

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3,772 of 18th March, 2010

B. 15/10

BILL

FOR

AN ACT to amend the Maintenance Act.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Maintenance (Amendment) Act 2010 and comes into operation on the day of publication.

Substitution of section 1 and the heading of Part 1.

2. The Maintenance Act (the Principal Act) is amended by substituting the following for section 1 including the heading of Part I—

“PART I
Preliminary”

Title.

1. This Act may be cited as the Maintenance Act.”.

Amendments to section 2 and its heading.

3. Section 2 of the Principal Act and its heading are amended—

(a) in the heading by deleting “of Part 1” and in line 1, by substituting “Act” for “Part”;

- (b) by inserting the following definition before the definition of “child”–

““Care Agency” means the Care Agency established under section 3 of the Care Agency Act 2009;”;

- (c) by inserting “means a person who is under the age of 18 and” after the word “child” in line 1 of the definition of “child”;

- (d) by inserting the following definition before the definition of “dependent”–

““court” means the Supreme Court or the magistrates’ court, as the case may be;”;

- (e) by substituting “eighteen” for “sixteen” in paragraphs (a) and (b) of the definition of “dependent” in two places where it appears;

- (f) by deleting the definitions of “drug addict” and “habitual drunkard”;

- (g) by inserting the following definition after the definition of “dependant”–

““Family Judge” means a judge of the Supreme Court as referred to in section 12A (2) of the Supreme Court Act and “Judge” shall be construed accordingly;”;

- (h) in the definition of “matrimonial order”, by substituting–

(i) “section 4” for “section 5”, and

(ii) “section 12 varying or reviving an order made under section 4” for “section 11 varying or reviving an order under section 5”;

- (i) in the definition of “Minister” by substituting “families and children” for “social affairs”.

Insertion of new sections 2A and 2B.

4. The Principal Act is amended by inserting the following sections after section 2–

“Application of agreement under Part VIA of the Matrimonial Causes Act.

2A. Where the parties have entered into an agreement under Part VIA of the Matrimonial Causes Act, the court shall apply the provisions of this Act but subject to the provisions in Part VIA of the Matrimonial Causes Act.

Applications under each Part to be separate.

2B. Where an application can be made either under Part IA or Part II, that application must be made under that Part only.”.

Substitution of sections 3 to 16.

5. The Principal Act is amended by substituting the following Part for sections 3 to 16–

“PART IA
Matrimonial Orders

Grounds of application for a matrimonial order.

3. Either party to a marriage may apply to the Family Judge for a matrimonial order under section 4 of this Act on the ground that the other party to the marriage–

- (a) has failed to provide reasonable maintenance for the applicant;
- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family;
- (c) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent; or

- (d) has deserted the applicant.

Powers of court to make matrimonial orders.

4.(1) Where on an application for an order under this section the applicant satisfies the court of any ground mentioned in section 3, the court may, subject to the provisions of this Part, make any one or more of the following orders—

- (a) an order that the respondent shall make to the applicant such periodical payments, and for such term, as may be specified in the order;
- (b) an order that the respondent shall pay to the applicant such lump sum as may be so specified;
- (c) an order that the respondent shall make to the applicant for the benefit of a child of the family to whom the application relates, or to such a child, such periodical payments, and for such term, as may be so specified;
- (d) an order that the respondent shall pay to the applicant for the benefit of a child of the family to whom the application relates, or to such a child, such lump sum as may be so specified; or
- (e) an order that the applicant be no longer bound to cohabit with the respondent (which provision while in force shall have effect in all respects as a decree of judicial separation under the Matrimonial Causes Act).

(2) Without prejudice to the generality of subsection (1)(b) or (d), an order under this section for the payment of a lump sum may be made for the purpose of enabling any liability or expenses reasonably incurred in maintaining the applicant, or any child of the family to whom the application relates, before the making of the order to be met.

Matters to which the court is to have regard in exercising its powers under section 4.

5.(1) Where an application is made for an order under section 4, it shall be the duty of the court, in deciding whether to exercise its powers under that section and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare of any child of the family who has not attained the age of eighteen.

(2) As regards the exercise of its powers under subsection (1)(a) or (b) of section 4, the court shall in particular have regard to the following matters—

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the parties to the marriage before the occurrence of the conduct which is alleged as the ground of the application;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;

- (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it.

(3) As regards the exercise of its power under subsection (1)(c) or (d) of section 4, the court shall in particular have regard to the following matters–

- (a) the financial needs of the child;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child;
- (d) the standard of living enjoyed by the family before the occurrence of the conduct which is alleged as the ground of the application;
- (e) the manner in which the child was being and in which the parties to the marriage expected him to be educated or trained;
- (f) the matters mentioned in relation to the parties to the marriage in paragraphs (a) and (b) of subsection (2).

(4) As regards the exercise of its power under section 4 in favour of a child of the family who is not the child of the respondent, the court shall also have regard–

- (a) to whether the respondent has assumed any responsibility for the child's maintenance and, if he did, to the extent to which, and the basis on which, he assumed that responsibility and to the length of time during which he discharged that responsibility;
- (b) to whether in assuming and discharging that responsibility the respondent did so knowing that the child was not his own child;
- (c) to the liability of any other person to maintain the child.

Duration of orders for financial provision for a party to a marriage.

6.(1) The term to be specified in any order made under section 4(1)(a) shall be such term as the court thinks fit except that the term shall not begin earlier than the date of the making of the application for the order and shall not extend beyond the death of either of the parties to the marriage.

(2) Where an order is made under section 4(1)(a) and the marriage of the parties affected by the order is subsequently dissolved or annulled but the order continues in force, the order shall, notwithstanding anything in it, cease to have effect on the remarriage of the party in whose favour it was made, except in relation to any arrears due under the order on the date of the remarriage.

Age limit on making orders for financial provision for children and duration of such orders.

7.(1) Subject to subsection (3), no order shall be made under section 4(1)(c) or (d) in favour of a person who has attained the age of eighteen.

(2) The term to be specified in an order made under section 4(1)(c) in favour of a child may begin with the date of the making of an application for the order in question or any later date but—

- (a) shall not in the first instance extend beyond the date of the birthday of the child next following his attaining the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date; and
- (b) shall not in any event, subject to subsection (3), extend beyond the date of the child's eighteenth birthday.

