
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision to facilitate the application of Council Regulation (EC) No 4/2009 (“the Maintenance Regulation”) in the United Kingdom from the 18th June 2011.

Regulation 3 and Schedule 1 make provision for designation of Central Authorities for England and Wales, Scotland and Northern Ireland, and for the enforcement of maintenance decisions made in Member States of the European Union in each part of the United Kingdom in a manner equivalent to maintenance orders made in domestic courts. Part 2 of Schedule 1 applies to orders from Member States which apply the 2007 Hague Protocol on applicable law, and allows for enforcement without prior registration of the order. Part 3 of Schedule 1 applies to orders from Denmark, which does not apply that Protocol (unlike all other Member States except the United Kingdom). Orders from Denmark require registration prior to enforcement. Part 4 of Schedule 1 makes general provision relating to orders from all Member States.

Regulation 4 and Schedule 2 make provision for the sharing of information between the designated Central Authorities of the United Kingdom and certain public bodies designated for the purposes of providing that information under Article 61 of the Maintenance Regulation. Article 61 of the Maintenance Regulation requires the disclosure of specific information to Central Authorities for use in the recovery of maintenance in cross border cases within the European Union.

Regulation 5 and Schedule 3 make the necessary modifications to Schedule 1 to facilitate the enforcement of authentic instruments and court settlements from other Member States, as required by Article 48 of the Maintenance Regulation.

Regulation 6 and Schedule 4 amend the Civil Jurisdiction and Judgments Act 1982 as necessary to take account of the application of the Maintenance Regulation in the European Union.

Regulation 7 and Schedule 5 amend the Civil Jurisdiction and Judgments Order 2001 to take account of the application of the Maintenance Regulation, so that the 2001 Order does not apply to maintenance cases to which the Maintenance Regulation applies.

Regulation 8 and Schedule 6 make provision for the allocation within the United Kingdom of jurisdiction in maintenance matters. The rules of Schedule 6 adapt the jurisdictional rules of the Maintenance Regulation to apply as between the different territorial units of the United Kingdom.

Regulation 9 and Schedule 7 make amendments to legislation consequential upon the application of the Maintenance Regulation in the United Kingdom. In particular, legislation is amended where it provides rules of international jurisdiction which are incompatible with those of the Maintenance Regulation, and where the legislative machinery of enforcement for domestic maintenance orders needs to be adapted to apply to orders to be enforced in the United Kingdom by virtue of the Maintenance Regulation. Provision is also made in relation to the provision of legal aid in Scotland to comply with the legal aid provisions of Chapter V of the Maintenance Regulation (the relevant provision for England and Wales and Northern Ireland is made in separate legislation).

Regulation 10 requires the Secretary of State to review the operation and effect of these Regulations in relation to England and Wales only and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended, in their application to England and Wales. A further instrument would be needed to revoke the Regulations or to amend them.