

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2019 (expired—not approved), Section 3. (See end of Document for details)

STATUTORY INSTRUMENTS

2019 No. 1338

The Civil Jurisdiction and Judgments (Civil and Family) (Amendment) (EU Exit) Regulations 2019 (expired—not approved)

PROSPECTIVE

[^{X1}Amendment of the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019

3.—(1) The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019^{M1} are amended as follows.

(2) In regulation 8 (saving and transitional provisions), in paragraph (1)—

(a) in sub-paragraph (a)—

(i) after “Member State” insert “or, as the case may be, a part of the United Kingdom”;

(ii) at the end of paragraph (i), omit “or”;

(iii) at the end of paragraph (ii), insert “or”;

(iv) after paragraph (ii) insert—

“(iii) the provisions of Schedule 6 (allocation within the United Kingdom of jurisdiction relating to maintenance matters) to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011^{M2}.”;

(b) in sub-paragraph (b), after “4/2009” insert “or that Article as applied by paragraph 5 of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011”;

(c) in sub-paragraph (c)—

(i) at the end of paragraph (i), omit “or”;

(ii) at the end of paragraph (ii), insert “or”; and

(iii) after paragraph (ii) insert—

“(iii) the provisions of Schedule 6 (allocation within the United Kingdom of jurisdiction relating to maintenance matters) to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

(3) In the Schedule—

(a) in paragraph 5 (amendment of the Maintenance Orders (Reciprocal Enforcement) Act 1972), in sub-paragraph (2)(b), omit the words “for adherence and aliment or”;

(b) in paragraph 6 (amendment of the Matrimonial Causes Act 1973), for sub-paragraph (2) substitute—

“(2) In section 27 (financial provision orders in cases of neglect to maintain), for subsection (2) substitute—

“(2) The court may not entertain an application under this section unless—

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- (a) the applicant or the respondent is domiciled in England and Wales on the date of the application;
- (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
- (c) the respondent is resident there on that date.

(2A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.

(2B) In subsection (2A), “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.”;

- (c) in paragraph 8 (amendment of the Matrimonial Causes (Northern Ireland) Order 1978), for sub-paragraphs (4)(d) and (e), substitute—

“(d) for paragraph (5) ^{M3} substitute—

“(5) The court has jurisdiction to entertain an application for financial provision under Article 29 if (and only if)—

- (a) the applicant or the respondent is domiciled in Northern Ireland on the date of the application;
- (b) the applicant has been habitually resident there throughout the period of one year ending with that date; or
- (c) the respondent is resident there on that date.

(5A) If the application or part of it relates to a matter in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18.”;

- (e) in paragraph (7) ^{M4}, omit “Subject to Article 19(1) of the Council Regulation,”;
- (f) for paragraph (8) ^{M5} substitute—

“(8) In this Article “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.””

- (d) in paragraph 12 (amendment of the Civil Jurisdiction and Judgments Act 1982), after sub-paragraph (13) insert—

“(14) In Schedule 8 ^{M6} (rules as to jurisdiction in Scotland), in paragraph 2, after sub-paragraph (d) insert—

- “(e) in matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which has jurisdiction to entertain those proceedings, provided that an action of affiliation and aliment shall be treated as a matter relating to maintenance which is not ancillary to proceedings concerning the status of a person;”;

- (e) in paragraph 13 (amendment of the Matrimonial and Family Proceedings Act 1984)—

- (i) for sub-paragraph (2) substitute—

“(2) In section 15 ^{M7} (jurisdiction of the court)—

- (a) in subsection (1), for “subsections (1A) and (2)” substitute “subsection (1A)”;

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- (b) in subsection (1A), for the words from “where” to “the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (c) in subsection (3), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”. ”;
 - (ii) for sub-paragraph (4) substitute—
 - “(4) In section 28 ^{M8} (circumstances in which a Scottish court may entertain application for financial provision)—
 - (a) in subsection (1), for “subsections (3A) and (4)” substitute “ subsection (3A) ”;
 - (b) in subsection (3A), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (c) for subsection (5) substitute—
 - “(5) “The 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague.””
- (f) in paragraph 15 (amendment of the Family Law Act 1986)—
 - (i) in sub-paragraph (3)(d) for the words from “omit” to the end substitute “for “Council Regulation” substitute “ Hague Convention ””;
 - (ii) in sub-paragraph (5)(c), for the words from “omit” to the end substitute “for “Council Regulation” substitute “ Hague Convention ””;
- (g) in paragraph 17 (amendment of the Children Act 1989), for sub-paragraph (2) substitute—
 - “(2) In paragraph 10 ^{M9} (alteration of maintenance agreements)—
 - (a) in sub-paragraph (2A), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (b) in sub-paragraph (2B), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”. ”;
- (h) in paragraph 18 (amendment of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989), for sub-paragraph (2) substitute—
 - “(2) In Article 19 ^{M10} (jurisdiction of the court)—
 - (a) in paragraph (1), for “paragraphs (1A) and (2)” substitute “ paragraph (1A) ”;
 - (b) in paragraph (1A), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;