(3) The court—

- (a) may make an order under section 4(1)(c) or (d) in favour of a child who has attained the age of eighteen; and
- (b) may include in an order made under section 4(1)(c) in relation to a child who has not attained that age a provision for extending beyond the date when the child will attain that age the term for which by virtue of the order any payments are to be made to or for the benefit of that child,

if it appears to the court—

- (i) that the child is, or will be, or if such an order or provision were made would be, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment; or
- (ii) that there are special circumstances which justify the making of the order or provision.

(4) Any order made under section 4(1)(c) in favour of a child shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order.

Orders for payments which have been agreed by the parties.

8.(1) Either party to a marriage may apply to the Family Judge for an order under this section on the ground that either the party making the application or the other party to the marriage has agreed to make such financial provision as may be specified in the application and, subject to subsection (3), the court on such an application may, if—

- (a) it is satisfied that the applicant or the respondent, as the case may be, has agreed to make that provision; and

- (b) it has no reason to think that it would be contrary to the interests of justice to exercise its powers hereunder,

order that the applicant or the respondent shall make the financial provision specified in the application.

(2) In this section “financial provision” means the provision mentioned in any one or more of the following paragraphs–

- (a) the making of periodical payments by one party to the other;
- (b) the payment of a lump sum by one party to the other;
- (c) the making of periodical payments by one party to a child of the family or to the other party for the benefit of such a child;
- (d) the payment by one party of a lump sum to a child of the family or to the other party for the benefit of such a child,

and any reference in this section to the financial provision specified in an application made under subsection (1) or specified by the court under subsection (5) is a reference to the type of provision specified in the application or by the court to the amount so specified as the amount of any payment to be made under it and, in the case of periodical payments, to the term so specified as the term for which the payments are to be made.

(3) Where the financial provision specified in an application under subsection (1) includes or consists of provision in respect of a child of the family, the court shall not make an order under that subsection unless it considers that the provision which the applicant or the respondent has agreed to make in respect of that child provides for, or makes a proper contribution towards, the financial needs of the child.

(4) A party to a marriage who has applied for an order under section 4 shall not be precluded at any time before the determination of that application from applying for an order under

this section; but if an order is made under this section on the application of either party and either of them has also made an application for an order under section 4, the application made for the order under section 4 shall be treated as if it had been withdrawn.

(5) Where on an application under subsection (1) the court decides—

- (a) that it would be contrary to the interests of justice to make an order for the making of the financial provision specified in the application; or
- (b) that any financial provision which the applicant or the respondent, has agreed to make in respect of a child of the family does not provide for, or make a proper contribution towards, the financial needs of that child,

but is of the opinion—

- (i) that it would not be contrary to the interests of justice to make an order for the making of some other financial provision specified by the court, and
- (ii) that, in so far as that other financial provision contains any provision for a child of the family, it provides for, or makes a proper contribution towards, the financial needs of that child,

then if both the parties agree, the court may order that the applicant or the respondent, as the case may be, shall make that other financial provision.

(6) Subject to subsection (8), the provisions of section 6 shall apply in relation to an order under this section which requires periodical payments to be made to a party to a marriage for his own benefit as they apply in relation to an order under section 4(1)(a).

(7) Subject to subsection (8), the provisions of section 7 shall apply in relation to an order under this section for the making of

financial provision in respect of a child of the family as they apply in relation to an order under section 4(1)(c) or (d).

(8) Where the court makes an order under this section which contains provision for the making of periodical payments and, by virtue of subsection (4), an application for an order under section 4 is treated as if it had been withdrawn, then the term which may be specified as the term for which the payments are to be made may begin with the date of the making of the application for the order under section 4 or any later date.

(9) Where the respondent is not present or represented by counsel at the hearing of an application for an order under subsection (1), the court shall not make an order under this section unless there is produced to the court such evidence as may be prescribed by rules of court of—

- (a) the consent of the respondent to the making of the order;
- (b) the financial resources of the respondent; and
- (c) in a case where the financial provision specified in the application includes or consists of provision in respect of a child of the family to be made by the applicant to the respondent for the benefit of the child or to the child, the financial resources of the child.

Powers of court where parties are living apart by agreement.

9.(1) Where the parties to a marriage have been living apart for a continuous period exceeding three months, neither party having deserted the other, and one of the parties has been making periodical payments for the benefit of the other party or of a child of the family, that other party may apply to the Family Judge for an order under this section, and any application made under this subsection shall specify the aggregate amount of the payments so made during the period of three months immediately preceding the date of the making of the application.

(2) Where on an application for an order under this section the court is satisfied that the respondent has made the payments

specified in the application, the court may, subject to the provisions of this Part, make—

- (a) an order that the respondent shall make to the applicant such periodical payments, and for such term, as may be specified in the order; or
- (b) an order that the respondent shall make to the applicant for the benefit of a child of the family to whom the application relates, or to such a child, such periodical payments, and for such term, as may be so specified.

(3) The court in the exercise of its powers under this section—

- (a) shall not require the respondent to make payments which exceed in aggregate during any period of three months the aggregate amount paid by him for the benefit of the applicant or a child of the family during the period of three months immediately preceding the date of the making of the application;
- (b) shall not require the respondent to make payments to or for the benefit of any person which exceed in amount the payments which the court considers that it would have required the respondent to make to or for the benefit of that person on an application under section 4 of this Act; and
- (c) shall not require payments to be made to or for the benefit of a child of the family who is not a child of the respondent unless the court considers that it would have made an order in favour of that child on an application under section 4 of this Act.

(4) Where on an application under this section the court considers that the orders which it has the power to make under this section—

- (a) would not provide reasonable maintenance for the applicant; or

- (b) if the application relates to a child of the family, would not provide, or make a proper contribution towards reasonable maintenance for that child,

the court shall refuse to make an order under this section, but the court may treat the application as if it were an application for an order under section 4.

(5) The provisions of section 5 shall apply in relation to an application for an order under this section as they apply in relation to an application for an order under section 4 subject to the modification that for the reference in subsection (2)(c) of section 5 to the occurrence of the conduct which is alleged as the ground of the application there shall be substituted a reference to the living apart of the parties to the marriage.

