

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Crime and Courts Act 2013, Cross Heading: Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18). (See end of Document for details)

SCHEDULES

SCHEDULE 11

TRANSFER OF JURISDICTION TO FAMILY COURT

PART 1

AMENDMENTS OF ENACTMENTS

Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

- 29 The Maintenance Orders (Reciprocal Enforcement) Act 1972 is amended as follows.

Commencement Information

- II** Sch. 11 para. 29 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 30 (1) Section 3 (magistrates' court may make provisional maintenance order against person residing in reciprocating country) is amended as follows.
- (2) In subsection (1) for “a magistrates' court” substitute “ the family court ”.
- (3) In subsection (4) (application not to be transferred etc)—
- (a) before paragraph (a) insert—
- “(za) a court to transfer proceedings from the family court to the High Court,” and
- (b) in paragraphs (a) and (b) after “magistrates' court” insert “ in Northern Ireland ”, and
- (c) in those paragraphs after “High Court” insert “ of Justice in Northern Ireland ”.
- (4) In subsection (6) (effect of order being confirmed) omit “magistrates”.
- (5) Omit subsection (7)(b) (Northern Ireland: application of subsection (4)).
- (6) In the title omit “magistrates”.

Commencement Information

- I2** Sch. 11 para. 30 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 31 In section 4(6) (Scotland: application of section 3(5) and (6)) after “for references to” insert “ a court that are references to the family court or ”.

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Commencement Information

- I3** Sch. 11 para. 31 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 32 Omit section 5(3A) (modification of section 60 of Magistrates' Courts Act 1980 in relation to maintenance orders to which section 5 applies).

Commencement Information

- I4** Sch. 11 para. 32 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 33 In section 7 (confirmation of order made in reciprocating country)—
- (a) in subsection (5A) (court to exercise one of its powers under subsection (5B) upon confirming order)—
 - (i) for “a magistrates' court in England and Wales” substitute “ the family court ”, and
 - (ii) for “shall” substitute “ may ”,
 - (b) in subsection (5B) (available powers)—
 - (i) in each of paragraphs (a) and (b) for the words from “the designated” to “Wales” substitute “ the court ”,
 - (ii) in paragraph (b) for “59(6) of the Magistrates' Courts Act 1980” substitute “ 1(5) of the Maintenance Enforcement Act 1991 ”,
 - (c) in subsection (5C) (deciding on exercise of powers)—
 - (i) for “which of the” substitute “ whether to exercise any of its ”, and
 - (ii) omit “it is to exercise”, and
 - (d) in subsection (5D) (power to require account to be opened) for “Subsection (4) of section 59 of the Magistrates' Courts Act 1980” substitute “ Subsection (6) of section 1 of the Maintenance Enforcement Act 1991 ”.

Commencement Information

- I5** Sch. 11 para. 33 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 34 In section 8 (enforcement of registered maintenance orders)—
- (a) in subsection (3) (offence of not giving notice of change of address to appropriate officer)—
 - (i) for “a registered order” substitute “ an order registered in a court in Northern Ireland ”, and
 - (ii) for “appropriate officer of the registering” substitute “ clerk of that ”,
 - (b) omit subsection (3A) (meaning of “appropriate officer”),
 - (c) omit subsections (4) to (4B) (enforcement by magistrates' courts in England and Wales), and
 - (d) in subsection (5) (magistrates' court to take prescribed steps) for “The magistrates' court” substitute “A magistrates' court in Northern Ireland”.

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Commencement Information

- 16** Sch. 11 para. 34 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 35 Omit section 9(1ZA) (modification of section 60 of Magistrates' Courts Act 1980 in relation to registered order).

Commencement Information

- 17** Sch. 11 para. 35 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 36 In section 10(3) (transfer to other magistrates' court)—
- (a) after “magistrates' court”, in the first place, insert “ in Northern Ireland ”, and
 - (b) for the words from “that part” to “court is” substitute “ Northern Ireland ”.

Commencement Information

- 18** Sch. 11 para. 36 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 37 (1) In section 14(3) (compelling attendance of witnesses etc)—
- (a) for the words from “Section” to “1980” substitute “Articles 118(1), (3) and (4), 119 and 120 of the Magistrates' Courts (Northern Ireland) Order 1981”, and
 - (b) after “a magistrates' court” insert “ in Northern Ireland ”.
- (2) Omit section 14(6) (Northern Ireland: modifications).

