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## STATUTORY INSTRUMENTS

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# 2011 No. 1484

## JUDGMENTS

### The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011

<i>Made</i>	- - - -	<i>13th June 2011</i>
<i>Laid before Parliament</i>		<i>13th June 2011</i>
<i>Coming into force</i>	- -	<i>18th June 2011</i>

The Secretary of State for Justice, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 <sup>M1</sup> in relation to private international law <sup>M2</sup>, makes the following Regulations in exercise of the power under section 2(2) of the European Communities Act 1972.

#### Marginal Citations

- M1** 1972 c.68. Section 2 was amended by section 27(1)(a) and (b) of the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#) and the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#).
- M2** [The European Communities \(Designation\) \(No. 2\) Order 2008 \(S.I. 2008/1792\)](#). Under section 57 of the [Scotland Act 1998 \(c.46\)](#), despite the transfer to the Scottish Ministers of functions in relation to implementation of obligations under Community law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by the Secretary of State as regards Scotland. Implementation of obligations under Community law in respect of devolved matters is itself a devolved matter in Northern Ireland. However, the designation of the Secretary of State under the [European Communities \(Designation\) \(No 2\) Order 2008](#) in relation to private international law remains exercisable in relation to Northern Ireland. This is despite the designation of Northern Ireland Departments in relation to that matter by virtue of the [European Communities \(Designation\) \(No 5\) Order 2010 \(S.I.2010/2690\)](#) as that designation does not restrict the scope of other designations.

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, and shall come into force on 18th June 2011.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) An amendment, repeal or revocation made by these Regulations has the same extent as the enactment amended, repealed or revoked.

*Status: Point in time view as at 07/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)*

## Interpretation

### 2. In these Regulations—

“the Act” means the Civil Jurisdiction and Judgments Act 1982 <sup>M3</sup>;

“the Order” means the Civil Jurisdiction and Judgments Order 2001 <sup>M4</sup>;

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009<sup>M5</sup> including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark <sup>M6</sup>;

“Maintenance Regulation State” in any provision, in the application of that provision in relation to the Maintenance Regulation, refers to any of the Member States.

### Marginal Citations

**M3** 1982 c.27.

**M4** S.I. 2001/3929, amended by S.I. 2007/1655.

**M5** OJ No. L7, 10.1.2009, p.1-79.

**M6** OJ No. L 299 16.11.2005, p.62 -70.

## The Maintenance Regulation

3. Schedule 1 (which contains provisions relating to the enforcement of maintenance decisions pursuant to the Maintenance Regulation) has effect.

### Provisions relating to information

4. Schedule 2 (which contains provisions relating to access to, and the transmission and use of, information) has effect.

### Provisions relating to authentic instruments and court settlements

5. Schedule 3 (which contains provisions relating to authentic instruments and court settlements) has effect.

### Amendments to the Civil Jurisdiction and Judgments Act 1982

6. Schedule 4 (which makes amendments to the Act) has effect.

### Amendments to the Civil Jurisdiction and Judgments Order 2001

7. Schedule 5 (which makes amendments to the Order) has effect.

### Allocation of jurisdiction within the United Kingdom

8. Schedule 6 (which contains rules for the allocation of jurisdiction within the United Kingdom in relation to maintenance) has effect.

### Consequential amendments

9. Schedule 7 (which makes consequential amendments) has effect.

## Review

- 10.—(1) Before the end of each review period, the Secretary of State must—
- (a) carry out a review of the provisions of these Regulations,
  - (b) set out the conclusions of the review in a report, and
  - (c) publish the report.
- (2) The review shall relate to the operation of these Regulations as they affect England and Wales only.
- (3) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Maintenance Regulation has been given effect in other Member States.
- (4) The report must in particular—
- (a) set out the objectives intended to be achieved by the provisions of these Regulations,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate, and, if so, the extent to which they could be achieved in a manner that imposes less regulation.
- (5) “Review period” means—
- (a) the period of five years beginning with the day on which these Regulations come into force, and
  - (b) subject to paragraph (6), each successive period of five years.
- (6) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

