



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART I

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN UNITED KINGDOM OR RECIPROCATING COUNTRY

Orders made by courts in reciprocating countries

6 Registration in United Kingdom court of maintenance order made in reciprocating country.

- (1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in a reciprocating country, including such an order made by such a court which has been confirmed by a court in another reciprocating country but excluding a provisional order which has not been confirmed.
- (2) Where a certified copy of an order to which this section applies is received by the Secretary of State from the responsible authority in a reciprocating country, and it appears to the Secretary of State that the payer under the order is residing [^{F1}or has assets] in the United Kingdom, he shall send the copy of the order to the prescribed officer of the appropriate court.
- (3) Where the prescribed officer of the appropriate court receives from the Secretary of State a certified copy of an order to which this section applies, he shall, subject to subsection (4) below, register the order in the prescribed manner in that court.
- (4) Before registering an order under this section an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing [^{F2}or has assets] within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not [^{F3}residing and has no assets within the jurisdiction of the court] he shall return the certified copy of the order to the Secretary

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of State with a statement giving such information as he possesses as to the whereabouts of the payer [^{F4}and the nature and location of his assets].

Textual Amendments

- F1 Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 10(a)**
- F2 Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 10(b)(i)**
- F3 Words substituted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 10(b)(ii)**
- F4 Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 10(b)(iii)**

Modifications etc. (not altering text)

- C1 Pt. I (ss. 1-24) applied (with modifications) (5.4.1993) by [Reciprocal Enforcement of Maintenance Orders \(Hague Convention Countries\) Order 1993 \(S.I. 1993/593\)](#), art. 3(1)(2), **Sch. 2, Sch. 3** (as amended (1.4.2005) by [S.I. 2005/617](#), art. 1, **Sch. para. 160**; and amended (18.6.2011) by [S.I. 2011/1484](#), reg. 1(1), **Sch. 7 paras. 25, 26**; and amended (22.4.2014) by [S.I. 2014/879](#), **arts. 1(1), 30-44**)
- C2 Pt. I applied (with modifications) (1.10.2007) by [The Reciprocal Enforcement of Maintenance Orders \(United States of America\) Order 2007 \(S.I. 2007/2005\)](#), arts. 1, 4, **Sch. 1** (with arts. 5, 6) (as amended (22.4.2014) by [S.I. 2014/879](#), **arts. 1(1), 106-117**)
- C3 Pt. 1 applied (with modifications) (1.10.2007) by [The Reciprocal Enforcement of Maintenance Orders \(United States of America\) \(Scotland\) Order 2007 \(S.S.I. 2007/354\)](#), arts. 1(1), 4, **Sch. 1, Sch. 2** (with art. 5) (as amended (22.4.2014) by [S.I. 2014/879](#), arts. 1(1), **119, 120**)
- C4 Pt. 1 (ss. 1-24) applied (with modifications) (5.4.1993) by [Reciprocal Enforcement of Maintenance Orders \(Republic of Ireland\) Order 1993 \(S.I. 1993/594\)](#), art. 2(1)(2), **Sch. 1, Sch. 2** (as amended (1.4.2005) by [S.I. 2005/617](#), art. 1, **Sch. para. 161**; (18.6.2011) by [S.I. 2011/1484](#), reg. 1(1), **Sch. 7 paras. 27, 28**; and (22.4.2014) by [S.I. 2014/879](#), arts. 1(1), **47-58**)
- C5 Pt. 1 (ss. 1-24) applied (with modifications) (1.12.1995) by [Reciprocal Enforcement of Maintenance Orders \(United States of America\) Order 1995 \(S.I. 1995/2709\)](#), art. 3, **Sch. 2** (as amended (1.4.2005) by [S.I. 2005/617](#), art. 1, **Sch. para. 163**; and (22.4.2014) by [S.I. 2014/879](#), arts. 1(1), **61-73**)