Commencement Information

- 19** Sch. 11 para. 37 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 38 In section 17 (proceedings in magistrates' courts)—
- (a) in subsection (4) (courts in same area have same jurisdiction)—
 - (i) after “magistrates' court”, in the first place, insert “ in Northern Ireland ”,
 - (ii) omit the words from “acting”, in the first place, to “Northern Ireland,”, and
 - (iii) for “district” substitute “ district ”,
 - (b) in subsection (5A) (jurisdiction where respondent resides in reciprocating country) for “a magistrates' court in England and Wales”, in both places, and for “such a court”, substitute “ the family court ”, and
 - (c) in subsection (7) (proceedings in absence of respondent) for “a magistrates' court”, in both places, substitute “the family court in England and Wales or a magistrates' court in Northern Ireland”.

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I10 Sch. 11 para. 38 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 39 (1) Section 18 (magistrates' courts rules) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) Rules of court may make provision with respect to the matters that would be mentioned in any of paragraphs (b), (c), (e) and (f) of subsection (1) if references in those paragraphs to a magistrates' court, or to magistrates' courts, were references to the family court.”
- (3) In subsection (1) (provision which may be made in rules of court)—
- (a) for the words before paragraph (a) substitute “ The matters referred to in subsections (A1) and (2) are— ”, and
- (b) in paragraph (a) for “local justice area”, in both places, substitute “ petty sessions district ”.
- (4) In subsection (1A) (further provision about rules of court in relation to England and Wales) for “(1)” substitute “ (A1) ”.
- (5) For the title substitute “ Rules of court ”.

Commencement Information

I11 Sch. 11 para. 39 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 40 In section 21(1) in the definition of “the appropriate court”—
- (a) after “ “the appropriate court” ” insert “—
- (a)”,
- and
- (b) for “Wales or” substitute “Wales means the family court; and
- (b) in relation to a person residing or having assets”.

Commencement Information

I12 Sch. 11 para. 40 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 41 (1) Section 23 (orders registered in High Court under Maintenance Orders (Facilities for Enforcement) Act 1920) is amended as follows.
- (2) In subsection (1) (orders registered at time when 1920 Act ceases to apply)—
- (a) after “High Court”, in the first place, insert “ or the High Court of Justice in Northern Ireland ”,
- (b) for “the High Court”, in the second place, substitute “subsection (1A) applies in relation to the order.

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- (1A) Where the order was at that time registered in the High Court, that court may, on an application by the payer or the payee under the order or of its own motion, transfer the order to the family court, with a view to the order being registered in the family court under this Part of this Act; and where the order was at that time registered in the High Court of Justice in Northern Ireland, that court”,
- (c) after “magistrates' court” insert “ in Northern Ireland ”, and
- (d) after “registered in that” insert “magistrates”.
- (3) Before subsection (2) insert—
- “(1B) Where the High Court transfers an order to the family court under this section it shall—
- (a) cause a certified copy of the order to be sent to an officer of the family court, and
- (b) cancel the registration of the order in the High Court.”
- (4) In subsection (2) (certified copy to be sent to court which is to register order) after “High Court”, in the first place, insert “ of Justice in Northern Ireland ”.
- (5) In subsection (3) (officer to register order) omit “appropriate”.
- (6) In subsection (4)—
- (a) for “the magistrates” substitute “ a ”, and
- (b) for “appropriate officer of the court” substitute “ officer registering it ”.
- (7) Omit subsection (5) (Northern Ireland: modification).
- (8) In subsection (6) (meaning of “appropriate officer”) for the words from “means—” to the end substitute “, in relation to a magistrates' court in Northern Ireland, means the clerk of the court.”

Commencement Information

I13 Sch. 11 para. 41 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 42 In section 26(6)(a) (appropriate officer) for the words from “the designated” to the end substitute “ an officer of the family court ”.

Commencement Information

I14 Sch. 11 para. 42 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 43 In section 27B (sending application to which section 27A applies to appropriate magistrates' court)—
- (a) in subsection (1) for the words from “designated” to the end substitute “ family court ”,
- (b) in subsection (2) (attempted service of respondent)—
- (i) for “Subject to subsection (4) below, if” substitute “ If ”,

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- (ii) for “a magistrates' court having jurisdiction to hear it” substitute “the family court ”,
- (iii) for “designated officer for the” substitute “ family ”, and
- (iv) for “he” substitute “ the family court ”,
- (c) omit subsections (4) and (5) (sending on of application to another magistrates' court), and
- (d) in the title for “appropriate magistrates” substitute “ family ”.