Signed by authority of the Secretary of State for Justice

Ministry of Justice

*McNally*  
Minister of State

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

## SCHEDULE 1

Regulation 3

### THE MAINTENANCE REGULATION

## PART 1

### Introductory

#### Interpretation

**1.—(1)** In this Schedule—

“court” includes a tribunal, and any administrative authority which is a court for the purposes of the Maintenance Regulation by virtue of Article 2(2) of that Regulation;

“debtor”, in relation to a maintenance decision, means the person liable, or alleged to be liable, to make the payments for which that decision provides;

“maintenance decision” has the meaning given to “decision” by Article 2 of the Maintenance Regulation.

**(2)** In this Schedule—

(a) any reference to a numbered Article is a reference to the Article so numbered in the Maintenance Regulation and any reference to a sub-division of a numbered Article shall be construed accordingly;

(b) references to a registered decision include, to the extent of its registration, references to a decision so registered to a limited extent only.

(3) Anything authorised or required by the Maintenance Regulation or by this Schedule to be done by, to or before a particular magistrates' court may be done by, to or before any magistrates' court acting for the same local justice area (or, in Northern Ireland, the same petty sessions district) as that court.

#### Central Authorities

**2.—(1)** The following are designated as Central Authorities under Article 49 of the Maintenance Regulation—

(a) in relation to England and Wales, the Lord Chancellor;

(b) in relation to Scotland, the Scottish Ministers;

(c) in relation to Northern Ireland, the Department of Justice.

(2) If a person outside the United Kingdom does not know to which Central Authority in the United Kingdom a communication should be addressed, the person may address it to the Lord Chancellor.

## PART 2

### Recognition and enforcement of maintenance decisions made by courts in Maintenance Regulation States other than Denmark

#### Application of Part 2

3. This Part shall apply to maintenance decisions made by courts in Maintenance Regulation States other than Denmark.

#### Enforcement of maintenance decisions

4.—(1) Subject to sub-paragraph (2), where a maintenance decision falls to be enforced in the United Kingdom under Section 1 of Chapter IV of the Maintenance Regulation, the court to which an application for enforcement is to be made is—

- (a) in England and Wales, a magistrates' court,
- (b) in Scotland, a sheriff court, and
- (c) in Northern Ireland, a magistrates' court.

(2) An application for enforcement is to be transmitted to the magistrates' court or sheriff court designated for these purposes by rules of court (“the enforcing court”)—

- (a) in England and Wales, by the Lord Chancellor,
- (b) in Scotland, by the Scottish Ministers, and
- (c) in Northern Ireland, by the Department of Justice.

(3) Jurisdiction in relation to applications for enforcement of such maintenance decisions lies with the courts for the part of the United Kingdom in which—

- (a) the person against whom enforcement is sought is resident,
- (b) assets belonging to that person and which are susceptible to enforcement are situated or held,<sup>F1</sup> ...

<sup>F2</sup>(c) .....

(4) For the purposes of the enforcement of a maintenance decision—

- (a) the decision shall be of the same force and effect,
- (b) the enforcing court shall have in relation to its enforcement the same powers, and
- (c) proceedings for or with respect to its enforcement may be taken,

as if the decision had originally been made by the enforcing court.

(5) Sub-paragraph (4) is subject to sub-paragraphs (6) and (7).

(a) (6) (a) A maintenance decision which is enforceable in England and Wales by virtue of Section 1 of Chapter IV of the Maintenance Regulation and these Regulations shall be enforceable in a magistrates' court in England and Wales in the same manner as a maintenance order made by that court, save that sections 76 and 93 of the Magistrates' Courts Act 1980<sup>M7</sup> have effect as modified by section 5(5B) and (5C)<sup>M8</sup> of the Act.

(b) In this sub-paragraph “maintenance order” has the meaning given by section 150(1)<sup>M9</sup> of the Magistrates' Courts Act 1980.

