



Maintenance Orders Act 1950

1950 CHAPTER 37

PART II

ENFORCEMENT

16 Application of Part II

- (1) Any order to which this section applies (in this Part of this Act referred to as a maintenance order) made by a court in any part of the United Kingdom may, if registered in accordance with the provisions of this Part of this Act in a court in another part of the United Kingdom, be enforced in accordance with those provisions in that other part of the United Kingdom.
- (2) This section applies to the following orders, that is to say—
 - (a) an order for alimony, maintenance or other payments made or deemed to be made by a court in England under any of the following enactments:—
 - (i) sections nineteen to twenty-seven of the Matrimonial Causes Act, 1950 ;
 - (ii) the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949 ;
 - (iii) subsection (2) of section three or subsection (4) of section five of the Guardianship of Infants Act, 1925;
 - (iv) section four of the Bastardy Laws Amendment Act, 1872, section forty-four of the National Assistance Act, 1948, or section twenty-six of the Children Act, 1948 ;
 - (v) section eighty-seven of the Children and Young Persons Act, 1933, or section forty-three of the National Assistance Act, 1948 ;
 - (b) a decree for payment of aliment granted by a court in Scotland, including—
 - (i) an order for the payment of an annual or periodical allowance under section two of the Divorce (Scotland) Act, 1938 ;
 - (ii) an order for the payment of weekly or periodical sums under subsection (2) of section three or subsection (4) of section five of the Guardianship of Infants Act, 1925;

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- (iii) an order for the payment of sums in respect of aliment under subsection (3) of section one of the Illegitimate Children (Scotland) Act, 1930 ;
 - (iv) a decree for payment of aliment under section forty-four of the National Assistance Act, 1948, or under section twenty-six of the Children Act, 1948 ; and
 - (v) a contribution order under section ninety-one of the Children and Young Persons (Scotland) Act, 1937, or an order under section forty-three of the National Assistance Act, 1948 ;
- (c) an order for alimony, maintenance or other payments made by a court in Northern Ireland under or by virtue of any of the following enactments:—
- (i) subsection (2) of section seventeen, subsections (2) to (7) of section nineteen, subsection (2) of section twenty, section twenty-two or subsection (1) of section twenty-eight of the Matrimonial Causes Act (Northern Ireland), 1939 ;
 - (ii) the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland), 1945 ;
 - (iii) section one of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland), 1924, section twenty-one of the National Assistance Act (Northern Ireland), 1948, section twelve of the Welfare Services Act (Northern Ireland), 1949, or section one hundred and twenty-four of the Children and Young Persons Act (Northern Ireland), 1950;
 - (iv) section one hundred and twenty-two of the Children and Young Persons Act (Northern Ireland), 1950, section twenty of the National Assistance Act (Northern Ireland), 1948, or section eleven of the Welfare Services Act (Northern Ireland), 1949;
 - (v) any enactment of the Parliament of Northern Ireland containing provisions corresponding with subsection (1) of section twenty-three of the Matrimonial Causes Act, 1950.
- (3) For the purposes of this section, any order made before the commencement of the Matrimonial Causes Act (Northern Ireland), 1939, being an order which, if that Act had been in force, could have been made under or by virtue of any provision of that Act, shall be deemed to be an order made by virtue of that provision.

17 Procedure for registration of maintenance orders

- (1) An application for the registration of a maintenance order under this Part of this Act shall be made in the prescribed manner to the appropriate authority, that is to say—
- (a) where the maintenance order was made by a court of summary jurisdiction in England, a justice or justices acting for the same place as the court which made the order;
 - (b) where the maintenance order was made by a court of summary jurisdiction in Northern Ireland, a resident magistrate acting for the same petty sessions district as the court which made the order;
 - (c) in every other case, the prescribed officer of the court which made the order.
- (2) If upon application made as aforesaid by or on behalf of the person entitled to payments under a maintenance order it appears that the person liable to make those payments resides in another part of the United Kingdom, and that it is convenient that the order

should be enforceable there, the appropriate authority shall cause a certified copy of the order to be sent to the prescribed officer of a court in that part of the United Kingdom in accordance with the provisions of the next following subsection.

