Status: *This version of this Order contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Family Law (Northern Ireland) Order 1993. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1993 No. 1576 (N.I. 6)

The Family Law (Northern Ireland) Order 1993

- - - - - - *23rd June 1993*

Modifications etc. (not altering text)

C1 Order: functions transferred from Lord Chancellor to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1), **Sch. 17 para. 43** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

Introductory

Title and commencement

1.—(1) This Order may be cited as the Family Law (Northern Ireland) Order 1993.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which the Order is made.

(3) Articles 5 to 11 and 15 shall come into operation on such day or days as the Head of the Department of Finance and Personnel may by order appoint[F1].

(4) In the application of any amendment made by this Order which has effect in relation to orders made, confirmed or registered by a court, it is immaterial whether the making, confirmation or registration occurred before or after the coming into operation of the amendment.

(5) An order under paragraph (3) may also appoint a day for the coming into operation of any provision of an order made under section 38(2) of the Northern Ireland Constitution Act 1973[F2] as necessary or expedient in consequence of this Order which appears to the Head of the Department of Finance and Personnel to be consequential on any provision of this Order brought into operation by the order.

F1 partly exercised by SR 1996/454
F2 1973 c. 36

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F3] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order "statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954.

F3 1954 c. 33 (NI)

Marriage

Art.3 rep. by 2003 NI 3

Marriage between certain persons related by affinity not to be void

4.—(1) Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984[F4] (prohibited degrees of relationship) shall have effect subject to the following provisions of this Article, being provisions so as to permit—

(a) the marriage of a man and a woman who is the grandmother of a former spouse of his or is a former spouse of his grandson;

(b) the marriage of a woman and a man who is the grandfather of a former spouse of hers or is a former spouse of her grand-daughter; and

(c) under certain conditions, the marriage of persons related in certain other degrees of affinity.

(2) [F5] . . . . . .

(3) [F5] . . . . . .

(4) In paragraph (2)(c) at the beginning there shall be inserted "in Part II,".

(5) After paragraph (2) there shall be inserted—

"(2A) Subject to paragraph (2B), a marriage solemnized between a man and any of the persons mentioned in the first column of Part II of that Table, or between a woman and any of the persons mentioned in the second column of that Part II, is void.

(2B) Any such marriage as is mentioned in paragraph (2A) is not void by reason only of affinity if both the parties to the marriage have attained the age of 21 at the time of the marriage and the younger party has not at any time before attaining the age of 18 been a child of the family in relation to the other party.

(2C) Subject to paragraph (2D), a marriage solemnized between a man and any of the persons mentioned in the first column of Part III of that Table, or between a woman and any of the persons mentioned in the second column of that Part III, is void.

(2D) Any such marriage as is mentioned in paragraph (2C) is not void by reason only of affinity if both the parties to the marriage have attained the age of 21 at the time of the marriage and the marriage is solemnized—

(a) in the case of a marriage between a man and the mother of a former wife of his, after the death of both the former wife and the father of the former wife;

(b) in the case of a marriage between a man and the former wife of his son, after the death of both his son and the mother of his son;

(c) in the case of a marriage between a woman and the father of a former husband of hers, after the death of both the former husband and the mother of the former husband;

(d) in the case of a marriage between a woman and a former husband of her daughter, after the death of both her daughter and the father of her daughter.

(2E) In this Article "child of the family", in relation to any person, means a child who has lived in the same household as that person and been treated by that person as a child of his family." .

(6) In paragraph (3) for "paragraph (1) applies" there shall be substituted "paragraph (1), (2A) or (2C) applies or a marriage to which paragraph (2B) or (2D) applies".

(7) Nothing in this Article shall affect any marriage solemnized before this Article comes into operation.

F4 1984 NI 14
F5 Art. 4(2)(3) repealed (20.9.2006) by Law Reform (Miscellaneous Provisions) (Northern Ireland) Order 2006 (S.I. 2006/1945 (N.I. 14)), arts. 1(3), **5(b)**

Declarations as to degree of affinity

5.—(1) The Matrimonial and Family Proceedings (Northern Ireland) Order 1989[F6] shall have effect subject to the following provisions of this Article.

(2) After Article 31 there shall be inserted—

"**Declarations as to degree of affinity**

31A.—(1) This Article applies in relation to any marriage mentioned in Article 18(2A) of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984.

(2) Either of the persons to be married may apply to the court for a declaration that, both those persons having attained the age of 21 and the younger of those persons not having at any time before attaining the age of 18 been a child of the family in relation to the other, there is no impediment of affinity to the solemnization of the marriage.

(3) A court shall have jurisdiction to entertain an application under paragraph (1) if (and only if)—

(a) either of the parties to the intended marriage—

(i) is domiciled in Northern Ireland on the date of the application; or

(ii) has been habitually resident in Northern Ireland throughout the period of one year ending with that date; and

(b) both of the parties to the intended marriage are domiciled in the United Kingdom.

(4) In this Article "child of the family" has the same meaning as in Article 18(2E) of the Order of 1984.".

(3) In Article 36(5)(a) (rules of court) and Article 40(1)(a) (meaning of court) after "Article 31" there shall be inserted "or 31A".

F6 1989 NI 4

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[F7], 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[F8] (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).".

F7 1981 NI 6
F8 1981 NI 6

Orders for periodical payment in courts of summary jurisdiction

7.—(1) For Articles 85 and 86 of the Magistrates' Courts (Northern Ireland) Order 1981[F9] there shall be substituted—

"**Orders for periodical payment: means of payment**

85.—(1) In any case where a court of summary jurisdiction orders money to be paid periodically by one person ("the debtor") to another ("the creditor"), then—

(a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) to (d) of paragraph (3);

(b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) and (b) of that paragraph.