescribed form that the order has not been registered.
- (11) A payee to whom notice has been given by the officer of any court under subsection (10) above may within one calendar month of the date of the notice appeal to that court to set aside the decision not to register the order.
 - (12) In the application of this section to Scotland—
 - (a) in subsection (6), for the words "serve notice on" there shall be substituted the words "intimate to";
 - (b) in subsection (7), for the words "service of the said notice" there shall be substituted the words "the said intimation"; and
 - (c) in subsections (7) to (11), for any reference to an appeal there shall be substituted a reference to an application and cognate expressions shall be construed accordingly.

Enforcement of maintenance order registered in United Kingdom court.

- **8.**—(1) Subject to subsections (1A), (2), (2A) and (2B) below, a registered order may be enforced in the United Kingdom as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.
- (1A) During the period within which an appeal to set aside the registration of a registered order may be made under section 6(7) and until any such appeal has been determined, no measures of enforcement may be taken against the property of the payer other than those designed to protect the interests of the payee:

Provided that nothing in this subsection shall be construed as preventing a registered order from being registered as mentioned in subsection (2) below.

- (2) Subsection (1) above does not apply to an order which is for the time being registered in the High Court under Part I of the Maintenance Orders Act 1958(1) or to an order which is for the time being registered in the High Court of Justice in Northern Ireland under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(2).
- (2A) Where in a maintenance order made in the Republic of Ireland there are provisions which are not enforceable, this section shall apply only to the remaining provisions of the order.
 - (2B) The payee under a registered order may request the partial enforcement of that order.
- (3) Any person for the time being under an obligation to make payments in pursuance of a registered order shall give notice of any change of address to the clerk of the registering court, and any person failing without reasonable excuse to give such a notice shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) An order which by virtue of this section is enforceable by a magistrates' court in England and Wales shall subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980(3) specified in subsections (4A) and (4B) below be enforceable as if it were a magistrates' court maintenance order made by that court.

In this subsection, "magistrates' court maintenance order" has the same meaning as in section 150(1) of the Magistrates' Courts Act 1980.

^{(1) 1958} c. 39.

^{(2) 1966} c. 35 (N.I.).

^{(3) 1980} c. 43; section 76 was amended by the Criminal Justice Act 1982 (c. 48), Schedule 16 and by the Maintenance Enforcement Act 1991 (c. 17), section 7. Section 93 was amended by the Family Law Reform Act 1987 (c. 42), Schedule 2 and by the Maintenance Enforcement Act 1991, Schedule 2.

- (4A) Section 76 (enforcement of sums adjudged to be paid) shall have effect as if for subsections (4)to (6) there were substituted the following subsections—
 - "(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under subsection (5) below.
 - (5) The powers of the court 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 (standing order, etc.) as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971(4) to secure payments under the order.
 - (6) In deciding which of the powers under subsection (5) 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) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsection (5) 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 76(5) below, and""
- (4B) In section 93 (complaint for arrears), subsection (6) (court not to impose imprisonment in certain circumstances) shall have effect as if for paragraph (b) there were substituted—
 - "(b) 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 (b) of section 76(5) above."
- (5) The magistrates' court by which an order is enforceable by virtue of this section, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.
- (6) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent to the prescribed officer of the court shall be evidence of the facts stated therein.
- (7) Subject to subsection (8) below, sums of money payable under a registered order shall be payable in accordance with the order, or such part thereof as the payee may have requested should be enforced, as from the date on which the order took effect.
- (8) No sums of money accruing before 1st April 1975 under a registered order shall be payable in accordance with the order.
 - (9) In the application of this section to Scotland—
 - (a) in subsection (1A), for any reference to an appeal there shall be substituted a reference to an application;
 - (b) subsections (2) to (5) shall be omitted; and
 - (c) in subsection (6), for the word "evidence" there shall be substituted the words "sufficient evidence".

^{(4) 1971} c. 32.

Variation and revocation of maintenance order registered in United Kingdom court.

- **9.**—(1) Where a registered order has been varied by a court in the Republic of Ireland, the registered order shall, as from the date on which the order of variation took effect or 1st April 1975, whichever is the later, have effect as varied by that order.
- (2) Where a registered order has been revoked by a court in the Republic of Ireland, the registered order shall, as from the date on which the order of revocation took effect or 1st April 1975, whichever is the later, be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.
- (3) The prescribed officer of the registering court shall register in the prescribed manner any order varying a registered order.

Cancellation of registration and transfer of order

- 10.—(1) Where a registered order is revoked by an order made by a court in the Republic of Ireland and notice of the revocation is received by the registering court, the prescribed officer of the registering court shall cancel the registration; but any arrears due under the registered order at the date on which the order of revocation took effect or 1st April 1975, whichever is the later, shall continue to be recoverable as if the registration had not been cancelled.
- (2) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, he shall cancel the registration of the order and, subject to subsection (3) below, shall send the certified copy of the order to the Lord Chancellor.
- (3) Where the prescribed officer of the registering court, being a magistrates' court, is of opinion that the payer is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the registering court is, he shall transfer the order to that other court by sending the certified copy of the order to the prescribed officer of that other court.
- (4) On the transfer of an order under subsection (3) above the prescribed officer of the court to which it is transferred shall, subject to subsection (6) below, register the order in the prescribed manner in that court.
- (5) Where the certified copy of an order is received by the Lord Chancellor under this section and it appears to him that the payer under the order is still residing in the United Kingdom, he shall transfer the order to the appropriate court by sending the certified copy of the order together with the related documents to the prescribed officer of the appropriate court and, subject to subsection (6) below, that officer shall register the order in the prescribed manner in that court.
- (6) Before registering an order in pursuance of subsection (4) or (5) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer is so residing, and if after taking those steps he is satisfied that the payer is not residing within the jurisdiction of the court he shall send the certified copy of the order to the Lord Chancellor.
- (7) The officer of a court who is required by any of the foregoing provisions of this section to send to the Lord Chancellor or to the prescribed officer of another court the certified copy of an order shall send with that copy—
 - (a) a certificate of arrears signed by him;
 - (b) a statement giving such information as he possesses as to the whereabouts of the payer; and
 - (c) any relevant documents in his possession relating to the case.
 - (8) In the application of this section to Scotland—
 - (a) in subsection (2), for the words "within the jurisdiction of that court" there shall be substituted the words "in Scotland";
 - (b) subsections (3) and (4) shall be omitted; and

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(c) for the words "Lord Chancellor" in each place where they occur, there shall be substituted the words "Secretary of State".

Steps to be taken by Lord Chancellor or Secretary of State where payer under certain orders is not residing in the United Kingdom.

- 11.—(1) If it appears to the Lord Chancellor or the Secretary of State that the payer under a maintenance order, a certified copy of which has been received by him from the Republic of Ireland, is not residing in the United Kingdom, he shall send to the responsible authority in that country—
 - (a) the certified copy of the order in question;
 - (b) if the order has at any time been a registered order, a certificate of arrears signed by the prescribed officer;
 - (c) a statement giving such information as the Lord Chancellor or the Secretary of State possesses as to the whereabouts of the payer; and
 - (d) any other relevant documents in his possession relating to the case.