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- (c) in paragraph (3), for the words from “ “The Maintenance Regulation”” to the end substitute “ “The 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
- (i) in paragraph 23 (amendment of the Children (Northern Ireland) Order 1995), for sub-paragraph (2) substitute—
 - “(2) In paragraph 12^{M11} (alteration of maintenance agreements)—
 - (a) in sub-paragraph (2A), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (b) in sub-paragraph (2B), for “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
- (j) in paragraph 25 (amendment of the Civil Partnership Act 2004)—
 - (i) in sub-paragraph (2)—
 - (aa) in paragraph (a), at the end insert “ and at the end insert “This subsection is subject to subsection (3B)^{M12}.” ”;
 - (bb) for paragraphs (b) and (c) substitute—
 - “(b) in subsection (3B), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part it except where permitted by Article 18 ”;
 - (c) in subsection (6), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
 - (ii) in sub-paragraph (3), for paragraph (b) substitute—
 - “(b) after sub-paragraph (2) insert—
 - “(2A) If the application or part of it relates to a matter to which Article 18 of the 2007 Hague Convention applies, the court must not entertain the application or that part of it except where permitted by Article 18.”;
 - (c) in sub-paragraph (5)^{M13}, for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
 - (iii) in sub-paragraph (6), for paragraph (a) substitute—
 - “(a) in paragraph 7^{M14} (jurisdiction of the court)—
 - (i) in sub-paragraph (6), for the words from “where jurisdiction falls” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain that application or part of it except where permitted by Article 18 ”;

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- (ii) in sub-paragraph (7), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
- (iv) in sub-paragraph (7), for paragraphs (a) to (c) substitute—
 - “(a) in sub-paragraph (1) ^{M15}, for “sub-paragraphs (3A) and (4)” substitute “ sub-paragraph (3A) ”;
 - (b) in sub-paragraph (3A), for the words from “where” to the end substitute “ in relation to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (c) in sub-paragraph (5), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
- (v) in sub-paragraph (8), for paragraph (a)(ii) substitute—
 - “(ii) after sub-paragraph (2) insert—
 - “(2A) If the application or part of it relates to a matter to which Article 18 of the 2007 Hague Convention applies, the court must not entertain the application or that part of it except where permitted by Article 18.”;
 - (iii) in sub-paragraph (5) ^{M16}, for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”;
- (vi) in sub-paragraph (9), for paragraph (a) substitute—
 - “(a) in paragraph 7 ^{M17}—
 - (i) in sub-paragraph (6), for the words from “where jurisdiction falls” to the end substitute “ to which Article 18 of the 2007 Hague Convention applies, the court may not entertain the application or that part of it except where permitted by Article 18 ”;
 - (ii) in sub-paragraph (7), for the words from “ “the Maintenance Regulation”” to the end substitute “ “the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance concluded on 23 November 2007 at The Hague ”.”.]

Editorial Information

- X1** This statutory instrument was made under a procedure whereby it ceases to have effect at the end of the period of 28 days beginning with the day on which it was made unless, during that period, the instrument is approved by a resolution of each House of Parliament. It was not approved by Parliament within that period and so has ceased to have effect.

Marginal Citations

- M1** [S.I. 2019/519](#).

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- M2** S.I. 2011/1484, amended by [Crime and Courts Act 2013 \(c. 22\), Schedule 10, paragraph 99](#) and Schedule 11, paragraph 210; and by [S.I. 2012/2814](#), [2014/879](#), [2015/1489](#) and [2019/519](#) and [S.R. 2016/317](#).
- M3** [S.I. 1978/1045 N.I. 15](#). Paragraph (5) of Article 49 was substituted by [S.I. 2011/1484](#).
- M4** Paragraph (7) was amended by [S.I. 2005/265](#).
- M5** Paragraph (8) was inserted by [S.I. 2001/660](#), and amended by [S.I. 2005/265](#).
- M6** [1982 c. 27](#). Sub-paragraph (e) of paragraph 2 was repealed by [S.I. 2011/1484](#).
- M7** [1984 c. 42](#). Subsection (1) was amended, and subsections (1A) and (3) inserted, by [S.I. 2011/1484](#).
- M8** Subsection (1) was amended, and subsections (3A) and (5) inserted, by [S.I. 2011/1484](#).
- M9** [1989 c. 41](#). Paragraphs (2A) and (2B) were inserted by [S.I. 2011/1484](#).
- M10** [S.I. 1984/677 \(N.I. 4\)](#). Paragraph (1) of Article 19 was amended, and paragraphs (1A) and (3) of that Article inserted, by [S.I. 2011/1484](#).
- M11** [S.I. 1995/755 \(N.I. 2\)](#). Sub-paragraphs (2A) and (2B) of paragraph 12 of Schedule 1 were inserted by [S.I. 2011/1484](#).
- M12** [2004 c. 33](#). Subsection (3) of section 227 was amended by [S.I. 2011/1484](#) and by [S.S.I. 2019/104](#). Subsections (3A), (3B) and (6) were inserted by [S.I. 2011/1484](#), and subsection (3A) repealed by [S.S.I. 2019/104](#).
- M13** Sub-paragraph (5) of paragraph 39 of Schedule 5 was inserted by [S.I. 2011/1484](#).
- M14** Sub-paragraphs (6) and (7) of paragraph 7 of Schedule 7 were inserted (and sub-paragraph (1) amended in consequence) by [S.I. 2011/1484](#).
- M15** Sub-paragraphs (3A) and (5) of paragraph 2 of Schedule 11 were inserted, and sub-paragraph (1) amended, by [S.I. 2011/1484](#).
- M16** Sub-paragraph (5) of paragraph 34 of Schedule 15 was inserted by [S.I. 2011/1484](#).
- M17** Sub-paragraphs (6) and (7) of paragraph 7 of Schedule 17 were inserted (and sub-paragraph (1) amended in consequence) by [S.I. 2011/1484](#).

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