(7) A maintenance decision which is enforceable in Northern Ireland by virtue of Section 1 of Chapter IV of the Maintenance Regulation and these Regulations shall be enforceable in a magistrates' court in Northern Ireland in the same manner as an order made by that court, save that

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Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 <sup>M10</sup> has effect as modified by section 5(6A) <sup>M11</sup> of the Act.

(8) Sub-paragraph (4) is also subject to—

- (a) Article 21 (application by debtor for refusal or suspension of enforcement);
- (b) paragraph 8 below;
- (c) any provision made by rules of court as to the procedure for the enforcement of maintenance decisions given in another Maintenance Regulation State.

(a) (9) (a) The debtor under a maintenance decision which is or has been the subject of enforcement proceedings in England and Wales or Northern Ireland by virtue of Section 1 of Chapter IV of the Maintenance Regulation and these Regulations must give notice of any change of address to the designated officer, or in Northern Ireland, the clerk, of the court in which enforcement proceedings have been, or are being, taken.

(b) 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.

(10) An application for refusal or suspension of enforcement under Article 21(2) or (3) of the Maintenance Regulation shall be made—

- (a) in England and Wales and Northern Ireland, to a magistrates' court by way of complaint, and
- (b) in Scotland, to a sheriff court by way of summary application.

#### Textual Amendments

- F1** Word in Sch. 1 para. 4(3)(b) revoked (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(2)(a)(i)**
- F2** Sch. 1 para. 4(3)(c) revoked (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(2)(a)(ii)**

#### Marginal Citations

- M7** 1980 c.43.
- M8** Section 5(5B) and 5(5C) were inserted by section 10 of and paragraph 21 of Schedule 1 to the [Maintenance Enforcement Act 1991 \(c.17\)](#). Substituted subsection (5) of section 5(5B) was amended by section 109(1) and paragraph 268 of Schedule 8 to the [Courts Act 2003 \(c.39\)](#).
- M9** The definition of magistrates' court maintenance order in section 150(1) was inserted by section 33(1) of and paragraph 88 of Schedule 2 to the [Family Law Reform Act 1987 \(c.42\)](#).
- M10** [S.I.1981/1675 \(N.I.26\)](#).
- M11** Section 5(6A) was inserted by [S.I. 1993/1576 \(N.I.6\)](#).

## PART 3

### Recognition and enforcement of maintenance decisions made by courts in Denmark etc

#### Application of Part 3

5. This Part applies in relation to—

- (a) maintenance decisions made by courts in Denmark, and

- (b) maintenance decisions to which Sections 2 and 3 of Chapter IV of the Maintenance Regulation apply by virtue of Article 75(2)(a) or (b).

### **Recognition and enforcement of maintenance orders**

6.—(1) Subject to sub-paragraph (2), the court to which an application for registration of a maintenance decision under Section 2 of Chapter IV of the Maintenance Regulation is to be made is—

- (a) in England and Wales, a magistrates' court,
- (b) in Scotland, a sheriff court, and
- (c) in Northern Ireland, a magistrates' court.

(2) An application for registration is to be transmitted to the magistrates' court or sheriff court designated for these purposes by rules of court (“the registering court”)—

- (a) in England and Wales, by the Lord Chancellor,
- (b) in Scotland, by the Scottish Ministers, and
- (c) in Northern Ireland, by the Department of Justice.

(3) Where an application for registration of a maintenance decision is transmitted to a court—

- (a) the decision may be registered for enforcement by the court, and
- (b) if so registered, the decision shall be treated as having been declared enforceable for the purposes of Section 2 of Chapter IV of the Maintenance Regulation.

(a) (4) (a) An application for registration shall be determined in the first instance by the prescribed officer of the registering court.

(b) In this sub-paragraph, “prescribed” means prescribed by rules of court.

(5) For the purposes of the enforcement of a registered maintenance decision—

- (a) the decision shall be of the same force and effect,
- (b) the registering court shall have in relation to its enforcement the same powers, and
- (c) proceedings for or with respect to its enforcement may be taken,

as if the decision had originally been made by the registering court.