- (3) The Court to whose officer the certified copy of a maintenance order is sent under this section shall be—
 - (a) where the maintenance order was made by a superior court, the Supreme Court of Judicature in England, the Court of Session or the Supreme Court of Judicature of Northern Ireland, as the case may be;
 - (b) in any other case, a court of summary jurisdiction acting for the place in England or Northern Ireland in which the defendant appears to be, or, as the case may be, the sheriff court in Scotland within the jurisdiction of which he appears to be.
- (4) Where the prescribed officer of any court receives a certified copy of a maintenance order sent to him under this section, he shall cause the order to be registered in that court in the prescribed manner, and shall give notice of the registration in the prescribed manner to the prescribed officer of the court which made the order.
- (5) The officer to whom any notice is given under the last foregoing subsection shall cause particulars of the notice to be registered in his court in the prescribed manner.
- (6) Where the sums payable under a maintenance order, being an order made by a court of summary jurisdiction in England or Northern Ireland, are payable to or through an officer of any court, that officer shall, if the person entitled to the payments so requests, make an application on behalf of that person for the registration of the order under this Part of this Act; but the person at whose request the application is made shall have the same liability for costs properly incurred in or about the application as if the application had been made by him.
- (7) An order which is for the time being registered under this Part of this Act in any court shall not be registered thereunder in any other court.

18 Enforcement of registered orders

- (1) Subject to the provisions of this section, a maintenance order registered under this Part of this Act in a court in any part of the United Kingdom may be enforced in that part of the United Kingdom in all respects as if it had been made by that 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.
- (2) Every maintenance order registered under this Part of this Act in a court of summary jurisdiction in England (not being an order made in Scotland under section forty-three of the National Assistance Act, 1948, or an order made under section twenty of the National Assistance Act (Northern Ireland), 1948, or section eleven of the Welfare Services Act (Northern Ireland), 1949) shall be enforceable as if it were an affiliation order made by that court under the Bastardy Laws Amendment Act, 1872, and the provisions of any enactment with respect to the enforcement of affiliation orders (including enactments relating to the accrual of arrears and the remission of sums due) shall apply accordingly.
- (3) Every maintenance order registered under this Part of this Act in a court of summary jurisdiction in Northern Ireland (not being an order made under section forty-three of the National Assistance Act, 1948) shall be enforceable as if it were an order made by that court under the Summary Jurisdiction (Separation and Maintenance)

Act (Northern Ireland), 1945, and the provisions of section six of that Act shall apply accordingly.

- (4) Where an order made in Scotland under section forty-three Of the National Assistance Act, 1948, of made Under section twenty of the National Assistance Act (Northern Ireland), 1948, of section eleven of the Welfare Services Act (Northern Ireland), 1949, is registered under this Part of this Act in a court in England, the order shall be enforceable as if it were ah order made by that court under the said section forty-three.
- (5) Where an order made under section forty-three of the National Assistance Act, 1948, is registered under this Part of this Act in a court in Northern Ireland, the order shall be enforceable as if it Were an order made by that court under section twenty of the National Assistance Act (Northern Ireland), 1948.
- (6) Except as provided by this section, no proceedings shall be taken for or with respect to the enforcement of a maintenance order which is for the time being registered in any court under this Part of this Act.

19 Functions of collecting officer, etc.

- (1) Where a maintenance order made in England or Northern Ireland by a court of summary jurisdiction is registered in any court under this Part of this Act, any provision of the order by virtue of which sums payable thereunder are required to be paid through or to any officer or person on behalf of the person entitled thereto shall be of no effect so long as the order is so registered.
- (2) Where a maintenance order is registered under this Part of this Act in a court of summary jurisdiction in England of Northern Ireland, the court shall, unless it is satisfied that it is undesirable to do so, order that all payments to be made Under the maintenance order (including any arrears accrued before the date of the registration) shall be made through the collecting officer of the court Or the collecting officer of some other court of summary jurisdiction in England or Northern Ireland, as the case may be.
- (3) An order made by a court of summary, jurisdiction under subsection (2) of this section may be varied or revoked by a subsequent order.
- (4) Where by virtue of the provisions of this section or any order made thereunder payments under a maintenance order cease to be or become payable through or to any officer or person, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the maintenance order if he makes payments in accordance with the maintenance order and any order under this section of which he has received such notice.
- (5) In any case where, by virtue of an order made under this section by a court in Northern Ireland, payments under a maintenance order are required to be made through the collecting Officer of any court—
 - (a) subsections (3) and (4) of section eight of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland), 1924 (which regulate the functions of collecting officers in relation to affiliation orders), shall apply as if the maintenance order were M affiliation order within the meaning of that section and as if the order under this section were made under that Act; and references in those subsections to the mother and the putative father shall be construed accordingly; and

