



Maintenance and Affiliation Orders Act (Northern Ireland) 1966

1966 CHAPTER 35

PART II

REGISTRATION, ENFORCEMENT AND VARIATION OF CERTAIN MAINTENANCE ORDERS

13 Variation of orders registered in courts of summary jurisdiction.

- (1) The provisions of this section shall have effect with respect to the variation of orders registered in courts of summary jurisdiction, and references in this section to registered orders shall be construed accordingly.
- (2) Subject to the following provisions of this section—
 - (a) the court of registration may exercise the same jurisdiction to vary any rate of payments specified by a registered order (other than jurisdiction in a case where a party to the order is not present in Northern Ireland when the application for variation is made) as is exercisable, apart from this subsection, by the original court; and
 - (b) a rate of payments specified by a registered order shall not be varied except by the court of registration or any other court of summary jurisdiction to which the jurisdiction conferred by the foregoing paragraph is extended by rules of court.

[^{F1}(2A) The power of a court of summary jurisdiction to vary a registered order under subsection (2) 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 sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981.

(2B) Paragraph (5) of Article 85 of that Order shall apply for the purposes of subsection (2A) as it applies for the purposes of that Article.

Changes to legislation: There are currently no known outstanding effects for the Maintenance and Affiliation Orders Act (Northern Ireland) 1966, Section 13. (See end of Document for details)

- (2C) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) of that Order it is to exercise, the court shall have regard to any representations made by the debtor and the creditor (within the meaning of Article 85 of that Order).]
- ^{F2}(3) An application made under subsection (2) for the variation of a maintenance order shall be made by complaint.
- (4) A rate of payments specified by a registered order shall not be varied by virtue of subsection (2) so as to exceed . . .
- ^{F3}(a) the rate of payments specified by the order as made or last varied by the original court; . . .
- ^{F3}*Para.(b) rep. by 1970 c.16 (NI)*
- (5) If it appears to the court to which an application is made by virtue of subsection (2) for the variation of a rate of payments specified by a registered order that, by reason of the limitations imposed on the court's jurisdiction by subsection (4) or for any other reason, it is appropriate to remit the application to the original court, the first-mentioned court shall so remit the application, and the original court shall thereupon deal with the application as if the order were not registered.
- ^{F1}(5A) Subject to the following provisions of this section, paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance orders) shall apply in relation to a registered order as they apply in relation to a maintenance order made by a court of summary jurisdiction (disregarding Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980)^{F4} or paragraph 42 of Schedule 16 to the Civil Partnership Act 2004] but—
- (a) as if in paragraph (8) after the words “the court which may” there were inserted “subject to paragraph (10)”; and
- (b) as if for paragraphs (9) and (10) there were substituted the following paragraphs—
- “(9) Paragraph (5) of Article 85 shall apply for the purposes of paragraph (8) as it applies for the purposes of that Article.
- (10) In deciding which of the powers under sub-paragraphs (a) to (d) of Article 85(3) it is to exercise, the court shall have regard to any representations made by the debtor and the creditor” .]
- (6) Nothing in subsection (2) shall affect the jurisdiction of the original court to vary a rate of payments specified by a registered order if an application for the variation of that rate is made to that court—
- (a) in proceedings for a variation of provisions of the order which do not specify a rate of payments; or
- (b) at a time when a party to the order is not present in Northern Ireland.
- (7) No application for any variation of a registered order shall be made to any court while proceedings for any variation of the order are pending in any other court.
- ^{F5}(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 England or the Court of Session and registered in that court under section 36 of the Civil Jurisdiction and Judgments Act 1982.]

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[^{F6}(7B) No application for any variation of a registered order shall be made to any court in respect of an order made under Article 21(a) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989^{F4} or paragraph 9 of Schedule 17 so far as that paragraph applies Part 1 of Schedule 15].]

(8) Where a court of summary jurisdiction, in exercise of the jurisdiction conferred by subsection (2), varies or refuses to vary a registered order, an appeal from the variation or refusal shall, notwithstanding anything in any other enactment, lie to a judge of the High Court.

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| F1 | 1993 NI 6 |
| F2 | Subst. prosp. by 1995 NI 2 |
| F3 | 1970 c.16 (NI) |
| F4 | 2004 c.33 |
| F5 | 1982 c. 27 |
| F6 | 1989 NI 4 |

Changes to legislation:

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