(6) The provisions of section 6 shall apply in relation to an order under this section which requires periodical payments to be made to the applicant for his own benefit as they apply in relation to an order under section 4(1)(a).

(7) The provisions of section 7 shall apply in relation to an order under this section for the making of periodical payments in respect of a child of the family as they apply in relation to an order under section 4(1)(c).

Restrictions on making of orders under this Act: welfare of children.

10. Where an application is made by a party to a marriage for an order under section 4, 8 or 9, then, if there is a child of the family who is under the age of eighteen, the court shall not dismiss or make a final order on the application until it has decided whether to exercise any of its powers under the Children Act 2009 with respect to the child.

Interim orders.

11.(1) Where an application is made for an order under section 4, 8 or 9, the Family Judge shall, at any time before making a final order on, or dismissing, the application, may make an interim order which requires the respondent to make to the applicant or to any

child of the family who is under the age of eighteen, or to the applicant for the benefit of such a child, such periodical payments as the court thinks reasonable.

(2) An interim order may provide for payments to be made from such date as the Judge may specify, except that the date shall not be earlier than the date of the making of the application for an order under section 4, 8 or 9; and where such an order made by the Court of Appeal on an appeal under section 16A provides for payments to be made from a date earlier than the date of the making of the order, the interim order may provide that payments made by the respondent under an order made by the Family Judge shall, to such extent and in such manner as may be provided by the interim order, be treated as having been paid on account of any payment provided for by the interim order.

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

- (a) subsection (1) shall apply as if the reference to the respondent were a reference to the applicant and the references to the applicant were references to the respondent; and
- (b) subsection (2) shall apply accordingly.

(4) Subject to subsection (5), an interim order made on an application for an order under section 4, 8 or 9 shall cease to have effect on whichever of the following dates occurs first—

- (a) the date, if any, specified for the purpose in the interim order;
- (b) the date of the expiration of the period of three months beginning with the date of the making of the interim order;
- (c) the date on which the court either makes a final order on or dismisses the application.

(5) Where an interim order made under subsection (1) would, but for this subsection, cease to have effect by virtue of subsection (4)(a) or (b), the Family Judge may by order provide that the interim order shall continue in force for a further period, and any order continued in force under this subsection shall cease to have effect on whichever of the following dates occurs first—

- (a) the date, if any, specified for the purpose in the order made under this subsection;
- (b) the date of the expiration of the period of three months beginning with the date of the making of the order under this subsection or, if more than one order has been made under this subsection with respect to the application, beginning with the date of the making of the first of those orders;
- (c) the date on which the court either makes a final order on, or dismisses, the application.

(6) Not more than one interim order may be made with respect to any application for an order under section 4, 8 or 9, but without prejudice to the powers of the court under this section on any further such application.

(7) No appeal shall lie from the making of or refusal to make, the variation of or refusal to vary, or the revocation of or refusal to revoke, an interim order.

Variation and revocation of orders for periodical payments.

12.(1) Where the Family Judge has made an order under section 4(1)(a) or (c) for the making of periodical payments, the Judge may, on an application made under this section, vary or revoke that order and also may make an order under section 4(1)(b) or (d).

(2) Where the Family Judge has made an order under section 8 for the making of periodical payments by a party to a marriage, the Judge may, on an application made under this section, vary or revoke that order and also may make an order for the payment of a lump sum by that party either—

- (a) to the other party to the marriage; or
- (b) to a child of the family or to that other party for the benefit of that child.

(3) Where the Family Judge has made an order under section 9 for the making of periodical payments, the Judge may, on an application made under this section, vary or revoke that order.

(4) Where the Family Judge has made an interim order under section 11, the Judge may, on an application made under this section, vary or revoke that order, except that the Judge shall not by virtue of this subsection extend the period for which the order is in force.

(5) The power of the Judge under this section to vary an order for the making of periodical payments shall include power to suspend any provision thereof temporarily and to revive any provision so suspended.

(6) An order made by virtue of this section which varies an order for the making of periodical payments may, if the payments as so varied shall be made from such date as the court may specify, except that, subject to subsection (7), the date shall not be earlier than the date of the making of the application under this section.

(7) Where—

- (a) there is in force an order (“the order”)—
 - (i) under section 4(1)(c),
 - (ii) under section 8(1) making provision of a kind mentioned in paragraph (c) of section 8(2) (regardless of whether it makes provision of any other kind mentioned in that paragraph),
 - (iii) under section 9(2)(b), or
 - (iv) which is an interim order under which the payments are to be made to a child or to the applicant for the benefit of a child; and

- (b) the order requires payments specified in it to be made to or for the benefit of more than one child without apportioning those payments between them,

the court may, in exercise of its powers under this section to vary or revoke the order, direct that the variation or revocation shall take effect from the date on which any assessment or calculation took effect or any later date.

(8) In exercising the powers conferred by this section the court shall, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the parties in relation to the application and, if there is no such agreement or if the court decides not to give effect to the agreement, the court shall have regard to all the circumstances of the case, first consideration being given to the welfare of a child of the family who has not attained the age of eighteen, and the circumstances of the case shall include any change in any of the matters to which the court was required to have regard when making the order to which the application relates or, in the case of an application for the variation or revocation of an order made under section 8 or on an appeal under section 16A, to which the court would have been required to have regard if that order had been made under section 4.

(9) An application under this section may be made—

- (a) where it is for the variation or revocation of an order under section 4, 8, 9 or 11 for periodical payments, by either party to the marriage in question; and
- (b) where it is for the variation of an order under section 4(1)(c), 8 or 9 for periodical payments to or in respect of a child, also by the child himself, if he has attained the age of sixteen.

Revival of orders for periodical payments.

13.(1) Where an order made by the Family Judge under this Part for the making of periodical payments to or in respect of a child (other than an interim order) ceases to have effect—

- (a) on the date on which the child attains the age of eighteen; or
- (b) at any time after that date but before or on the date on which he attains the age of eighteen,

the child may apply to the Family Judge for an order for its revival.