(6) Sub-paragraph (5) is subject to sub-paragraphs (7) and (8).

(a) (7) (a) A maintenance decision which is enforceable in England and Wales by virtue of Section 2 of Chapter IV of the Maintenance Regulation and these Regulations shall be enforceable in a magistrates' court in England and Wales in the same manner as a maintenance order made by that court, save that sections 76 and 93 of the Magistrates' Courts Act 1980 have effect as modified by section 5(5B) and (5C) of the Act.

(b) In this sub-paragraph “maintenance order” has the meaning given by section 150(1) of the Magistrates' Courts Act 1980.

(8) A maintenance decision which is enforceable in Northern Ireland by virtue of Section 2 of Chapter IV of the Maintenance Regulation and these Regulations shall be enforceable in a magistrates' court in Northern Ireland in the same manner as an order made by that court, save that Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 has effect as modified by section 5(6A) of the Act.

(9) Sub-paragraph (5) is also subject to—

- (a) Article 36(3) (restriction on enforcement where appeal pending or time for appeal unexpired);
- (b) paragraph 8 below;

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

- (c) any provision made by rules of court as to the procedure for the enforcement of maintenance decisions registered under the Maintenance Regulation and these Regulations.
- (a) (10) (a) The debtor under a maintenance decision registered in accordance with this paragraph in a magistrates' court in England and Wales or Northern Ireland must give notice of any change of address to the designated officer, or in Northern Ireland, the clerk of that court.
- (b) 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.

### **Proceedings to contest decisions given on appeal in connection with applications for registration**

- 7. An appeal under Article 33 may only be on a point of law and lies—
  - (a) in England and Wales, to a county court in accordance with section 111A<sup>M12</sup> of the Magistrates' Courts Act 1980;
  - (b) in Scotland, to the Inner House of the Court of Session;
  - (c) in Northern Ireland, to the Court of Appeal.

#### **Marginal Citations**

**M12** Section 111A was inserted by Article 4(1) and (3) of [S.I.2009/871](#).

## **PART 4**

### **Recognition and enforcement of maintenance decisions - general**

#### **Interest on judgments**

8.—(1) Subject to sub-paragraphs (2) and (3) and rules of court as to the payment of interest under this paragraph, where a person applying for registration or enforcement of a maintenance decision shows that—

- (a) the decision provides for the payment of a sum of money, and
- (b) in accordance with the law of the Maintenance Regulation State in which the maintenance decision was given and the terms of the decision, interest on that sum is recoverable at a particular rate and from a particular date or time,

the debt resulting from registration or enforcement of the decision is to carry interest at that rate and from that date or time.

(2) In the case of an application for registration of a maintenance decision, interest is not recoverable unless the rate of interest and the date or time referred to in sub-paragraph (1)(b) are registered with the decision.

- (a) (3) (a) Interest on arrears of sums payable under a maintenance decision which falls to be enforced in a magistrates' court in England and Wales or Northern Ireland by virtue of the Maintenance Regulation and these Regulations shall not be recoverable in that court.
- (b) But this sub-paragraph does not affect the operation in relation to any such maintenance decision of section 2A of the Maintenance Orders Act 1958<sup>M13</sup> or section 11A of the



Maintenance and Affiliation Orders Act (Northern Ireland) 1966 <sup>M14</sup> (which enables interest to be recovered if the decision is registered for enforcement in the High Court).

(4) Except as mentioned in sub-paragraph (3), debts under maintenance decisions enforceable in the United Kingdom by virtue of the Maintenance Regulation shall carry interest only as provided by this paragraph.

#### **Marginal Citations**

**M13** 1958 c.39. Section 2A was inserted by section 37 of and Part II of Schedule 11 to the [Civil Jurisdiction and Judgments Act 1982 \(c.27\)](#).