7 Confirmation by United Kingdom court of provisional maintenance order made in reciprocating country.

- (1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in a reciprocating country being a provisional order.
- (2) Where a certified copy of an order to which this section applies together with—
 - (a) a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the order was made; and
 - (b) a statement of the grounds on which the making of the order might have been opposed by the payer under the order,

is received by the Secretary of State from the responsible authority in a reciprocating country, and it appears to the Secretary of State that the payer under the order is residing in the United Kingdom, he shall send the copy of the order and documents which accompanied it to the prescribed officer of the appropriate court, and that court shall—

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- (i) if the payer under the order establishes [^{F5}any grounds on which he might have opposed the making of the order] in the proceedings in which the order was made, refuse to confirm the order; and
 - (ii) in any other case, confirm the order either without alteration or with such alterations as it thinks reasonable.
- (3) In any proceedings for the confirmation under this section of a provisional order, the statement received from the court which made the order of the grounds on which the making of the order might have been opposed by the payer under the order shall be conclusive evidence that the payer might have [^{F6}opposed the making of the order on any of those grounds.].
- (4) For the purpose of determining whether a provisional order should be confirmed under this section [^{F7}a magistrates' court in Northern Ireland] shall proceed as if an application for a maintenance order against the payer under the provisional order had been made to it.
- (5) The prescribed officer of a court having power under this section to confirm a provisional order shall, if the court confirms the order, register the order in the prescribed manner in that court, and shall, if the court refuses to confirm the order, return the certified copy of the order and the documents which accompanied it to the Secretary of State.
- [^{F8}(5A) Where [^{F9}the family court] confirms a provisional order under this section, it [^{F10}may] at the same time exercise one of its powers under subsection (5B) below.
- (5B) The powers of the court are—
- (a) the power to order that payments under the order be made directly to [^{F11}the court];
 - (b) the power to order that payments under the order be made to [^{F11}the court], by such method of payment falling within section [^{F12}1(5) of the Maintenance Enforcement Act 1991] (standing order, etc.) as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- (5C) In deciding [^{F13}whether to exercise any of its] powers under subsection (5B) above [^{F14}...], the court shall have regard to any representations made by the payer under the order.
- (5D) [^{F15}Subsection (6) of section 1 of the Maintenance Enforcement Act 1991] (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—
- “(a) the court proposes to exercise its power under paragraph (b) of section 7(5B) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”].
- [^{F16}(5E) Where a court of summary jurisdiction in Northern Ireland confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5F) below.
- (5F) The powers of the court are—
- (a) the power to order that payments under the order be made directly to the collecting officer;

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- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) of the Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

and in this subsection "collecting officer" means the officer mentioned in Article 85(4) of the Order of 1981.

(5G) In deciding which of the powers under subsection (5F) above it is to exercise, the court shall have regard to any representations made by the payer under the order.

(5H) Paragraph (5) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (5F) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 7(5F) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”]

(6) If [^{F17}notice of] the proceedings for the confirmation of the provisional order cannot be duly served on the payer under that order the officer by whom the certified copy of the order was received shall return that copy and the documents which accompanied it to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the payer.

(7) This section shall apply to Scotland subject to the following modifications:—

(a) for subsection (4) there shall be substituted the following subsection:—

“(4) On receiving a certified copy of a provisional order sent to him in pursuance of subsection (2) above the prescribed officer of the appropriate court shall intimate to the payer under the order, in the prescribed manner, that the order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the order under this section.”;

(b) in subsection (6), for the words from the beginning to "that order" there shall be substituted the words " If such intimation as is mentioned in subsection (4) above cannot be given to the payer under a provisional order in pursuance of that subsection"; and

(c) in any proceedings for the confirmation under this section of a provisional order made by a court in a reciprocating country, the sheriff shall apply the law in force in that country with respect to the sufficiency of evidence.

