

SCHEDULES

SCHEDULE 2

Article 42(1).

AMENDMENTS

The Maintenance Orders Act 1950 (c. 37)

1. In section 18(2A) after the word “England” there shall be inserted the words “or Northern Ireland”.

The Matrimonial Causes (Reports) Act(Northern Ireland) 1966 (c. 29 (N.I.))

2. In section 1 after subsection (1) there shall be inserted the following subsection—

“(1A) Subsection (1) shall extend to proceedings under Part V of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 subject to the modification that the matters allowed to be published or caused or procured to be published by virtue of paragraph (b) of that subsection shall be particulars of the declaration sought.”.

The Maintenance and Affiliation Orders Act(Northern Ireland) 1966 (c. 35 (N.I.))

3. In section 9 in paragraph (a) after the words “High Court” there shall be inserted the words “or a county court”.

4. In section 10—

(a) in subsection (1) after the words “High Court” there shall be inserted the words “, a county court” ;

(b) in subsection (2) after paragraph (f) there shall be inserted the following paragraph—

“(g) Article 21(a) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;”.

5. In section 11(1) after the words “High Court” there shall be inserted the words “or a county court”.

6. In section 12 after subsection (3) there shall be inserted the following subsection—

“(3A) Any person under an obligation to make payments under an order registered in a court of summary jurisdiction shall give notice of any change of address to the clerk of the court; and any person who without reasonable excuse fails to give such a notice shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

7. In section 13 after subsection (7A) there shall be inserted the following subsection—

“(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.”.

8. In section 15(6) after the words “High Court” in both places where they occur there shall be inserted the words “or county court”.

9. In section 16—

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- (a) in subsection (2) for the words “court of summary jurisdiction, be construed as a reference to” there shall be substituted the words “county court or a court of summary jurisdiction, be construed respectively as a reference to county court rules or”;
- (b) in subsection (3) after the words “High Court” there shall be inserted the words “, by a county court”
- (c) in subsection (6) after the words “High Court” there shall be inserted the words “or by a county court”.

The Civil Evidence Act (Northern Ireland) 1971 (c. 36 (N.I.))

10. In section 8(5)—

- (a) in the definition of “matrimonial proceedings” after the words “the High Court” where they first occur there shall be inserted the words “or a divorce county court” ;
- (b) after the word “subsection” there shall be inserted the words ““divorce county court” has the same meaning as in the Matrimonial Causes (Northern Ireland) Order 1978 and”.

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

11. In section 29A(3)(c) for the words “Article 5(1)(c)” there shall be substituted the words “Article 5(2) and (3)”.

The Matrimonial Causes (Northern Ireland) Order 1978 (NI 15)

12. In Article 3(5) for the words “Articles 4(2), 5(3) and 7” there shall be substituted the words “Articles 4(2) and 7”.

13. In Article 29(4) for the words “Article 27(1)(c)” there shall be substituted the words “Article 27(2)(c)” and for the words “Article 27(2)(d)” there shall be substituted the words “Article 27 (2) (c) (as it applies by virtue of Article 27(3)(e))”.

14. In Article 37—

- (a) in paragraph (2) for the words “Article 27(3)” there shall be substituted the words “Article 27(4)” ;
- (b) in paragraph (3) after the words “is resident in” there shall be inserted the words “the country court division which includes”.

15. In Article 50(2) after sub-paragraph (d) there shall be inserted the following sub-paragraph—

“(dd) an order under Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;”.

16. In Article 54—

- (a) in paragraph (1) for sub-paragraph (aa) there shall be substituted the following sub-paragraph—

“(aa) Part IV, Article 31, and Part VI of, and Schedule 1 to, the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;”;

- (b) in paragraph (1)(b) for the words from “in this Order” to the end there shall be substituted the words “by the provisions mentioned in sub-paragraphs (a) and (aa)”;

- (c) in paragraph (3) after sub-paragraph (g) there shall be added the following sub-paragraph—

“(h) which relate to the costs of proceedings, may—

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- (i) amend or repeal any statutory provision relating to the practice and procedure of the Supreme Court or county courts so far as may be necessary in consequence of provision made by the rules; and
- (ii) notwithstanding anything in the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, make different provision according to whether each or any of the parties is entitled to legal aid under Part II of that Order in connection with the proceedings.”.

The Rent (Northern Ireland) Order 1978 (NI 20)

17.—(1) In Schedule 2 at the end there shall be added the following paragraph—

“Appeal from county court

4. Without prejudice to Article 61 of the County Courts (Northern Ireland) Order 1980 (cases stated), an appeal shall lie to the Court of Appeal from any order made by a county court in the exercise of the jurisdiction conferred by paragraph 1 or 2, or from the dismissal of any application for such an order, upon a point of law, a question of fact or the admission or rejection of any evidence.”.

(2) Subject to rules of court, sub-paragraph (1) applies in relation to orders made and applications dismissed before as well as after the coming into operation of this paragraph.

The Domestic Proceedings (Northern Ireland) Order 1980 (NI 5)

18. In Article 2(2) the definition of “the respondent” shall be omitted.

19. In Article 3 the words “(“the respondent”)” shall be omitted.

20. In Article 9(5) for the words “Article 5(1)(c)” there shall be substituted the words “Article 5(2)(c)”.

21. In Article 13—

(a) in paragraph (2) after the words “Article 10(2)” there shall be inserted the words “on an application for an order under Article 4 or 9”;

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where by an order made under Article 10(2) on an application for an order under Article 8 the right to the actual custody of a child is given to the party to the marriage who has agreed to make the financial provision specified in the application, the court may make one or both of the following orders, that is to say—

(a) an order that the other party to the marriage shall make to that party for the benefit of the child or to the child such periodical payments, and for such term, as may be specified in the order;

(b) an order that the other party to the marriage shall pay to that party for the benefit of the child or to the child such lump sum as may be so specified.”;

(c) in paragraph (5) after the words “paragraph (2)” there shall be inserted “(2A)” and for the words “Article 5(2)” there shall be substituted the words “Article 5(3)”;

(d) in paragraph (6) after the words “paragraph (2)(a)” there shall be inserted “(2A)(a)”;

(e) in paragraph (7) after the words “paragraph (2)(b)” in both places where they occur there shall be inserted “(2A)(b)”.

22. In Article 20 after paragraph (3) there shall be inserted the following paragraph—

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“(3A) Where an application is made for an order under Article 8 by the party to the marriage who has agreed to make the financial provision specified in the application—

- (a) paragraph (1) shall apply as if the reference in sub-paragraph (i) to the respondent were a reference to the applicant and the references to the applicant were references to the respondent; and
- (b) paragraphs (2) and (3) shall apply accordingly.”.

23. In Article 22(8) after the word “respondent” there shall be inserted the words “or the applicant, as the case may be,”.

24. In Article 31 at the end of paragraph (3) there shall be added the words “or, in a case where there was made to the court of summary jurisdiction an application for an order under Article 4 and a request under Article 8(2) and the term of the periodical payments was or might have been ordered to begin on the date of the making of the application for an order under Article 4, the date of the making of that application”.

25. In Schedule 2 in paragraph 2, after sub-paragraph (b), there shall be inserted the following sub-paragraph—

- “(bb) on an application after the coming into operation of paragraph 25 of Schedule 1 to the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 for the variation, revival or discharge of the order, the court, in exercising its powers under the said section 5 in relation to any provision of the order requiring the payment of money, shall have power to order that payments required to be made for the maintenance of a child of the family shall be made to the child himself;”.