SCHEDULES

[X1]SCHEDULE 3 U.K.

Section 3.

MAINTENANCE ORDERS

Editorial Information

X1 The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Registration etc. of maintenance orders in England and Wales

1 The following subsections shall be substituted for subsection (2) of section I of the [M1]Maintenance Orders Act 1958 (introductory provisions relating to registration in one court of a maintenance order made by another):—

"(2) For the purposes of subsection (1) above, a maintenance order made by a court in Scotland or Northem Ireland and registered in England under Part II of the Maintenance Orders Act 1950 shall be deemed to have been made by the court in England in which it is so registered.

(2A) This Part of this Act applies—

(a) to maintenance orders made by the High Court or a county court, or a magistrates' court, other than orders registered in Scotland or Northern Ireland under Part II of the Maintenance Orders Act 1950, and

(b) to maintenance orders made by a court in Scotland or Northem Ireland and registered in England under Part II of the Maintenance Orders Act 1950.".

Marginal Citations

M1 1958 c. 39.

2 The following subsection shall be inserted after subsection (6) of section 2 of the said Act of 1958 (registration of maintenance orders):—

"(6A) In this section—

"High Court order" includes a maintenance order deemed to be made by the High Court by virtue of section 1(2) above, and

"magistrates' court order" includes a maintenance order deemed to be made by a magistrates' court by virtue of that subsection.".

3 After subsection (6) of section 4 of the said Act of 1958 (variation of orders registered in magistrates' courts) there shall be inserted the following subsection:—

"(6A) No application for any variation in respect of a registered order shall be made to any court in respect of an order made by the Court of Session or the High Court in Northern Ireland and registered in that court in accordance with the provisions of this Part of this Act by virtue of section 1(2) above.".

4 In section 5 of the said Act of 1958 (cancellation of registration)—

[F1](a) . . . . . .

(b) the following subsection shall be inserted after subsection (4):—

"(4A) For the purposes of a notice under subsection (2) or (3) above—

"court of registration" includes any court in which an order is registered under Part II of the Maintenance Orders Act 1950, and

"registration" includes registration under that Act.".

Textual Amendments

F1 Sch. 3 para. 4(a) repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 99** Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

5 The following subsections shall be substituted for section 23(2) of the said Act of 1958 (extent):—

"(2) The following provisions of this Act, namely—

section 2 ;

section 5(2), (3), (4) and (4A) ;

extend to Scotland and Northern Ireland.

(2A) Section 20(3)(a) above extends to Northern Ireland.

(2B) Subject to subsections (2) and (2A) above, this Act extends only to England.".

6 The following subsection shall be inserted after section 18(3) of the Maintenance Orders Act 1950 (enforcement of registered orders):—

"(3A) Notwithstanding subsection (1) above, no court in England in which a maintenance order is registered under this Part of this Act shall enforce that order whilst it is registered in another court in England under Part I of the Maintenance Orders Act 1958.".

7 In section 21(2) of the said Act of 1950 (evidence admissible before court where order registered) for the words from "registered" to "superior court" there shall be substituted the words—

"(a) registered under this Part of this Act in a superior court and not registered under Part I of the Maintenance Orders Act 1958, or

(b) registered in a court in England under that Part of that Act, by virtue of section 1(2) of that Act,".

8 The following section shall be substituted for section 23 of the said Act of 1950 (notice of variation, etc.):—

"**23** (1) Where a maintenance order registered under this Part of this Act is discharged or varied by any court, the prescribed officer of that court shall give notice of the discharge or variation in the prescribed manner—

(a) to the prescribed officer of any court in which the order is registered ; and

(b) if the order was made by another court, to the prescribed officer of that court.

(2) Any officer to whom a notice is given under this section shall cause particulars of the notice to be registered in his court in the scribed manner.".

9 In section 24 of the said Act of 1950 (cancellation of registration)—

(a) in subsection (2), for the words "of the court" there shall be substituted the words " of any court " ; and

(b) in subsection (3), for the words from "to" in the first place where it occurs to the end of the subsection there shall be substituted the words:—

"(a) to the prescribed officer of the court by which the order was made ; and

(b) to the prescribed officer of any court in which it is registered under Part I of the Maintenance Orders Act 1958.

(3A) On receipt of a notice under subsection (3) above:—

(a) any such officer as is mentioned in paragraph (a) of that subsection shall cause particulars of the notice to be registered in his court in the prescribed manner ; and

(b) any such officer as is mentioned in paragraph (b) of that subsection shall cause particulars of the notice to be registered in his court in the prescribed manner and shall cancel the registration of the order.".

10 Maintenance orders made by the Court of Session or the High Court in Northern Ireland which were registered in the High Court and purportedly thereafter registered in a magistrates' court before the coming into force of this Schedule shall be deemed to be and always to have been validly registered in the magistrates' court, and accordingly the provisions of Part I of the [M2]Maintenance Orders Act 1958 shall apply to them.

Marginal Citations

M2 1958 c. 39.

Service of process

11 In section 15 of the [M3]Maintenance Orders Act 1950 (service of process), for the words in subsection (1) from the beginning to "residing" there shall be substituted the words—

"Where—

(a) proceedings are begun in a court having jurisdiction under or by virtue of the following, namely—
  (i) this Part of this Act , or
  (ii) section 1(3) or 9(1) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 ; or
  (iii) section 15 of the Guardianship of Minors Act 1971 ; or
  (iv) section 41 of the Maintenance Orders (Reciprocal Enforcement) Act 1972, or

(b) an action for separation and aliment is commenced in a sheriff court in Scotland,

and the person against whom the action or other proceedings is or are brought resides ".

Marginal Citations

M3 1950 c. 37.

Enforcement of payment of capital sums in Scottish divorce actions

12 In section 16 of that Act (which provides for the enforcement of maintenance orders throughout the United Kingdom and includes in the orders which may be enforced orders for the payment of periodical allowances under section 26 of the [M4]Succession (Scotland) Act 1964 and section 5 of the [M5]Divorce (Scotland) Act 1976), in subsection (2)(b)(i), after the words "periodical allowance", in the second place where they occur, there shall be inserted the words " or a capital sum ".

Marginal Citations

M4 1964 c. 41.

M5 1976 c. 39.

Changes to legislation:
There are currently no known outstanding effects for the Administration of Justice Act 1977, SCHEDULE 3.