[^{F18}(8) In the application of this section to Northern Ireland—

(a) in subsection (2)(i), for the words from "any grounds" to "making of the order" there shall be substituted "any such defence as he might have raised",

(b) in subsection (3), for the words from "opposed the making" to the end there shall be substituted "raised a defence on any of those grounds in the proceedings in which the order was made.", and

(c) in subsection (6), for the words "notice of" there shall be substituted "a summons to appear in".]

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Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)

Textual Amendments

- F5** Words in s. 7(2)(i) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) , s. 1 , **Sch. 1 Pt. II para. 8(2)** ; S.I. 1993/618 , **art. 2**
- F6** Words in s. 7(3) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) , s. 1 , **Sch. 1 Pt. II** , para. 8(3) ; S.I. 1993/618 , **art. 2**
- F7** Words in s. 7(4) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) , s. 1 , **Sch. 1 Pt. II para. 8(4)** ; S.I. 1993/618 , **art. 2**
- F8** S. 7(5A)-(5D) inserted (E.W.)(1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3) , s. 10 , **Sch. 1 para. 12** , S.I. 1992/455, art. 2
- F9** Words in s. 7(5A) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(a)(i)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F10** Word in s. 7(5A) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(a)(ii)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F11** Words in s. 7(5B)(a)(b) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(b)(i)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F12** Words in s. 7(5B)(b) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(b)(ii)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F13** Words in s. 7(5C) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(c)(i)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F14** Words in s. 7(5C) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(c)(ii)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** Words in s. 7(5D) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 33(d)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F16** S. 7(5E)-(5H) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6) , art. 11 , **Sch. 1 para. 7** ; S.R. 1996/454 , **art. 3**
- F17** Words in s. 7(6) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) , s. 1 , **Sch. 1 Pt. II para. 8(5)** ; S.I. 1993/618 , **art. 2**
- F18** S. 7(8) added (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56) , s. 1 , **Sch. 1 Pt. II para. 8(6)** ; S.I. 1993/618 , **art. 2** ; and repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2) , art. 185(2) , **Sch. 10** (with Sch. 8 paras. 1(1) , 23(4)); S.R. 1996/297 , **art. 2(2)**

Modifications etc. (not altering text)

- C6** S. 7(5) extended (28.5.2002) by The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2002 (S.I. 2002/788) , **art. 4(6)(7)**

8 Enforcement of maintenance order registered in United Kingdom court.

- (1) Subject to subsection (2) below, a registered order may be enforced in the United Kingdom as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.

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- (2) Subsection (1) above does not apply to an order which is for the time being registered^{F19} ... in the High Court of Justice in Northern Ireland under Part II of the^{M1} Maintenance and Affiliation Orders Act (Northern Ireland) 1966.
- (3) Any person for the time being under an obligation to make payments in pursuance of [^{F20}an order registered in a court in Northern Ireland] shall give notice of any change of address to the [^{F21}clerk of that] court, and any person failing without reasonable excuse to give such a notice shall be liable on summary conviction to a fine not exceeding [^{F22}£50].
- ^{F23}(3A)
- (4) [^{F24}An order which by virtue of this section is enforceable by a magistrates' court shall [^{F25}subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in subsection (4C) below] be enforceable as [^{F26}an order made by that court to which that Article applies]]
- ^{F27}(4A)
- ^{F27}(4B)
- ^{F28}(4C) Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of sums adjudged to be paid) shall have effect—
- (a) as if for paragraph (7)(a) there were substituted the following paragraph—
- “(a) if the court is of the opinion that it is appropriate—
- (i) to make an attachment of earnings order; or
- (ii) to exercise its power under paragraph (8C)(b)”
- (b) as if for paragraphs (8B) to (8D) there were substituted the following paragraphs—
- “(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under paragraph (8C).
- (8C) The powers mentioned in paragraph (8B) are—
- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX to secure payments under the order.
- (8D) In deciding which of the powers under paragraph (8C) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor (within the meaning of Article 85).
- (8E) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

