
STATUTORY INSTRUMENTS

1993 No. 1576

The Family Law (Northern Ireland) Order 1993

Maintenance enforcement

Orders for periodical payment in the High Court and divorce county courts

6.—(1) In Part VIII of the Judgments Enforcement (Northern Ireland) Order 1981(1), at the beginning there shall be inserted—

“Maintenance orders: means of payments

Maintenance orders in the High Court and divorce county courts: means of payment

96A.—(1) Where the High Court or a divorce county court makes a qualifying periodical maintenance order, it may at the same time exercise either of its powers under paragraph (4) in relation to the order, whether of its own motion or on an application made under this paragraph by an interested party.

- (2) For the purposes of this Article, a periodical maintenance order is an order—
- (a) which requires money to be paid periodically by one person (“the debtor”) to another (“the creditor”); and
 - (b) which is a maintenance order;

and such an order is a “qualifying periodical maintenance order” if, at the time it is made, the debtor is ordinarily resident in Northern Ireland.

- (3) Where—
- (a) the High Court or a divorce county court has made a qualifying periodical maintenance order; or
 - (b) a qualifying periodical maintenance order is registered in the High Court,

that court may at any later time—

- (i) on an application made under this paragraph by an interested party, or
- (ii) of its own motion, in the course of any proceedings concerning the order,

exercise either of its powers under paragraph (4) in relation to the order.

- (4) The powers mentioned in paragraphs (1) and (3) are—
- (a) the power to order that payments required to be made by the debtor to the creditor under the qualifying periodical maintenance order in question shall be so made by such a method of payment falling within paragraph (5) as the court may specify in the particular case; or
 - (b) the power to make an attachment of earnings order under Articles 97 to 105 to secure payments under the qualifying periodical maintenance order in question.
- (5) The methods of payment mentioned in paragraph (4)(a) are—

- (a) payment by standing order; or
 - (b) payment by any other method which requires the debtor to give his authority for payments of a specific amount to be made from an account of his to an account of the creditor's on specific dates during the period for which the authority is in force and without the need for any further authority from the debtor.
- (6) In any case where—
- (a) the court proposes to exercise its power under paragraph (4)(a), and
 - (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,

the court in exercising its power under that sub-paragraph may order that the debtor open such an account.

(7) Where in the exercise of its powers under paragraph (1) or (3), the High Court or a divorce county court has made in relation to a qualifying periodical maintenance order such an order as is mentioned in paragraph (4)(a) (a “means of payment order”), it may at any time later—

- (a) on an application made under this paragraph by an interested party, or
- (b) of its own motion, in the course of any proceedings concerning the qualifying periodical maintenance order,

revoke, suspend, revive or vary the means of payment order.

(8) In deciding whether to exercise any of its powers under this Article the court in question having (if practicable) given every interested party an opportunity to make representations shall have regard to any representations made by any such party.

(9) Nothing in this Article shall be taken to prejudice—

- (a) any power under Articles 97 to 105 which would, apart from this Article, be exercisable by the High Court or a divorce county court; or
- (b) any right of any person to make any application under those Articles;

and paragraph (7) is without prejudice to any other power of the High Court or a divorce county court to revoke, suspend, revive or vary an order.

(10) For the purposes of this Article—

“debtor” and “creditor” shall be construed in accordance with paragraph (2);

“interested party” means any of the following, that is to say—

- (a) the debtor;
- (b) the creditor; and
- (c) in a case where the person who applied for the qualifying periodical maintenance order in question is a person other than the creditor, that other person;

“maintenance order” means any order specified in Article 98(a)(i) to (v) and includes any such order which has been rescinded, revoked or discharged, if any arrears are recoverable under it;

“qualifying periodical maintenance order” shall be construed in accordance with paragraph (2), and the references to such an order in paragraphs (3) and (7) are references to any such order, whether made before or after the coming into operation of this Article;

and the reference in paragraph (2) to an order requiring money to be paid periodically by one person to another includes a reference to an order requiring a lump sum to be paid by instalments by one person to another.”.

(2) In Article 99(2)(b) of the Judgments Enforcement (Northern Ireland) Order 1981(2) (making of attachment of earnings order) for the words from “order” where it first occurs onwards there shall be substituted “order, in accordance with Article 96A(1) or (3).”.