
STATUTORY INSTRUMENTS

1993 No. 1576

The Family Law (Northern Ireland) Order 1993

Maintenance enforcement

Variation of orders for periodical payment made under the Domestic Proceedings (Northern Ireland) Order 1980

8. After Article 22 of the Domestic Proceedings (Northern Ireland) Order 1980⁽¹⁾ there shall be inserted—

“Variation of orders for periodical payments: further provisions

22A.—(1) Subject to paragraphs (7) and (8), the power of the court under Article 22 to vary an order for the making of periodical payments shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under sub-paragraphs (a) to (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981 (orders for periodical payment: method of payment).

(2) In any case where—

- (a) a court of summary jurisdiction has made an order under this Order for the making of periodical payments, and
- (b) payments under the order are required to be made by any method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.),

an application may be made under this paragraph to the clerk of petty sessions for the order to be varied as mentioned in paragraph (3).

(3) Subject to paragraph (5), where an application is made under paragraph (2), the clerk, after serving written notice of the application on the respondent and allowing the respondent, within the period of 14 days from the date of the serving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the collecting officer.

(4) The clerk may proceed with an application under paragraph (2) notwithstanding that the respondent has not received written notice of the application.

(5) Where an application has been made under paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under paragraph (3), refer the matter to the court which, subject to paragraphs (7) and (8), may 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.

(6) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to order that account be opened) shall apply for the purposes of paragraphs (1) and (5) as it applies for the purposes of that Article.

(7) Before varying 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, the court shall have regard to any representations made by the parties to the application.

(8) If the court does not propose to exercise its power under sub-paragraph (c) or (d) of Article 85(3) of the Magistrates' Courts (Northern Ireland) Order 1981, the court shall, unless upon representations expressly made in that behalf by the person to whom payments under the order are required to be made it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.

(9) Paragraph (12) of Article 22 shall have effect for the purposes of applications under paragraph (2) as it has effect for the purposes of applications under that Article.

(10) None of the powers of the court, or of the clerk of petty sessions, conferred by this Article shall be exercisable in relation to an order under this Order for the making of periodical payments which is not a qualifying maintenance order (within the meaning of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981).”.