(2) If on such an application it appears to the Judge that—

- (a) the child is, will be or (if an order were made under this subsection) would be receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not while in gainful employment; or
- (b) there are special circumstances which justify the making of an order under this subsection,

the Judge may by order revive the order referred to in subsection (1) from such date as he may specify, not being earlier than the date of the making of the application.

(3) Any order revived under this section may be varied or revoked under section 12 in the same way as it could have been varied or revoked had it continued in being.

Variation of instalments of lump sum.

14. Where the court orders that a lump sum required to be paid under this Part shall be paid by instalments, the court, on an application made by either the person liable to pay or the person entitled to receive that sum, shall have power to vary that order by varying the number of instalments payable, the amount of any instalment payable and the date on which any instalment becomes payable.

Effect on certain orders of parties living together.

15.(1) Where periodical payments are required to be made to one of the parties to a marriage (whether for his own benefit or for the benefit of a child of the family) by an order made under section 4,

or 8 or by an interim order made under section 11 (otherwise than on an application under section 9), the order shall be enforceable notwithstanding that the parties to the marriage are living with each other at the date of the making of the order or that, although they are not living with each other at that date, they subsequently resume living with each other; but the order shall cease to have effect if after that date the parties continue to live with each other, or resume living with each other, for a continuous period exceeding six months.

(2) Where an order under section 4 or 8 which requires periodical payments to be made to a child of the family, or an interim order under section 11 (otherwise than on an application under section 9) which requires periodical payments to be made to a child of the family, then, unless the court otherwise directs, the order shall continue to have effect and be enforceable notwithstanding that the parties to the marriage in question are living with each other at the date of the making of the order or that, although they are not living with each other at that date, they subsequently resume living with each other.

(3) Any order made under section 9, and any interim order made on an application for an order under that section, shall cease to have effect if the parties to the marriage resume living with each other.

(4) Where an order made under this Part ceases to have effect by virtue of subsection (1) or (3) or by virtue of a direction given under subsection (2), the Family Judge may, on an application made by either party to the marriage, make an order declaring that the first mentioned order ceased to have effect from such date as the court may specify.

Reconciliation.

16.(1) Where an application is made for an order under section 4 the court, before deciding whether to exercise its powers under that section, shall consider whether there is any possibility of reconciliation between the parties to the marriage in question; and if at any stage of the proceedings on that application it appears to the court that there is a reasonable possibility of such a reconciliation, the court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect a reconciliation.

(2) Where the court adjourns any proceedings under subsection (1), it may request an officer of the Care Agency or any other person to attempt to effect a reconciliation between the parties to the marriage, and where any such request is made, that officer or other person shall report in writing to the court whether the attempt has been successful or not, but shall not include in that report any other information.

Appeals under Part IA.

16A.(1) Where the Family Judge makes or refuses to make, varies or refuses to vary, revokes or refuses to revoke an order (other than an interim order) under this Part, an appeal shall lie to the Court of Appeal.

(2) On an appeal under this section the Court of Appeal shall have power to make such orders as may be necessary to give effect to its determination of the appeal, including such incidental or consequential orders as appear to the court to be just, and, in the case of an appeal from a decision of the Family Judge made on an application for or in respect of an order for the making of periodical payments, the Court of Appeal may order that its determination of the appeal shall have effect from such date as the court thinks fit, not being earlier than the date of the making of the application to the Family Judge or, in a case where there was made to the Family Judge an application for an order under section 4 and an application under section 8 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 section 4, the date of the making of that application.

(3) Without prejudice to the generality of subsection (2), where, on an appeal under this section in respect of an order of the Family Judge requiring any person to make periodical payments, the Court of Appeal reduces the amount of those payments or discharges the order, the Court of Appeal shall have power to order the person entitled to payments under the order of the Family Judge to pay to the person liable to make payments under that order such sum in respect of payments already made in compliance with the order as the Court of Appeal thinks fit and, if any arrears are due under the

order of the Family Judge, the Court of Appeal may remit the payment of those arrears or any part thereof.

(4) Any order of the Court of Appeal made on an appeal under this section (other than an order directing that an application shall be reheard by the Family Judge) shall for the purposes of the enforcement of the order and for the purposes of section 12 be treated as if it were an order of the Family Judge from which the appeal was brought and not of the Court of Appeal.

Enforcement etc of orders for payment of money.

16B.(1) An order for the payment of money made by the Family Judge under this Part shall be enforceable as a maintenance order by the magistrates' court and the Judge may order that an order for payment of maintenance made under this Part may, on application by the party in whose favour the order is made, be enforced by the magistrates' court in accordance with Part VI of the Magistrates' Court Act.

(2) The Family Judge making an order under this Part for the making of a periodical payment by one person to another may direct that it shall be made to some third party on that other person's behalf instead of directly to that other person.

(3) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made under this Part shall give notice of any change of address to such person, if any, as may be specified in the order; 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.

(4) A person shall not be entitled to enforce through the Supreme Court the payment of any arrears due under an order made by virtue of this Part without the leave of that court if those arrears became due more than twelve months before proceedings to enforce the payment of them are begun.

(5) The Family Judge when hearing an application for the grant of leave under subsection (4) may refuse leave, or may grant leave subject to such restrictions and conditions (including conditions as

to the allowing of time for payment or the making of payment by instalments) as he thinks proper, or may remit the payment of such arrears or any part thereof.

(6) An application for the grant of leave under subsection (4) shall be made in such manner as may be prescribed by rules of court.

Orders for repayment in certain cases of sums paid after cessation of order by reason of remarriage.

16C.(1) Where—

- (a) an order made under section 4(1)(a), 8 or 9 has, by virtue of section 6(2), ceased to have effect by reason of the remarriage of the party in whose favour it was made; and
- (b) the person liable to make payments under the order made payments in accordance with it in respect of a period after the date of that remarriage in the mistaken belief that the order was still subsisting,

no proceedings in respect of a cause of action arising out of the circumstances mentioned in paragraphs (a) and (b) shall be maintainable by the person so liable but on an application made under this section the court may exercise the powers conferred on it by subsection (2).

(2) The court may order the respondent to an application made under this section to pay to the applicant a sum equal to the amount of the payments made in respect of the period mentioned in subsection (1)(b) or, if it appears to the court that it would be unjust to make that order, it may either order the respondent to pay to the applicant such lesser sum as it thinks fit or dismiss the application.