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- “(a) the court proposes to exercise its power under sub-paragraph (b) of Article 98(8C), and””]
- (5) [^{F29}A magistrates' court in Northern Ireland] by which an order is enforceable by virtue of this section, and the officers thereof, shall take all such steps for enforcing [^{F30}or facilitating the enforcement of] the order as may be prescribed.
- (6) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent to the prescribed officer of the court shall be evidence of the facts stated therein.
- (7) Subject to subsection (8) below, sums of money payable under a registered order shall be payable in accordance with the order as from [^{F31}the date on which they are required to be paid under the provisions of the order].
- (8) The court having power under section 7 of this Act to confirm a provisional order may, if it decides to confirm the order, direct that the sums of money payable under it shall be deemed to have been payable in accordance with the order as from [^{F32}the date on which they are required to be paid under the provisions of the order or such later date], as it may specify; and subject to any such direction, a maintenance order registered under the said section 7 shall be treated as if it had been made in the form in which it was confirmed and as if it had never been a provisional order.
- (9) In the application of this section to Scotland—
- (a) subsections (2) to (5) shall be omitted; and
 - (b) in subsection (6), for the word “evidence” there shall be substituted the words “sufficient evidence”.

^{F33}(10)

Textual Amendments

- F19** Words in s. 8(2) omitted (22.4.2014) by virtue of [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, 7
- F20** Words in s. 8(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 34\(a\)\(i\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F21** Words in s. 8(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 34\(a\)\(ii\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F22** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), s. 89, [Sch. 2 para. 33](#)
- F23** S. 8(3A) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 34\(b\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F24** S. 8(4) omitted (E.W.) (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 34\(c\)](#) (with s. 61(13)(f)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F25** Words in s. 8(4) inserted (N.I.) (4.11.1996) by [S.I. 1993/1576 \(N.I. 6\)](#), art. 11, [Sch. 1 para. 8\(a\)](#); [S.R. 1996/454](#), art. 3
- F26** Words in s. 8(4) substituted (N.I.) (4.11.1996) by [S.I. 1995/755 \(N.I. 2\)](#), art. 185(1), [Sch. 9 para. 68](#) (with [Sch. 8 para. 1\(1\)](#)); [S.R. 1996/297](#), art. 2(2)

Changes to legislation: *There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)*

- F27** S. 8(4A)(4B) omitted (22.4.2014) by virtue of **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 34(c)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F28** S. 8(4C) inserted (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 8(b)**; S.R. 1996/454, **art. 3**
- F29** Words in s. 8(5) substituted (22.4.2014) by **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 34(d)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F30** Words inserted by **Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3)**, ss. 37(1), 52, **Sch. 11 Pt. III para. 11**
- F31** Words substituted by **Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)**, **ss. 54(c)**, 89
- F32** Words substituted by **Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)**, **ss. 54(d)**, 89
- F33** S. 8(10) repealed by S.I. 1981/1675 (N.I. 26), **Sch. 7**

Modifications etc. (not altering text)

- C7** Ss. 8-21 applied (28.5.2002) by **The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2002 (S.I. 2002/788)**, **art. 4(4)(5)**
- C8** Ss. 8-21 applied (19.6.2008) by **The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2008 (S.I. 2008/1202)**, arts. 1, **4(5)**
- C9** S. 8(1) excluded (22.4.2014) by **The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605)**, arts. 1, **11**

Marginal Citations

- M1** 1966 c. 35(N.I.)

9 Variation and revocation of maintenance order registered in United Kingdom court.

- (1) Subject to the provisions of this section, the registering court—
- (a) shall have the like power, on an application made by the payer or payee under a registered order, to vary or revoke the order as if it had been made by the registering court as if that court had had jurisdiction to make it; and
- (b) shall have power to vary or revoke a registered order by a provisional order.