- (b) subsection (2) of section seven of the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland), 1945 (which relates to the remuneration of persons through whom weekly sums are paid under that Act), shall have effect as if money paid in accordance with the order under this section were paid in pursuance of an order made under that Act.

20 Arrears under registered maintenance orders

- (1) Where application is made for the registration of A maintenance order under this Part of this Act, the applicant may lodge with the appropriate authority—
 - (a) if the payments under the order are required to be made to or through an officer of any court, a certificate in the prescribed form, signed by that officer, as to the amount of any arrears due under the order;
 - (b) in any other case, a statutory declaration or affidavit as to the amount of those arrears ;and if a certified copy of the maintenance order is sent to the prescribed officer of any court in pursuance of the application, the certificate, declaration or affidavit shall also be sent to that officer,
- (2) In any proceedings for or with respect to the enforcement of a maintenance order which is for the time being registered in any court under this Part of this Act, a certificate, declaration or affidavit sent under this section to the appropriate officer of that court shall be evidence, and in Scotland sufficient evidence, of the facts stated therein.
- (3) Where a maintenance order made by a court in England or Northern Ireland is registered in a court in Scotland, a person shall not be entitled, except with the leave of the last-mentioned court, to enforce, whether by diligence or otherwise, the payment of any arrears accrued and due under the order before the commencement of this Act; and on any application for leave to enforce the payment of any such arrears, the court 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 installments) as the court thinks proper, or may remit the payment of such arrears or of any part thereof.

21 Discharge and variation of maintenance orders registered in superior courts

- (1) The registration of a maintenance order in a superior court under this Part of this Act shall not confer on that court any power to vary or discharge the order, or affect any jurisdiction of the court in which the order was made to vary or discharge the order.
- (2) Where a maintenance order made in Scotland is for the time being registered under this Part of this Act in a superior court, the person liable to make payments under the order may, upon application made to that court in the prescribed manner, adduce before that court any evidence upon which he would be entitled to rely in any proceedings brought before the court by which the order was made for the variation or discharge of the order.
- (3) A court before which evidence is adduced in accordance with the foregoing subsection shall cause a transcript or summary of that evidence, signed by the deponent, to be sent to the prescribed officer of the court by which the order was made ; and in any proceedings before the last-mentioned court for the variation or discharge of the order, the transcript or summary shall be evidence of the facts stated therein.

22 Discharge and variation of maintenance orders registered in summary or sheriff courts

- (1) Where a maintenance order is for the time being registered under this Part of this Act in a court of summary jurisdiction or sheriff court, that court may, upon application made in the prescribed manner by or on behalf of the person liable to make payments under the order or the person entitled to those payments, by order make such variation as the court thinks fit in the rate of the payments under the maintenance order; but no such variation shall impose on the person liable to make payments under the maintenance order a liability to make payments in excess of the maximum rate (if any) authorised by the law for the time being in force in the part of the United Kingdom in which the maintenance order was made.
- (2) For the purposes of subsection (1) of this section, a court in any part of the United Kingdom may take notice of the law in force in any other part of the United Kingdom.
- (3) Section fifteen of this Act shall apply to the service of process for the purposes of this section as it applies to the service of process in proceedings begun in a court having jurisdiction by virtue of Part I of this Act.
- (4) Except as provided by subsection (1) of this section, no variation shall be made in the rate of the payments under a maintenance order which is for the time being registered under this Part of this Act in a court of summary jurisdiction or sheriff court, but without prejudice to any power of the court which made the order to discharge it or vary it otherwise than in respect of the rate of the payments thereunder.
- (5) Where a maintenance order is for the time being registered under this Part of this Act in a court of summary jurisdiction or sheriff court—
 - (a) the person entitled to payments under the order or the person liable to make payments under the order may, upon application made in the prescribed manner to the court by which the order was made, or in which the order is registered, as the case may be, adduce in the prescribed manner before the court in which the application is made any evidence on which he would be entitled to rely in proceedings for the variation or discharge of the order ;
 - (b) the court in which the application is made shall cause a transcript or summary of that evidence, signed by the deponent, to be sent to the prescribed officer of the court in which the order is registered or of the court by which the order was made, as the case may be; and in any proceedings for the variation or discharge of the order the transcript or summary shall be evidence of the facts stated therein.

