

## SCHEDULES

### SCHEDULE 1

#### STAYING OF MATRIMONIAL PROCEEDINGS

##### Supplementary

**10.**—(1) Where an order staying any proceedings is in force in pursuance of paragraph 8 or 9, the court may, if it thinks fit, on the application of a party to the proceedings, discharge the order if it appears to the court that the other proceedings by reference to which the order was made are stayed or concluded, or that a party to those other proceedings has delayed unreasonably in prosecuting them.

(2) If the court discharges an order staying any proceedings and made in pursuance of paragraph 8, the court shall not again stay those proceedings in pursuance of that paragraph.

**11.**—(1) The provisions of sub-paragraphs (2) and (3) shall apply (subject to sub-paragraph (4)) where proceedings for divorce, judicial separation or nullity of marriage are stayed by reference to proceedings in a related jurisdiction for divorce, judicial separation or nullity of marriage; and in this paragraph—

*Definitions rep. by 1995 NI 2*

“lump sum order” means such an order as is mentioned in paragraph (f) of Article 25(1) (lump sum payment for children), being an order made under Article 25(1) or (2)(a)<sup>[F1]</sup> or an order made in equivalent circumstances under Schedule 1 to the Children (Northern Ireland) Order 1995 and of a kind mentioned in paragraph 2(2)(c) of that Schedule];

“the other proceedings”, in relation to any stayed proceedings, means the proceedings in another jurisdiction by reference to which the stay was imposed;

“relevant order” means—

- (a) an order under Article 24 (maintenance for spouse pending suit),
- (b) such an order as is mentioned in paragraph (d) or (e) of Article 25(1) (periodical payments for children) being an order made under Article 25(1) or (2)(a)<sup>[F1]</sup> or an order made in equivalent circumstances under Schedule 1 to the Children (Northern Ireland) Order 1995 and of a kind mentioned in paragraph 2(2)(a) or (b) of that Schedule],
- (c) an order under Article 45(1)(a) (orders for the custody and education of children)<sup>[F1]</sup> or an Article 8 order under the Children (Northern Ireland) Order 1995], and
- (d) except for the purposes of sub-paragraph (3), any order restraining a person from removing a child out of Northern Ireland or out of the<sup>[F1]</sup> care] of another person; and

“stayed” means stayed in pursuance of this Schedule.

(2) Where any proceedings are stayed, then, without prejudice to the effect of the stay apart from this paragraph—

- (a) the court shall not have power to make a relevant order or a lump sum order in connection with the stayed proceedings except in pursuance of paragraph (c); and
- (b) subject to paragraph (c), any relevant order made in connection with the stayed proceedings shall, unless the stay is previously removed or the order previously

discharged, cease to have effect on the expiration of the period of three months beginning with the date on which the stay was imposed; but

- (c) if the court considers that, for the purpose of dealing with circumstances needing to be dealt with urgently, it is necessary during or after that period to make a relevant order or a lump sum order in connection with the stayed proceedings or to extend or further extend the duration of a relevant order made in connection with the stayed proceedings, the court may do so and the order shall not cease to have effect by virtue of paragraph ( b).

(3) Where any proceedings are stayed and at the time when the stay is imposed an order is in force, or at a subsequent time an order comes into force, which was made in connection with the other proceedings and provides for any of the<sup>F1</sup> . . . following matters, namely, periodical payments for a spouse of the marriage in question, periodical payments for a child,<sup>[F1</sup> or any provision which could be made by an Article 8 order under the Children (Northern Ireland) Order 1995] then, on the imposition of the stay in a case where the order is in force when the stay is imposed and on the coming into force of the order in any other case—

- (a) any relevant order made in connection with the stayed proceedings shall cease to have effect in so far as it makes for a spouse or child any provision for any of those matters as respects which the same or different provision for that spouse or child is made by the other order;
- (b) the court shall not have power in connection with the stayed proceedings to make a relevant order containing for a spouse or child provision for any of those matters as respects which any provision for that spouse or child is made by the other order; and
- (c) if the other order contains provision for periodical payments for a child, the court shall not have power in connection with the stayed proceedings to make a lump sum order for that child.

(4) If any proceedings are stayed so far as they consist of matrimonial proceedings of a particular kind but are not stayed so far as they consist of matrimonial proceedings of a different kind, sub-paragraphs (2) and (3) shall not apply to the proceedings but, without prejudice to the effect of the stay apart from this paragraph, the court shall not have power to make a relevant order or a lump sum order in connection with the proceedings so far as they are stayed; and in this sub-paragraph references to matrimonial proceedings do not include proceedings for a declaration.

(5) Nothing in this paragraph affects any power of the court—

- (a) to vary or discharge a relevant order so far as the order is for the time being in force; or
- (b) to enforce a relevant order as respects any period when it is or was in force; or
- (c) to make a relevant order or a lump sum order in connection with proceedings which were but are no longer stayed.

**F1** 1995 NI 2

**Changes to legislation:**

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Supplementary.