**M14** 1966 c.35 (N.I.). Section 11A was inserted by section 37 of and Part II of Schedule 11 to the [Civil Jurisdiction and Judgments Act 1982 \(c.27\)](#).

#### **Currency of payments under maintenance decisions**

9.—(1) Sums payable under a maintenance decision enforceable in the United Kingdom by virtue of the Maintenance Regulation, including any arrears so payable, shall be paid in sterling where an order is made on an application for enforcement in England and Wales, Scotland or Northern Ireland.

(2) Where the maintenance decision is expressed in any other currency, the amount shall be converted on the basis of the exchange rate prevailing on the date on which the application for enforcement or registration of the decision was received by a Central Authority in the United Kingdom for transmission to a court.

(3) For the purposes of this paragraph, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence of the facts stated (and in Scotland, sufficient evidence of those facts).

#### **Proof and admissibility of certain maintenance decisions and related documents**

10.—(1) For the purposes of proceedings relating to the Maintenance Regulation—

- (a) a document, duly authenticated, which purports to be a copy of a maintenance decision given by a court in a Maintenance Regulation State shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) an extract from a maintenance decision issued by a court in a Maintenance Regulation State in accordance with Article 20 or Article 28 (as the case may be) shall be evidence that that decision is enforceable there.

(2) A document purporting to be a copy of a maintenance decision given by a court mentioned in sub-paragraph (1)(a) is duly authenticated for the purposes of this paragraph if it purports—

- (a) to bear the seal of that court; or
- (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a maintenance decision given by that court.

(3) Nothing in this paragraph shall prejudice the admission in evidence of any document which is admissible apart from this paragraph.

**Status:** Point in time view as at 07/12/2012.

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## [<sup>F3</sup>PART 5

### Establishment and modification of maintenance under the Maintenance Regulation

#### Textual Amendments

**F3** Sch. 1 Pt. 5 inserted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(2)(b)**

**11.**—(1) This paragraph applies to an application submitted under Article 56 for establishment or modification of a decision to the Lord Chancellor, in relation to England and Wales, or to the Department of Justice in relation to Northern Ireland.

(2) Upon receipt of an application submitted under Article 56 for establishment or modification of a decision in England and Wales, the Lord Chancellor shall send that application to the designated officer for the magistrates' court in the local justice area in which the respondent is residing.

(3) Upon receipt of the application under sub-paragraph (2), the designated officer of that court shall decide—

- (a) whether the courts of England and Wales have jurisdiction to determine the application by virtue of the Maintenance Regulation and Schedule 6 to these Regulations; and
- (b) if so, whether the magistrates' court has power to make the decision or modification sought under—
  - (i) the Domestic Proceedings and Magistrates' Courts Act 1978, or
  - (ii) section 15 of and Schedule 1 to the Children Act 1989.

(4) Where the designated officer decides under sub-paragraph (3)(a) that the courts of England and Wales do not have jurisdiction to determine the application, the designated officer shall return the application to the Lord Chancellor with a written explanation of the reasons for that decision.

(5) Where the designated officer decides under sub-paragraph (3)(b) that the magistrates' court does not have power to make the decision or modification sought, the designated officer shall send the application to—

- (a) the High Court, or
- (b) a county court

as appears to the designated officer to be appropriate.

(6) Subject to sub-paragraph (7), if the designated officer decides under sub-paragraph (3)(b) that the magistrates' court has power to make the decision or modification sought, the designated officer shall issue the application and serve it on the respondent.

(7) If the respondent does not reside in the local justice area for which the magistrates' court acts, the designated officer shall—

- (a) if satisfied that the respondent is residing within another local justice area, send the application to the designated officer of a magistrates' court acting in that other area and inform the Lord Chancellor that it has been so sent; or
- (b) if unable to establish where the respondent is residing, return the application to the Lord Chancellor.

(8) A designated officer who receives an application by virtue of sub-paragraph (7)(a) shall proceed under sub-paragraph (6) as if that designated officer had decided that the magistrates' court has power to make the decision or modification sought.