^{F34}(1ZA)

[^{F35}(1ZB) Where the registering court is a court of summary jurisdiction in Northern Ireland, Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation etc., of orders for periodical payment) shall have effect in relation to the registered order—

^{F36}[as if in paragraph (1) for the words “by order on complaint,” there were (za) substituted “on an application being made, by order”];

- (a) as if in paragraph (3) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “ paragraph (3A) ” and after that paragraph there were inserted—

“(3A) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer by such method of payment

- falling within Article 85(7) (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX to secure payments under the order.”;
- (b) as if in paragraph (4) for sub-paragraph (b) there were substituted—
- “(b) payments under the order are required to be made to the collecting officer by any method of payment falling within Article 85(7) (standing order, etc.)” ;
- F37
- ...
- (c) as if in paragraph (5) for the words “to the collecting officer” there were substituted “ in accordance with sub-paragraph (a) of paragraph (3A) ” ;
- (d) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;
- (e) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “ paragraph (3A) ” ;
- (f) as if for paragraphs (9) and (10) there were substituted the following paragraphs—
- “(9) In deciding, for the purposes of paragraphs (3) and (8), which of the powers under paragraph (3A) it is to exercise, the court shall have regard to any representations made by the debtor.
- (10) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (3A) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—
- “(a) the court proposes to exercise its power under sub-paragraph (b) of Article 86(3A),and””]
- [^{F38}(1A) The powers conferred by subsection (1) above are not exercisable in relation to so much of a registered order as provides for the payment of a lump sum.]
- [^{F39}(1B) The registering court shall not vary or revoke a registered order if neither the payer nor the payee under the order is resident in the United Kingdom.]
- (2) The registering court shall not vary a registered order otherwise than by a provisional order unless—
- (a) both the payer and the payee under the registered order are for the time being residing in the United Kingdom; or
- (b) the application is made by the payee under the registered order; or
- (c) the variation consists of a reduction in the rate of the payments under the registered order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the registered order was made or, in the case of an order registered under section 7 of this Act, since the registered order was confirmed, and the courts in the reciprocating country in which the maintenance order in question was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.
- (3) The registering court shall not revoke a registered order otherwise than by a provisional order unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom.

Changes to legislation: *There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)*

- (4) On an application for the revocation of a registered order the registering court shall, unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom, apply the law applied by the reciprocating country in which the registered order was made; but where by virtue of this subsection the registering court is required to apply that law, that court may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to the law applied by the reciprocating country, notwithstanding that it has not been established that it is such a ground.
- (5) Where the registering court makes a provisional order varying or revoking a registered order the prescribed officer of the court shall send in the prescribed manner to the court in the reciprocating country which made the registered order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.
- (6) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying a registered order, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the registering court, that court may confirm the order either without alteration or with such alterations as it thinks reasonable or refuse to confirm the order.
- (7) For the purpose of determining whether a provisional order should be confirmed under subsection (6) above the court shall proceed as if an application for the variation of the registered order had been made to it.
- (8) Where a registered order has been varied by an order (including a provisional order which has been confirmed) made by a court in the United Kingdom or by a competent court in a reciprocating country, the registered order shall, as from [^{F40}the date on which under the provisions of the order the variation is to take effect], have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.
- (9) Where a registered order has been revoked by an order made by a court in the United Kingdom or by a competent court in a reciprocating country, including a provisional order made by the first-mentioned court which has been confirmed by a competent court in a reciprocating country, the registered order shall, as from [^{F41}the date on which under the provisions of the order the revocation is to take effect], be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.
- (10) The prescribed officer of the registering court shall register in the prescribed manner any order varying a registered order other than a provisional order which is not confirmed.
- (11) In the application of this section to Scotland—
 - (a) after subsection (4) there shall be inserted the following subsection:—

“(4A) It shall not be necessary for the payer under a registered order to intimate to any person the making by him of an application for a provisional order varying or revoking the registered order.”; and
 - (b) for subsection (7) there shall be substituted the following subsection:—

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)

“(7) Where a certified copy of a provisional order varying a registered order is received by the registering court as mentioned in subsection (6) above, the prescribed officer of that court shall intimate to the payer under the registered order, in the prescribed manner, that the provisional order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the provisional order under this section.”