Commencement Information

I15 Sch. 11 para. 43 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 44 In section 27C (applications to which section 27A applies: general)—
- (a) in subsection (1) for “a magistrates” substitute “ the family ”,
 - (b) omit subsection (2) (disapplication of section 59 of Magistrates' Courts Act 1980),
 - (c) in subsection (3) (court to exercise one of its powers under subsection (4) upon making order) for “shall” substitute “ may ”,
 - (d) in subsection (4) (available powers)—
 - (i) in each of paragraphs (a) and (b) for the words from “the designated” to “Wales” substitute “ the court ”, and
 - (ii) in paragraph (b) for “59(6) of the Magistrates' Courts Act 1980” substitute “ 1(5) of the Maintenance Enforcement Act 1991 ”,
 - (e) in subsection (5) (deciding on exercise of powers)—
 - (i) for “which of the” substitute “ whether to exercise any of its ”, and
 - (ii) omit “it is to exercise”,
 - (f) in subsection (6) (power to require account to be opened) for “Subsection (4) of section 59 of the Magistrates' Courts Act 1980” substitute “ Subsection (6) of section 1 of the Maintenance Enforcement Act 1991 ”, and
 - (g) in subsection (7) (registration)—
 - (i) omit “designated officer for the”, and
 - (ii) omit “in the court”.

Commencement Information

I16 Sch. 11 para. 44 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 45 In section 28 (applications by spouses under the Domestic Proceedings and Magistrates' Courts Act 1978)—
- (a) in subsection (1) (orders court may make)—
 - (i) for “The magistrates' court” substitute “ On ”, and
 - (ii) after “1978” insert”, the family court”, and
 - (b) in subsection (2) (modifications of 1978 Act)—
 - (i) in paragraph (a) for “to 27” substitute “ , 26 ”, and
 - (ii) omit paragraph (b), but not the “and” following it.

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I17 Sch. 11 para. 45 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 46 In section 28A (applications by former spouses under the Domestic Proceedings and Magistrates' Courts Act 1978)—
- (a) in subsection (2) (jurisdiction of magistrates' court) for the words from the beginning to “it” substitute “ The family court shall have jurisdiction to hear the application ”,
 - (b) in subsection (3) (court's powers) for “magistrates' court hearing the application” substitute “ family court ”, and
 - (c) in subsection (6) (modifications of 1978 Act)—
 - (i) in paragraph (e) for “and 25 to 28” substitute “ 25, 26 and 28 ”, and
 - (ii) omit paragraph (f), but not the “and” following it.

Commencement Information

I18 Sch. 11 para. 46 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 47 Section 28B (certain orders under Schedule 11 to the Children Act 1989 do not apply) is repealed.

Commencement Information

I19 Sch. 11 para. 47 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 48 (1) Section 32 (transfer of orders) is amended as follows.
- (2) In subsection (2) (transfer to other magistrates' court)—
- (a) for “the appropriate officer”, in the first and second places, substitute “ the clerk ”,
 - (b) after “magistrates' court”, in the first place, insert “ in Northern Ireland ”,
 - (c) for the words from “that part” to “court is” substitute “ Northern Ireland ”, and
 - (d) for “the appropriate officer”, in the third place, substitute “ that clerk ”.
- (3) Omit subsection (2A) (meaning of “appropriate officer”).
- (4) In subsection (8) in the definition of “the appropriate court”—
- (a) after ““the appropriate court”” insert “—
 - (a)”,
 - and
 - (b) for “Wales or” substitute “Wales, means the family court; and
 - (b) in relation to a person residing”.

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Commencement Information

I20 Sch. 11 para. 48 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 49 In section 33 (enforcement of orders)—
- (a) omit subsections (3) and (3A) (enforcement by magistrates' courts in England and Wales),
 - (b) in subsection (3B) (enforcement by courts of summary jurisdiction in Northern Ireland) after “jurisdiction”, in the first place, insert “ in Northern Ireland ”, and
 - (c) in subsection (4) (magistrates' court to take prescribed steps) after “court” insert “ in Northern Ireland ”.

Commencement Information

I21 Sch. 11 para. 49 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 50 In section 34 (variation and revocation of orders)—
- (a) in subsection (1) (powers of registering court etc) omit “subsection (3A) below and”,
 - (b) in subsection (3) (officer to whom application to be sent) for the words from “shall” to the end substitute “shall—
 - (a) if the registering court is the family court, send the application together with any documents accompanying it to that court;
 - (b) if the registering court is a magistrates' court in Northern Ireland, send the application together with any documents accompanying it to the clerk of that court.”, and
 - (c) omit subsection (3A) (modification of section 60 of Magistrates' Courts Act 1980 in relation to registered orders).