(3) An application under this section may be made by the person liable to make payments under the order made under section 4(1)(a), 8 or 9 or his personal representatives and may be made against the person entitled to payments under that order or his personal representatives.

(4) An order under this section for the payment of any sum may provide for the payment of that sum by instalments of such amount as may be specified in the order.

(5) The designated officer for the court to whom any payments under an order made under section 4(1)(a), 8 or 9 are required to be made, and the collecting officer under an attachment of earnings order made to secure payments under the first mentioned order, shall not be liable—

- (a) in the case of the designated officer, for any act done by him in pursuance of the first mentioned order after the date on which that order ceased to have effect by reason of the remarriage of the person entitled to payments under it; and
- (b) in the case of the collecting officer, for any act done by him after that date in accordance with any enactment or rule of court specifying how payments made to him in compliance with the attachment of earnings order are to be dealt with,

if, the act was one which he would have been under a duty to do had the first mentioned order not ceased to have effect by reason of the remarriage and the act was done before notice in writing of the fact that the person so entitled had remarried was given to him by or on behalf of that person, the person liable to make payments under the first mentioned order or the personal representatives of either of those persons.

(6) In this section—

“collecting officer”, in relation to an attachment of earnings order, means the Registrar of the Supreme Court or the clerk of the magistrates’ court to whom a person makes payments in compliance with the order; and

“designated officer” means the clerk of the magistrates’ court or any other officer as designated by the Family Judge.”.

Amendment to section 17.

6. Section 17 of the Principal Act is amended by substituting “an application” for “a complaint”.

Amendments to section 18.

7. Section 18 of the Principal Act is amended—

- (a) in subsection (1) by substituting “to the Family Judge” for “by complaint to a justice of the peace”; and
- (b) in subsection (2), by substituting “this section” for “section 18”.

Amendments to section 19.

8. Section 19 of the Principal Act is amended—

- (a) in subsection (1) by substituting “An application” for “A complaint” and “applicant” for “complainant”; and
- (b) in subsection (2) by substituting “an application” for “a complaint”.

Amendments to section 20.

9. Section 20 of the Principal Act is amended—

- (a) in line 1, by substituting “An application” for “A complaint”; and
- (b) in paragraph (b), by deleting “if made before the birth of the child”.

Amendments to section 21.

10. Section 21 of the Principal Act is amended—

- (a) in the heading and in subsection (1) by substituting “the application” for “complaint” where it appears twice; and

- (b) in subsection (2), by substituting the following for “an order for the payment by him of– (a) such weekly or other periodical sum for the maintenance and education of the child as the court thinks reasonable having regard to the defendant’s means;”–
 - “(a) an order that the defendant shall make to the applicant for the benefit of the child to whom the application relates, such periodical payments, and for such term, as may be so specified;
 - (aa) an order that the defendant shall pay to the applicant for the benefit of the child to whom the application relates, such lump sum as may be so specified; or”;and
- (c) in subsection (3) by substituting “an application” for “a complaint”.

Amendments to section 22.

11. Section 22 of the Principal Act is amended–

- (a) in subsection (2)–
 - (i) by inserting “be made or varied by the Family Judge” after “order may” in line 1, and
 - (ii) by substituting “obtained a residence order in respect of the child” for “the custody of the child, either legally or by any arrangement approved by the court, be made or varied by the magistrates’ court”; and
- (b) in subsection (3)–
 - (i) by substituting “Family Judge” for “magistrates’ court”,
 - (ii) by substituting “guardian under the Children Act 2009 and such a person” for “(with his consent) to have the custody of the child; and a person appointed as guardian under this subsection”, and

- (iii) in the second sentence, by substituting “Family Judge” for “magistrates’ court”.

Substitution of section 23.

12. The Principal Act is amended by substituting the following section for section 23–

“Duration and continuance of affiliation orders.

23.(1) Subject to subsection (3), no affiliation order for periodical payments shall be made in favour of a child who has attained the age of eighteen.

(2) The term to be specified for periodical payments in the affiliation order in favour of the child may begin with the date of the making of an application for the order in question or any later date but–

- (a) shall not in the first instance extend beyond the date of the birthday of the child next following his attaining the upper limit of the compulsory school age unless the court considers that in the circumstances of the case the welfare of the child requires that it should extend to a later date; and
- (b) shall not in any event, subject to subsection (3), extend beyond the date of the child's eighteenth birthday.

(3) Subsection (1), and paragraph (b) of subsection (2), shall not apply in the case of a child, if it appears to the court that–

- (a) the child is, or will be, or if an order were made without complying with either or both of those provisions would be, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment; or

- (b) there are special circumstances which justify the making of an order without complying with either or both of those provisions.

(4) Any periodical payments order in favour of a child shall, notwithstanding anything in the order, cease to have effect on the death of the person liable to make payments under the order, except in relation to any arrears due under the order on the date of the death.

(5) Where a child in respect of whom an affiliation order has been made has attained the age of eighteen and his mother is dead, of unsound mind or in prison—

- (a) any application for an order under this section directing that payments shall be made under the affiliation order for any period after he has attained that age may be made by the child himself; and
- (b) the child himself shall be the person entitled to any payments directed by an order under this section to be so made for any such period.”.

Repeal of section 24.

13. Section 24 of the Principal Act is repealed.

Substitution of section 25.

14. The Principal Act is amended by substituting the following section for section 25—

“Restriction on payments after the child reaches eighteen.

25. Subject to sections 22 and 23, an affiliation order shall not operate, after the child has attained the age of eighteen so as to—

- (a) require payments under the order to be made in respect of any period during which the child is detained in prison; or

- (b) entitle any person other than the child's mother to the payments.”.

Substitution of section 26.

15. The Principal Act is amended by substituting the following section for section 26–

“Duty of the court to consider appropriate relief under the Children Act 2009.

26. In dealing with a case under this Part, the Family Judge shall have a duty to consider the relevant provisions of the Children Act 2009 in order to provide appropriate relief available under that Act.”.

Amendment to section 28.

16. Section 28 of the Principal Act is amended–

- (a) in line 1, by substituting “residence or guardianship” for “custody”; and
- (b) in the last line, by substituting “level 4” for “level 2”.

