

SCHEDULE 1

THE REGULATION

Recognition and enforcement of maintenance orders (section 5)

3.—(1) The Secretary of State’s function (under Article 39 and Annex II) of transmitting an application for the recognition or enforcement in the United Kingdom of a maintenance order (made under Article 38) to a magistrates’ court shall be discharged—

- (a) as respects England and Wales and Northern Ireland, by the Lord Chancellor;
- (b) as respects Scotland, by the Scottish Ministers.

(2) Such an application shall be determined in the first instance by the prescribed officer of the court having jurisdiction in the matter.

(3) A maintenance order registered under the Regulation shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the order had been originally made by the registering court.

(4) Sub-paragraph (3) is subject to Article 47 (restriction on enforcement where appeal pending or time for appeal unexpired), to paragraph 5 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under the Regulation may be enforced.

(5) A maintenance order which by virtue of the Regulation is enforceable by a magistrates’ court in England and Wales shall, subject to the modifications of sections 76 and 93 of the Magistrates’ Courts Act 1980(1) specified in sections 5(5B) and 5(5C) of the Act(2), be enforceable in the same manner as a magistrates’ court maintenance order made by that court.

In this sub-paragraph “magistrates’ court maintenance order” has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980(3).

(6) A maintenance order which by virtue of the Regulation is enforceable by a magistrates’ court in Northern Ireland shall, subject to the modifications of Article 98 of the Magistrates’ Courts (Northern Ireland) Order 1981(4) specified in section 5(6A) of the Act(5), be enforceable as an order made by that court to which that Article applies.

(7) The payer under a maintenance order registered under the Regulation in a magistrates’ court in England and Wales or Northern Ireland shall give notice of any changes of address to the proper officer of that court.

A person who without reasonable excuse fails to comply with this sub-paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(8) In sub-paragraph (7) “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court; and
- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.

(1) 1980 c. 43; section 76 was amended by the Criminal Justice Act 1982 (c. 48), section 78, Schedule 16 and the Maintenance Enforcement Act 1991 (c. 17), section 7; section 93 was amended by the Family Law Reform Act 1987 (c. 42), section 33(1), Schedule 2, paragraph 84 and the Maintenance Enforcement Act 1991 (c. 17), section 11(1), Schedule 2, paragraph 7.

(2) Sections 5(5B) and 5(5C) of that Act were inserted by the Maintenance Enforcement Act 1991 (c. 17), section 10, Schedule 1, paragraph 21. Section 5(5B) was also amended by the Access to Justice Act 1999 (c. 22), section 90(1), Schedule 13, paragraph 122.

(3) This definition was inserted by the Family Law Reform Act 1987 (c. 42), section 33(1), Schedule 2, paragraph 88.

(4) S.I. 1981/1675 (N.I.26).

(5) Section 5(6A) was inserted by the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I.6)), article 11, Schedule 1, paragraph 16(b).

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