Textual Amendments

- F34** S. 9(1ZA) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 35](#); [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F35** S. 9(1ZB) inserted (N.I.) (4.11.1996) by [S.I. 1993/1576 \(N.I. 6\)](#), [art. 11](#), [Sch. 1 para. 9](#); [S.R. 1996/454](#), [art. 3](#)
- F36** S. 9(1ZB)(za) inserted (N.I.) (4.11.1996) by [S.I. 1995/755 \(N.I. 2\)](#), [art. 185\(1\)](#), [Sch. 9 para. 69](#) (with [Sch. 8 para. 1\(1\)](#)); [S.R. 1996/297](#), [art. 2\(2\)](#)
- F37** Words in s. 9(1ZB)(b) repealed (N.I.) (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), [Sch. 1 para. 66\(1\)](#), [Sch. 9 Pt. 1](#) (with [Sch. 8 para. 1](#)); [S.R. 2016/387](#), [art. 2\(k\)\(m\)](#) (with [art. 3](#))
- F38** S. 9(1A) inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 23(1)(c), 37(1), 52, [Sch. 11 Pt. I para. 4\(1\)](#)
- F39** S. 9(1B) inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 23(1)(c), 37(1), 52, [Sch. 11 Pt. III para. 12](#)
- F40** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. 54(e), 89
- F41** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. 54(f), 89

Modifications etc. (not altering text)

- C8** Ss. 8-21 applied (19.6.2008) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2008 \(S.I. 2008/1202\)](#), arts. 1, [4\(5\)](#)
- C10** Ss. 8-21 applied (28.5.2002) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2002 \(S.I. 2002/788\)](#), [art. 4\(4\)\(5\)](#)

10 Cancellation of registration and transfer of order.

(1) Where—

- (a) a registered order is revoked by an order made by the registering court; or
- (b) a registered order is revoked by a provisional order made by that court which has been confirmed by a court in a reciprocating country and notice of the confirmation is received by the registering court; or
- (c) a registered order is revoked by an order made by a court in such a country and notice of the revocation is received by the registering court,

the prescribed officer of the registering court shall cancel the registration; but any arrears due under the registered order at the date when its registration is cancelled by virtue of this subsection shall continue to be recoverable as if the registration had not been cancelled.

(2) Where the prescribed officer of the registering court is of opinion that the payer under a registered order, [^{F42}is not residing within the jurisdiction of that court and has no assets within that jurisdiction against which the order can be effectively enforced,] he shall cancel the registration of the order and, subject to subsection (3) below, shall send the certified copy of the order to the Secretary of State.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)

- (3) Where the prescribed officer of the registering court, being a magistrates' court [^{F43}in Northern Ireland], is of opinion that the payer is residing [^{F44}or has assets] within the jurisdiction of another magistrates' court in [^{F45}Northern Ireland], he shall transfer the order to that other court by sending the certified copy of the order to the prescribed officer of that other court.
- (4) On the transfer of an order under subsection (3) above the prescribed officer of the court to which it is transferred shall, subject to subsection (6) below, register the order in the prescribed manner in that court.
- (5) Where the certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order is [^{F46}residing or has assets] in the United Kingdom, he shall transfer the order to the appropriate court by sending the certified copy of the order together with the related documents to the prescribed officer of the appropriate court and, subject to subsection (6) below, that officer shall register the order in the prescribed manner in that court.
- (6) Before registering an order in pursuance of subsection (4) or (5) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer is residing [^{F47}or has assets] within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not [^{F48}residing and has no assets within the jurisdiction of the court] he shall send the certified copy of the order to the Secretary of State.
- (7) The officer of a court who is required by any of the foregoing provisions of this section to send to the Secretary of State or to the prescribed officer of another court the certified copy of an order shall send with that copy—
 - (a) a certificate of arrears signed by him;
 - (b) a statement giving such information as he possesses as to the whereabouts of the payer [^{F49}and the nature and location of his assets]; and
 - (c) any relevant documents in his possession relating to the case.
- (8) In the application of this section to Scotland—
 - (a) in subsection (2), for the words “within the jurisdiction of that court” there shall be substituted the words “in Scotland”; and
 - (b) subsections (3) and (4) shall be omitted.

