



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART I

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN UNITED KINGDOM OR RECIPROCATING COUNTRY

Orders made by courts in reciprocating countries

9 Variation and revocation of maintenance order registered in United Kingdom court

- (1) Subject to the provisions of this section, the registering court—
 - (a) shall have the like power, on an application made by the payer or payee under a registered order, to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it; and
 - (b) shall have power to vary or revoke a registered order by a provisional order.
- (2) The registering court shall not vary a registered order otherwise than by a provisional order unless—
 - (a) both the payer and the payee under the registered order are for the time being residing in the United Kingdom ; or
 - (b) the application is made by the payee under the registered order; or
 - (c) the variation consists of a reduction in the rate of the payments under the registered order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the registered order was made or, in the case of an order registered under section 7 of this Act, since the registered order was confirmed, and the courts in the reciprocating country in which the maintenance order in question was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.

Status: This is the original version (as it was originally enacted).

- (3) The registering court shall not revoke a registered order otherwise than by a provisional order unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom.
- (4) On an application for the revocation of a registered order the registering court shall, unless both the payer and the payee under the registered order are for the time being residing in the United Kingdom, apply the law applied by the reciprocating country in which the registered order was made; but where by virtue of this subsection the registering court is required to apply that law, that court may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to the law applied by the reciprocating country, notwithstanding that it has not been established that it is such a ground.
- (5) Where the registering court makes a provisional order varying or revoking a registered order the prescribed officer of the court shall send in the prescribed manner to the court in the reciprocating country which made the registered order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.
- (6) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying a registered order, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings, in which the provisional order was made, is received by the registering court, that court may confirm the order either without alteration or with such alterations as it thinks reasonable or refuse to confirm the order.
- (7) For the purpose of determining whether a provisional order should be confirmed under subsection (6) above the court shall proceed as if an application for the variation of the registered order had been made to it.
- (8) Where a registered order has been varied by an order (including a provisional order which has been confirmed) made by a court in the United Kingdom or by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.
- (9) Where a registered order has been revoked by an order made by a court in the United Kingdom or by a competent court in a reciprocating country, including a provisional order made by the first-mentioned court which has been confirmed by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.
- (10) The prescribed officer of the registering court shall register in the prescribed manner any order varying a registered order other than a provisional order which is not confirmed.
- (11) In the application of this section to Scotland—
 - (a) after subsection (4) there shall be inserted the following subsection:—

“(4A) It shall not be necessary for the payer under a registered order to intimate to any person the making by him of an application for a provisional order varying or revoking the registered order.”; and
 - (b) for subsection (7) there shall be substituted the following subsection:—

“(7) Where a certified copy of a provisional order varying a registered order is received by the registering court as mentioned in subsection (6) above, the prescribed officer of that court shall intimate to the payer under the registered order, in the prescribed manner, that the provisional order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the provisional order under this section.”