Repeal of section 29.

17. Section 29 of the Principal Act is repealed.

Amendments to section 30.

18. Section 30 of the Principal Act is amended–

- (a) in subsection (1), in the definition of “child” by substituting “a step-child or a child of the family” for “or a step-child”;
- (b) by inserting the following definition after the definition of “maintenance order”–

“spouse” means–

- (a) the wife of a man; or

- (b) the husband of a woman.”;
- (c) by deleting subsection (2).

Amendments to section 31.

19. Section 31 of the Principal Act is amended—

- (a) in line 1 and in the heading, by substituting “person” for “man” where it appears twice;
- (b) in subsection (1)—
 - (i) by substituting “spouse” for “wife” in paragraph (a),
 - (ii) by substituting “eighteen” for “sixteen” in paragraphs (b) and (c) in two places where it appears twice,
 - (iii) by deleting “and” after paragraph (c),
 - (iv) by deleting the full-stop and inserting “and” after paragraph (d), and
 - (iv) by inserting “if that person is for any reason unable to maintain himself or herself” after “his cohabitee” in paragraph (e); and
- (c) in subsection (2), by substituting “person” for “man” and “that person” for “he”.

Repeal of sections 32 and 33.

20. The Principal Act is amended by repealing sections 32 and 33.

Amendments to section 33A.

21. Section 33A of the Principal Act is amended—

- (a) by deleting “or 33(1)(d)”;
- (b) by substituting the following paragraph for paragraph (b)—

- “(b) the Care Agency, if that person is in the care of the Care Agency.”; and
- (c) by substituting “to the Family Judge” for “by way of complaint to the magistrates’ court”.

Amendments to section 33B.

22. Section 33B of the Principal Act is amended–

- (a) in subsection (1)–
 - (i) by substituting “In any case” for “any case”; and
 - (ii) by substituting “an application to the Family Judge” for “a complaint (hereinafter in this section referred to as “the complainant”) to a justice of the peace”;
- (b) in subsection (2)–
 - (i) by substituting “Judge” for “justice of the peace”;
 - (ii) by substituting “in exercising his” for “the relevant court in exercising its”; and
 - (iii) by substituting “him to answer the application” for “the magistrates’ court to answer the complaint”;
- (c) in subsection (3)–
 - (i) by substituting “application” for “complaint” in two places where it appears; and
 - (ii) by substituting “Family Judge” for “magistrates’ court”; and
- (d) in subsection (5) by substituting “Family Judge” for “magistrates’ court”.

Amendments to section 34.

23. Section 34 of the Principal Act is amended—

- (a) by substituting—
 - (i) “a person” for “man” in the heading,
 - (ii) “person” for “man” in line 1, and
 - (iii) by deleting “without prejudice to the right of the wife of such man to apply for a matrimonial order under Part I,”;
- (b) in paragraph (a) by substituting “parental responsibility under the Children Act 2009 in respect of that child; or” for “legal custody of such child; and”;
- (c) by substituting the following paragraphs for paragraph (b)—
 - “(b) the Care Agency; or
 - (c) the child himself.”; and
- (d) by substituting “to the Family Judge” for “by way of complaint to the magistrates’ court”.

Repeal of sections 35 and 36.

24. The Principal Act is amended by repealing sections 35 and 36.

Amendment to section 37.

25. Section 37 of the Principal Act is amended—

- (a) in line 1, by substituting “person” for “man, married woman or unmarried woman”;
- (b) in line 2, by substituting “that person’s” for “any”;
- (c) by substituting “that person” for “he to maintain or she”;

- (d) by deleting “, paragraph (d) of section 32 or paragraph (c) of section 33(1)”;
- (e) by substituting the following paragraph for paragraph (b)–
 - “(b) the Care Agency, if the father or the mother is in the care of the Care Agency,”; and
- (f) by substituting “to the Family Judge” for “by way of complaint to the magistrates’ court”.

Repeal of section 38.

26. The Principal Act is amended by repealing section 38.

Amendments to section 39.

27. Section 39 of the Principal Act is amended–

- (a) by substituting “an application” for “a compliant”;
- (b) by substituting “the Family Judge” for “hereunder, the magistrates’ court”; and
- (c) by substituting the following paragraphs for paragraphs (a), (b) and (c)–
 - “(a) that the defendant shall make to the applicant for the maintenance of a child to whom the application relates, or to such a child, such periodical payments, and for such term, as may be so specified in that order;
 - (b) that the defendant shall pay to the applicant for the maintenance of a child to whom the application relates, or to such a child, such lump sum as may be so specified in that order; or
 - (c) that the defendant shall pay to the applicant such periodical payments, and for such term or such lump

sum as may be so specified in that order for the maintenance of a father or a mother.”.

Amendments to section 40.

28. Section 40 of the Principal Act is amended–

- (a) by substituting “application” for “complaint” in line 2 and in paragraphs (a) and (c) where it appears thrice;
- (b) by deleting “or 35” in paragraph (a);
- (c) by inserting “or an affiliation order under Part III in respect of the same child” in paragraph (a) after “of the same child”; and
- (d) by deleting paragraph (b).

Substitution of sections 41 and 42.

29. The Principal Act is amended by substituting the following sections for sections 41 and 42–

“Interim maintenance orders.

41.(1) Where an application is made for a maintenance order, the Family Judge shall, at any time before making a final order on, or dismissing, the application, may make an interim maintenance order which requires the defendant to make to the applicant or to any child who is under the age of eighteen, or to the applicant for the benefit of such a child, such periodical payments as the Judge thinks reasonable.

(2) An interim order may provide for payments to be made from such date as the Judge may specify, except that the date shall not be earlier than the date of the making of the application for maintenance order; and where such an order made by the Court of Appeal on an appeal under section 45 provides for payments to be made from a date earlier than the date of the making of the order, the interim maintenance order may provide that payments made by the respondent under an order made by the Family Judge shall, to such extent and in such manner as may be provided by the interim

maintenance order, be treated as having been paid on account of any payment provided for by the interim maintenance order.