Textual Amendments

- F42** Words substituted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 13(2)**
- F43** Words in s. 10(3) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 36(a)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F44** Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), **Sch. 11 Pt. III para. 13(3)**
- F45** Words in s. 10(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 36(b)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F46** Words substituted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 13(4)**
- F47** Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 37(1), 52, **Sch. 11 Pt. III para. 13(5)(a)**

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Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries. (See end of Document for details)

- F48** By Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 37(1), 52, **Sch. 11 Pt. III para. 13(5)(b)** it is provided that for “so residing” there is inserted “residing and has no assets within the jurisdiction of the court”.
- F49** Words inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 37(1), 52, **Sch. 11 Pt. III para. 13(6)**

Modifications etc. (not altering text)

- C8** Ss. 8-21 applied (19.6.2008) by The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2008 (S.I. 2008/1202), arts. 1, **4(5)**
- C11** Ss. 8-21 applied (28.5.2002) by The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2002 (S.I. 2002/788), **art. 4(4)(5)**

11 Steps to be taken by Secretary of State where payer under certain orders is not residing in the United Kingdom.

- (1) If [^{F50}at any time] it appears to the Secretary of State that the payer under a maintenance order, a certified copy of which has been received by him from a reciprocating country, is not residing [^{F51}and has no assets in the United Kingdom,] he shall send to the responsible authority in that country or, if having regard to all the circumstances he thinks it proper to do so, to the responsible authority in another reciprocating country—
- (a) the certified copy of the order in question and a certified copy of any order varying that order;
 - (b) if the order has at any time been a registered order, a certificate of arrears signed by the prescribed officer;
 - (c) a statement giving such information as the Secretary of State possesses as to the whereabouts of the payer [^{F52}and the nature and location of his assets]; and
 - (d) any other relevant documents in his possession relating to the case.
- (2) Where the documents mentioned in subsection (1) above are sent to the responsible authority in a reciprocating country other than that in which the order in question was made, the Secretary of State shall inform the responsible authority in the reciprocating country in which that order was made of what he has done.

Textual Amendments

- F50** Words inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 37(1), 52, **Sch. 11 para. 14(a)**
- F51** Words substituted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 37(1), 52, **Sch. 11 Pt. III para. 14(b)**
- F52** Words inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), ss. 37(1), 52, **Sch. 11 Pt. III para. 14(c)**

Modifications etc. (not altering text)

- C1** Pt. I (ss. 1-24) applied (with modifications) (5.4.1993) by Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993 (S.I. 1993/593), art. 3(1)(2), Sch. 2, **Sch. 3** (as amended (1.4.2005) by S.I. 2005/617, art. 1, **Sch. para. 160**; and amended (18.6.2011) by S.I. 2011/1484, reg. 1(1), Sch. 7 paras. 25, **26**; and amended (22.4.2014) by S.I. 2014/879, **arts. 1(1), 30-44**)
- C8** Ss. 8-21 applied (19.6.2008) by The Reciprocal Enforcement of Maintenance Orders (Designation of Reciprocating Countries) Order 2008 (S.I. 2008/1202), arts. 1, **4(5)**

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C12 Ss. 8-21 applied (28.5.2002) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2002 \(S.I. 2002/788\)](#), **art. 4(4)(5)**

Changes to legislation:

There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Orders made by courts in reciprocating countries.