**Status:** Point in time view as at 07/12/2012.

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(9) Where the designated officer has determined in accordance with sub-paragraph (3)(b) that the magistrates’ court has power to make the decision or modification sought, the application shall be treated for the purpose of establishment or modification of a decision under the Maintenance Regulation as an application under the Domestic Proceedings and Magistrates’ Courts Act 1978, or under section 15 of and Schedule 1 to the Children Act 1989, as appropriate.

(10) Sub-paragraphs (2) to (9) apply to an application submitted under Article 56 for establishment or modification of a decision in Northern Ireland to the Department of Justice in relation to Northern Ireland as if—

- (a) references to England and Wales were references to Northern Ireland;
- (b) references to the Lord Chancellor were references to the Department of Justice;
- (c) for “designated officer” were substituted “clerk of petty sessions”;
- (d) for “local justice area” were substituted “petty sessions district”;
- (e) references to the courts of England and Wales were references to the courts of Northern Ireland;
- (f) references to the Domestic Proceedings and Magistrates’ Courts Act 1978, and to section 15 of and Schedule 1 to the Children Act 1989 were references to the Domestic Proceedings (Northern Ireland) Order 1980 and Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 respectively.

(11) In this paragraph—

“respondent” means the person who is alleged in an application for establishment of a decision under Article 56 to owe maintenance, or where the application is for modification of a decision, the person against whom the modification is sought;

and a reference to an application is a reference to an application together with any documents which accompany it.]

SCHEDULE 2

Regulation 4

PROVISIONS RELATING TO INFORMATION

1.—(1) The following are designated for the purposes of Article 61(1) of the Maintenance Regulation to provide the information referred to in Article 61(2) to the Central Authorities designated under paragraph 2 of Schedule 1—

- (a) the Secretary of State;
- <sup>F4</sup>(b) . . . . .
- (c) [<sup>F5</sup>Revenue and Customs officers];
- (d) the Department for Employment and Learning in Northern Ireland;
- (e) the Department of the Environment in Northern Ireland;
- (f) the Department of Finance and Personnel in Northern Ireland;
- (g) the Department for Social Development in Northern Ireland.

(2) The information to be supplied by the Secretary of State is limited to information held for functions relating to social security [<sup>F6</sup>, child support] or employment or training.

[<sup>F7</sup>(3) In sub-paragraph (2), “functions relating to social security” includes functions relating to statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits Act 1992 and maternity allowance under section 35 of that Act.]

**Status:** Point in time view as at 07/12/2012.

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[<sup>F7</sup>(4) In this Schedule, references to the Secretary of State include a person providing services to the Secretary of State in connection with the functions mentioned in sub-paragraph (2).]

#### Textual Amendments

- F4** Sch. 2 para. 1(1)(b) revoked (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(a)(i)**
- F5** Words in Sch. 2 para. 1(1)(c) substituted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(a)(ii)**
- F6** Words in Sch. 2 para. 1(2) inserted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(a)(iii)**
- F7** Sch. 2 para. 1(3)(4) inserted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(a)(iv)**

2. Subject to the provisions of Chapter VII of the Maintenance Regulation, the persons and authorities to whom the Central Authorities transmit information in accordance with Article 62(1) of that Regulation may process that information in any manner necessary to facilitate the adjudication and recovery of maintenance claims.

3.—(1) Information referred to in Article 61(2) of the Maintenance Regulation which is received by a Central Authority <sup>F8</sup>... from a body or person designated under paragraph 1 cannot be disclosed to another person unless the disclosure is in connection with a function of the Central Authority under, and is in accordance with, Chapter VII of the Maintenance Regulation.

(2) Sub-paragraph (1) does not apply to—

- (a) the disclosure of information which is in the form of a summary or collection of information so framed as not to enable identification of any person from the information;
- (b) disclosure which is made in pursuance of an order of a court;
- (c) disclosure which is required by any other enactment.