(3) Subject to subsection (4), an interim maintenance order made on an application for maintenance order shall cease to have effect on whichever of the following dates occurs first—

- (a) the date, if any, specified for the purpose in the interim maintenance order;
- (b) the date of the expiration of the period of three months beginning with the date of the making of the interim maintenance order; or
- (c) the date on which the court either makes a final order on or dismisses the application.

(4) Where an interim maintenance order made under subsection (1) would, but for this subsection, cease to have effect by virtue of subsection (3)(a) or (b), the Family Judge may by order provide that the interim maintenance order shall continue in force for a further period, and any order continued in force under this subsection shall cease to have effect on whichever of the following dates occurs first—

- (a) the date, if any, specified for the purpose in the order made under this subsection;
- (b) the date of the expiration of the period of three months beginning with the date of the making of the order under this subsection or, if more than one order has been made under this subsection with respect to the application, beginning with the date of the making of the first of those orders; or
- (c) the date on which the court either makes a final order on, or dismisses, the application.

(5) Not more than one interim maintenance order may be made with respect to any application for maintenance order, but without prejudice to the powers of the court under this section on any further such application.

(6) No appeal shall lie from the making of or refusal to make, the variation of or refusal to vary, or the revocation of or refusal to revoke, an interim maintenance order.

Variation and revocation of orders for periodical payments.

42.(1) Where the Family Judge has made an order under section 39 for the making of periodical payments, the Judge may, on an application made under this section, vary or revoke that order.

(2) Where Family Judge has made an interim maintenance order under section 41, the Judge may, on an application made under this section, vary or revoke that order, except that the Judge shall not by virtue of this subsection extend the period for which the order is in force.

(3) An order made by virtue of this section which varies an order for the making of periodical payments may, if the payments as so varied shall be made from such date as the court may specify, except that, subject to subsection (4), the date shall not be earlier than the date of the making of the application under this section.

(4) In exercising the powers conferred by this section the court shall, so far as it appears to the court just to do so, give effect to any agreement which has been reached between the parties in relation to the application and, if there is no such agreement or if the court decides not to give effect to the agreement, the court shall have regard to all the circumstances of the case, first consideration being given to the welfare of the child who has not attained the age of eighteen, and the circumstances of the case shall include any change in any of the matters to which the court was required to have regard when making the order to which the application relates.

(5) An application under this section may be made by any person who may apply for a maintenance order under this Part.”.

Repeal of sections 43 and 44.

30. Sections 43 and 44 of the Principal Act are repealed.

Substitution of section 45.

31. The Principal Act is amended by substituting the following section for section 45–

“Appeals under Part III.

45.(1) Where the Family Judge makes or refuses to make, varies or refuses to vary, revokes or refuses to revoke an order (other than an interim maintenance order) under this Part, an appeal shall lie to the Court of Appeal.

(2) On an appeal under this section the Court of Appeal may make such orders as may be necessary to give effect to its determination of the appeal, including such incidental or consequential orders as appear to the court to be just, and, in the case of an appeal from a decision of the Family Judge made on an application for or in respect of an order for the making of periodical payments, the Court of Appeal may order that its determination of the appeal shall have effect from such date as the court thinks fit, not being earlier than the date of the making of the application to the Family Judge.

(3) Without prejudice to the generality of subsection (2), where, on an appeal under this section in respect of an order of the Family Judge requiring any person to make periodical payments, the Court of Appeal reduces the amount of those payments or discharges the order, the Court of Appeal may order the person entitled to payments under the order of the Family Judge to pay to the person liable to make payments under that order such sum in respect of payments already made in compliance with the order as the Court of Appeal thinks fit and, if any arrears are due under the order of the Family Judge, the Court of Appeal may remit the payment of those arrears or any part thereof.

(4) Any order of the Court of Appeal made on an appeal under this section (other than an order directing that an application shall be reheard by the Family Judge) shall for the purposes of the enforcement of the order and for the purposes of section 42 be treated as if it were an order of the Family Judge from which the appeal was brought and not of the Court of Appeal.”.

Amendments to section 45A.

32. Section 45A of the Principal Act is amended–

- (a) in subsection (1)–
 - (i) in line 2, by substituting “the Family Judge” for “a court, other than the magistrates’ court”, and
 - (ii) in line 3, by substituting “Family Judge” for “Supreme Court”;
- (b) in subsection (2), by deleting “under this Act” before the proviso and by deleting paragraph (b) of the proviso;
- (c) in subsection (3)–
 - (i) by substituting “Family Judge” for “Supreme Court” in paragraphs (b) and (c) where it appears five times, and
 - (ii) by substituting “the Judge” for “that court” in paragraph (c);
- (c) in subsection (4)(c)(ii), by substituting “Supreme Court” for “magistrates’ court”; and
- (d) in subsection (5), by substituting “Family Judge” for “Supreme Court”.

Substitution of section 46.

33. The principal Act is amended by substituting the following section for section 46–

“Enforcement of orders made under Part III.

46.(1) An order for the payment of maintenance made by the Family Judge under this Part shall be enforceable by the magistrates’ court and the Judge may order that an order for payment of maintenance made under this Part may, on application by the party in whose favour the order is made, be enforced by the

magistrates' court in accordance with Part VI of the Magistrates' Court Act.

(2) The Family Judge making an order under this Part for the making of a periodical payment by one person to another may direct that it shall be made to some third party on that other person's behalf instead of directly to that other person.

(3) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money made under this Part shall give notice of any change of address to such person, if any, as may be specified in the order; 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.

(4) A person shall not be entitled to enforce through the Supreme Court the payment of any arrears due under an order made by virtue of this Part without the leave of that court if those arrears became due more than twelve months before proceedings to enforce the payment of them are begun.

(5) The Family Judge when hearing an application for the grant of leave under subsection (4) may refuse leave, or may grant leave subject to such restrictions and conditions (including conditions as to the allowing of time for payment or the making of payment by instalments) as he thinks proper, or may remit the payment of such arrears or any part thereof.

(6) An application for the grant of leave under subsection (4) shall be made in such manner as may be prescribed by rules of court."

Amendments to section 47.

34. Section 47 of the Principal Act is amended—

- (a) by deleting “, 32 or 33”; and
- (b) by substituting “level 4” for “level 2”.

Amendments to section 48.