Commencement Information

I22 Sch. 11 para. 50 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 51 (1) Section 34A (variation of orders by magistrates' courts in England and Wales) is amended as follows.
- (2) In subsection (1) (application of certain provisions)—
- (a) for “a magistrates' court in England and Wales” substitute “ the family court ”, and
 - (b) for paragraph (a) substitute—
 - “(a) section 1(3A) of the Maintenance Enforcement Act 1991;”.
- (3) In subsection (2) (court may exercise one of powers under subsection (3) upon varying order) for “a magistrates' court in England and Wales” substitute “ the family court ”.

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- (4) In subsection (3) (available powers)—
- (a) in each of paragraphs (a) and (b) for the words from “the designated” to “Wales” substitute “ the court ”, and
 - (b) in paragraph (b) for “59(6) of the Magistrates' Courts Act 1980” substitute “ 1(5) of the Maintenance Enforcement Act 1991 ”.
- (5) Omit subsections (4) to (8) (variation by justices' clerk).
- (6) In subsection (9) (deciding on exercise of powers)—
- (a) for “subsections (2) and (8)” substitute “ subsection (2) ”,
 - (b) for “which of the” substitute “ whether to exercise any of its ”,
 - (c) omit “it is to exercise”, and
 - (d) after “debtor” insert “ or the creditor ”.
- (7) In subsection (10) (power to require account to be opened) for “Subsection (4) of section 59 of the Magistrates' Courts Act 1980” substitute “ Subsection (6) of section 1 of the Maintenance Enforcement Act 1991 ”.
- (8) In subsection (11) (meaning of “creditor” and “debtor”) for “section 59 of the Magistrates' Courts Act 1980” substitute “ section 1 of the Maintenance Enforcement Act 1991 ”.
- (9) In the title for “magistrates' courts” substitute “ the family court ”.

Commencement Information

I23 [Sch. 11 para. 51](#) in force at 22.4.2014 by [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

- 52 In section 35 (further provision relating to variation etc of orders by magistrates' courts in England and Wales)—
- (a) in subsection (1) (powers exercisable notwithstanding that applicant resides outside England and Wales) for “a magistrates' court in England and Wales” substitute “ the family court ”,
 - (b) in subsection (2) (powers under section 34A not exercisable) omit “, or of the clerk of the court,”,
 - (c) in subsection (3) (proceedings in absence of respondent) for “a magistrates' court in England and Wales” substitute “ the family court ”, and
 - (d) in the title for “magistrates' courts” substitute “ the family court ”.

Commencement Information

I24 [Sch. 11 para. 52](#) in force at 22.4.2014 by [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

- 53 (1) Section 36 (admissibility of evidence given in convention country) is amended as follows.
- (2) Before subsection (1) insert—
- “(A1) A statement contained in a document mentioned in subsection (1) shall—

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- (a) in any proceedings in the family court arising out of an application to which section 27A(1) of this Act applies or an application made by any person for the variation or revocation of a registered order, or
 - (b) in proceedings on appeal from proceedings within paragraph (a),
- be admissible as evidence of any fact stated to the same extent as oral evidence of that fact is admissible in those proceedings.”
- (3) In subsection (1) (statements made in convention country to be admissible)—
- (a) for “A statement contained in—” substitute “ The documents referred to in subsections (A1) and (1A) are— ”,
 - (b) omit the “or” following paragraph (a) and the “or” following paragraph (b),
 - (c) after paragraph (c) insert—
 - “(1A) A statement contained in a document mentioned in subsection (1)”,
 - (d) after “magistrates' court” insert “ in Northern Ireland ”, and
 - (e) omit “an application to which section 27A(1) of this Act applies,”.

Commencement Information

I25 Sch. 11 para. 53 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 54 In section 38 (obtaining evidence at request of court in convention country)—
- (a) in subsection (4) (application of provisions of Magistrates' Courts Act 1980) for the words from “Section” to “1980” substitute “Articles 118(1), (3) and (4), 119 and 120 of the Magistrates' Courts (Northern Ireland) Order 1981”,
 - (b) in subsection (4) after “a magistrates' court” insert “ in Northern Ireland ”, and
 - (c) omit subsection (6) (Northern Ireland: modifications).

Commencement Information

I26 Sch. 11 para. 54 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 55 In section 38A(1) (rules of court) after “done by” insert “ the family court or ”.

Commencement Information

I27 Sch. 11 para. 55 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

- 56 In section 42 (provisional order to cease to have effect on remarriage) in subsection (1) and in the title omit “magistrates”.

Commencement Information

I28 Sch. 11 para. 56 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- 57 In section 47(3) (interpretation: jurisdiction of magistrates' courts) for the words from “construed—” to “in relation to”, in the second place, substitute “ construed in relation to ”.

Commencement Information

I29 Sch. 11 para. 57 in force at 22.4.2014 by S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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