#### Textual Amendments

- F8** Words in Sch. 2 para. 3(1) revoked (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(b)**

4.—(1) Subject to sub-paragraph (3), a person who—

- (a) is or has been employed by a Central Authority designated under paragraph 2 of Schedule 1; or
- (b) provides or has provided services to such a Central Authority,

is guilty of an offence if [<sup>F9</sup>that person] discloses, otherwise than in accordance with paragraph 3, information referred to in Article 61(2) of the Maintenance Regulation which has been obtained from a person or body designated under paragraph 1 and which relates to a person whose identity is specified in the information disclosed or can be deduced from it.

(2) It is a defence to prove that, at the time of the alleged offence, the person believed that [<sup>F10</sup>the person] was making the disclosure lawfully in accordance with this Schedule and the Maintenance Regulation, and had no reasonable cause to believe otherwise.

(3) Sub-paragraph (1) does not apply to disclosure of information received by such a person—

- (a) from the Department for Employment and Learning in Northern Ireland, the Department of the Environment in Northern Ireland, or the Department of Finance and Personnel in Northern Ireland;
- (b) from the Secretary of State where the information so disclosed is held by the Secretary of State for the purposes of employment and training only.

**Textual Amendments**

- F9** Words in Sch. 2 para. 4(1) substituted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(i)**
- F10** Words in Sch. 2 para. 4(2) substituted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(ii)**

5. A person found guilty of an offence under this Schedule shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum or to both.

[<sup>F11</sup>6. In this Schedule, references to a Central Authority include persons employed by or supplying services to that Central Authority.]

**Textual Amendments**

- F11** Sch. 2 para. 6 inserted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(3)(d)**

SCHEDULE 3

Regulation 5

PROVISIONS RELATING TO AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS

1. References in this Schedule to authentic instruments and court settlements are references to those authentic instruments and court settlements (as defined in Article 2 of the Maintenance Regulation) which are to be recognised and enforceable in the same way as maintenance decisions by virtue of Article 48 of that Regulation.

2.—(1) In relation to an authentic instrument or court settlement which is enforceable in the Maintenance Regulation State of origin, Schedule 1 applies, subject to the modifications in sub-paragraphs (2), (3) and (4), as if that authentic instrument or court settlement was a maintenance decision given by a court in that Maintenance Regulation State.

(2) Paragraphs 4(4) and 6(5) of Schedule 1 apply in relation to authentic instruments and court settlements as if, for the words “as if the decision had been originally made” there were substituted “as if it was a decision which had originally been made”.

(3) Paragraph 10 of Schedule 1 applies to authentic instruments as if—

- (a) in sub-paragraph (1)(a), for the words “given by a court” there were substituted “drawn up by, registered by, authenticated by or concluded before a competent authority”;
- (b) for sub-paragraph (1)(b) there were substituted—

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

“(b) an extract from an authentic instrument issued by a competent authority in a Maintenance Regulation State in accordance with Article 48 shall be evidence that that instrument is enforceable there.”;

(c) for sub-paragraph (2) there were substituted—

“(2) A document purporting to be a copy of an authentic instrument drawn up by, registered by, authenticated by or concluded before a competent authority in a Maintenance Regulation State is duly authenticated for the purposes of this paragraph if it purports to be certified to be a true copy of such an instrument by a person duly authorised in that State to do so.”

(4) Paragraph 10(1)(b) of Schedule 1 applies to court settlements as if, for the words “Article 20 or Article 28 (as the case may be)” there were substituted “Article 48”.

3. Section 18(7) of the Act (disapplication of section 18) has effect to disapply section 18 in relation to an authentic instrument or court settlement to which Article 48 applies.