35. Section 48 of the Principal Act is amended in subsection (1)–

- (a) in the definition of “maintenance order”, in paragraph (a)–
 - (i) by deleting “alimony”,
 - (ii) by inserting “of money” after “other payments”,
 - (iii) by substituting “the Family Judge” for “a court in Gibraltar”,
 - (iv) by substituting “children” for “minors” in paragraph (a)(ii), and
 - (iv) by substituting the following sub-paragraphs for paragraph (a)(iii)–
 - “(iii) Part VII or XI of the Children Act 2009;
or
 - (iv) the Matrimonial Causes Act”.; and
- (b) in the definition of “proper officer”, by inserting “and in relation to the Supreme Court, the Registrar” after “the clerk of the court”.

Amendments to section 57.

36. Section 57 of the Principal Act is amended in subsections (2) and (3) by substituting “Chief Secretary” for “Deputy Governor” in two places where it appears.

Amendment to section 62.

37. Section 62 of the Principal Act is amended by substituting “, other than a financial agreement made under Part VIA of the Matrimonial Causes Act, that is made in writing” for “in writing made” after the words “any agreement”.

Amendment to section 64.

38. Section 64 of the Principal Act is amended by inserting “by virtue of section 62” after “this Part applies”.

Amendment to section 65.

39. Section 65 of the Principal Act is amended—

- (a) in subsection (1) by deleting “or, subject to subsection (2), the magistrates’ court”; and
- (b) by deleting subsection (2).

Amendment to section 66.

40. Section 66 of the Principal Act is amended in subsection (1) by substituting “Family Judge” for “Supreme Court”.

Amendment to section 68.

41. Section 68(a) of the Principal Act is amended by inserting “Court of Appeal” for “Supreme Court”.

Amendment to section 69.

42. Section 69 of the Principal Act is amended—

- (a) in subsection (1) by substituting “an application to the Family Judge” for “a complaint to the magistrates’ court”;
- (b) in subsection (2)—
 - (i) by substituting “an application” for “a complaint”,
 - (ii) by substituting “Judge” for “court” in line 1,
 - (iii) by substituting “applicant” for “complainant” where it appears thrice, and
 - (iv) by substituting “he” for “the court” in line 5;

- (c) in subsection (3)–
 - (i) by substituting “an application” for “a complaint”, and
 - (ii) by substituting “applicant” for “complainant” where it appears five times, and
 - (iii) by substituting “Judge” for “court” where it appears twice;
- (d) in subsection (4)–
 - (i) by substituting “Judge” for “court”, and
 - (ii) by substituting “applicant” for “complainant”;
- (e) in subsection (5)–
 - (i) by substituting “an application” for “a complaint” in line 1, and
 - (ii) by substituting “application” for “complaint” where it appears thrice, and
 - (iii) by substituting “the Judge” for “the court” where it appears twice;
- (f) in subsection (6)–
 - (i) by substituting “an application” for “a complaint”, and
 - (ii) by substituting “applicant” for “complainant” where it appears twice, and
 - (iii) by substituting “the Judge” for “the court” where it appears twice;
- (g) by deleting subsection (7);
- (h) by deleting subsection (8)(b);

- (i) in subsection (10)–
 - (i) by substituting “Judge” for “court”, and
 - (ii) by substituting “applicant” for “complainant” .

Amendments to section 70.

43. Section 70 of the Principal Act is amended–

- (a) in subsection (1) by substituting “Family Judge” for “magistrates’ court”; and
- (b) in subsection (2) by substituting “applicant” for “complainant”.

Amendment to section 71.

44. Section 71 of the Principal Act is amended–

- (a) in subsection (1)–
 - (i) by substituting “Family Judge” for “magistrates’ court”,
 - (ii) by substituting “applicant” for “complainant” where it appears twice, and
 - (iii) by substituting “Judge” for “court”; and
- (b) in subsection (5)–
 - (i) by substituting “the Family Judge” for “a court”; and
 - (ii) by substituting “applicant” for “complainant”.

Amendment to the heading of section 72.

45. The heading of section 72 of the Principal Act is amended by deleting “magistrates”.

Insertion of sections 73, 74 and 75.

46. The Principal Act is amended by inserting the following sections after section 72–

“Refusal of order by the magistrates’ court in cases more suitable for Supreme Court.

73. Where on hearing any application under any provisions of this Act, the magistrates’ court is of the opinion that any of the matters in question between the parties would be more conveniently dealt with by the Family Judge, the magistrates’ court may refuse to make an order on the application, and no appeal shall lie from that refusal; but if in any proceedings before the Family Judge relating to or comprising the same subject matter as that application the Judge so orders, the application shall be re-heard and determined by the magistrates’ court.

Power to make Regulations.

74.(1) The Minister may by Regulations make provisions for carrying out the purposes of this Act.

(2) The Minister may by Regulations make provisions to give effect to any international measures in relation to maintenance obligations including European Community Regulations, International Conventions or Protocols that requires to be implemented in Gibraltar or to transpose any European Union Directives into the law of Gibraltar.

Saving and transitional provisions.

75.(1) Notwithstanding any repeal or amendments made by this Act to the Maintenance Act, any–

- (a) complaint or application made to the magistrates’ court;
- (b) order made by the magistrates’ court or the Supreme Court on any such complaint or application, or any appeal;

- (c) matrimonial or affiliation proceedings commenced and continued in the magistrates' court; or
- (d) other proceedings commenced and continued in such court,

in accordance with the provisions of the Maintenance Act prior to the coming into operation of this Act, shall be deemed to have been validly made, commenced or continued, and an appeal against an order or judgement of the magistrates' court that is pending in the Supreme Court shall continue as if this Act has not been made.

(2) Upon coming into operation of this Act, any case, complaint, application or proceedings referred to in subsection (1) which has not been disposed of, the magistrates' court may if it appears to the court convenient to do so refer those matters forthwith to the Family Judge for hearing and disposal.

(3) In this section, "this Act" means the Maintenance (Amendment) Act 2010."

EXPLANATORY MEMORANDUM

This Bill provides for consequential amendments.

The Bill seeks to amend the Maintenance Act in various places in order to be consistent with the provisions of the Children Act 2009 and the Matrimonial Causes Act as amended.

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