23 Notice of variation, etc.

- (1) Where a maintenance order registered under this Part of this Act in any court is varied by that court, the prescribed officer of that court shall give notice of the variation in the prescribed manner to the prescribed officer of the court by which the order was made.
- (2) Where a maintenance order registered under this Part of this Act in any court is discharged or varied by any other court, the prescribed officer of the last-mentioned court shall give notice of the discharge or variation in the prescribed manner to the prescribed officer of the court in which the order is registered.
- (3) The officer to whom any notice is given under this section shall cause particulars of the notice to be registered in his court in the prescribed manner.

24 Cancellation of registration

- (1) At any time while a maintenance order is registered under this Part of this Act in any court, an application for the cancellation of the registration may be made in the prescribed manner to the prescribed officer of that court by or on behalf of the person entitled to payments under the order ; and upon any such application that officer shall (unless proceedings for the variation of the order are pending in that court), cancel the registration, and thereupon the order shall cease to be registered in that court.
- (2) Where, after a maintenance order has been registered under this Part of this Act in a court of summary jurisdiction in England or Northern Ireland or a sheriff court in Scotland, it appears to the appropriate authority (as defined by section seventeen of this Act), upon application made in the prescribed manner by or on behalf of the person liable to make payments under the order, that that person has ceased to reside in England, Northern Ireland or Scotland, as the case may be, the appropriate authority may cause a notice to that effect to be sent to the prescribed officer of the court in which the order is registered ; and where such a notice is sent the prescribed officer shall cancel the registration of the maintenance order, and thereupon the order shall cease to be registered in that court.
- (3) Where the prescribed officer of any court cancels the registration of a maintenance order under this section, he shall give notice of the cancellation in the prescribed manner to the prescribed officer of the court by which the order was made and the last-mentioned officer shall cause particulars of the notice to be registered in his court in the prescribed manner.
- (4) Except as provided by subsection (5) of this section, the cancellation of the registration of a maintenance order shall not affect anything done in relation to the maintenance order while it was registered.
- (5) On the cancellation of the registration of a maintenance orders any order made in relation thereto under subsection (2) of section nineteen of this Act shall cease to have effect; but until the person liable to make payments under the maintenance order receives the prescribed notice of the cancellation, he shall be deemed to comply with the maintenance order if he makes payments in accordance with any order under the said subsection (2) which was in force immediately before the cancellation.
- (6) Where, by virtue of ah order made under subsection (2) of section nineteen of this Act, sums payable under a maintenance order registered in a court of summary jurisdiction in England or Northern Ireland are payable through the collecting officer of any court, that officer shall, if the person entitled to the payments so requests, make an application on behalf of that person for the cancellation of the registration.

25 Rules as to procedure of courts of summary jurisdiction

- (1) The power of the Lord Chancellor to make rules under section fifteen of the Justices of the Peace Act, 1949, shall include power to make rules for regulating the practice to be followed in courts of summary jurisdiction in England under this Part of this Act.
- (2) The Lord Chief Justice of Northern Ireland shall have power to make rules for regulating the practice to be followed in courts of summary jurisdiction in Northern Ireland under this Part of this Act.

Status: This is the original version (as it was originally enacted).

- (3) Rules made for the purposes of this Part of this Act may require that any order or other matter required under this Part of this Act to be registered in a court of summary jurisdiction in England or Northern Ireland shall be registered—
- (a) in England, by means of a memorandum entered and signed by the prescribed officer of the court in the register kept pursuant to section twenty-two of the Summary Jurisdiction Act, 1879 ;
 - (b) in Northern Ireland, by means of an entry made and signed by the prescribed officer of the court in the order book kept pursuant to section twenty-one of the Petty Sessions (Ireland) Act, 1851.