## SCHEDULE 4

Regulation 6

### AMENDMENTS TO THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982

1. The Civil Jurisdiction and Judgments Act 1982 <sup>M15</sup> is amended as follows.

#### Marginal Citations

**M15** 1982 c.27. The Civil Jurisdiction and Judgments Act 1982 was amended by section 3 of, and Schedule 2 to the [Civil Jurisdiction and Judgments Act 1991 \(c.12\)](#), [Article 4](#) of, and Schedule 2 to [S.I.2001/3929, regulations 2, 16](#) and 17 of [S.I. 2009/3131](#) and section 226(1) of and paragraph 12 of Schedule 5 to the Bankruptcy and Diligence etc (Scotland) Act 2007 ([2007 asp 3](#)).

2. In section 16 (allocation within UK of jurisdiction in certain civil proceedings), in subsection (4) after “Regulation” insert “, Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011”.

3. In section 18 (enforcement of UK judgments in other parts of the UK), in subsection (7) after “section 4 or 5 of this Act” insert “or by virtue of the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

4. In section 20 (rules as to jurisdiction in Scotland), in subsection (3)—

(a) the words “to the extent that it determines jurisdiction in relation to any matter to which Schedule 8 applies” become paragraph (a);

(b) after that paragraph insert—

“; and

(b) to the extent that it relates to any matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

5.—(1) Section 24 (interim relief and protective measures in cases of doubtful jurisdiction) is amended as follows.

(2) In subsection (1), after paragraph (c) insert—

“; or

- (d) the proceedings involve a reference of any matter relating to the Maintenance Regulation to the European Court under Article 267 of the Treaty on the Functioning of the European Union <sup>M16</sup>.”.

- (3) In subsection (2) , after paragraph (c) insert—

“; or

- (d) the proceedings involve a reference of any matter relating to the Maintenance Regulation to the European Court under Article 267 of the Treaty on the Functioning of the European Union.”.

**Marginal Citations**

**M16** O.J. No. C 83, 30.3.2010, p.1.

**6.—**(1) Section 25 (interim relief in England and Wales and Northern Ireland in the absence of substantive proceedings) is amended as follows.

- (2) In subsection (1)—

- (a) in paragraph (a), after “a Regulation State” insert “ or a Maintenance Regulation State ”;
- (b) in paragraph (b), after “Article 1 of the Regulation” insert “ , within the scope of the Maintenance Regulation as determined by Article 1 of that Regulation ”;
- (c) in that paragraph, after “whether or not the Regulation” insert “ , the Maintenance Regulation ”.

- (3) In subsection (3)—

- (a) in paragraph (a), after “Regulation State” insert “ or a Maintenance Regulation State ”;
- (b) in paragraph (b) omit “either”;
- (c) in that paragraph, after “Article 1 of the Regulation” insert “ , the Maintenance Regulation as determined by Article 1 of that Regulation ”.

**7.—**(1) Section 27 (provisional and protective measures in Scotland in the absence of substantive proceedings) is amended as follows.

- (2) In subsection (2)—

- (a) in paragraph (a), after “Regulation State” insert “ , in another Maintenance Regulation State ”;
- (b) in paragraph (b), after the second “Regulation” insert “ or is within the scope of the Maintenance Regulation as determined by Article 1 of that Regulation ”.

- (3) In subsection (3)—

- (a) in paragraph (a), for “or Regulation State” substitute “ , Regulation State or Maintenance Regulation State ”;
- (b) in paragraph (b), at the end insert “ or the Maintenance Regulation as determined by Article 1 of that Regulation ”;
- (c) in paragraph (d), for “or Regulation State” substitute “ , Regulation State or Maintenance Regulation State ”.

**8.—**(1) Section 28 (application of s.1 of the Administration of Justice (Scotland) Act 1972 <sup>M17</sup>) is amended as follows.

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

- (2) The existing provision becomes subsection (1).
- (3) After that subsection insert—

“(2) When any proceedings have been brought or are likely to be brought in another Maintenance Regulation State or in England and Wales or Northern Ireland in respect of any matter which is within the scope of the Maintenance Regulation as determined by Article 1 of that Regulation, the Court of Session has the like power to make an order under section 1 of the Administration of Justice (Scotland) Act 1972 as if the proceedings in question had been brought, or were likely to be brought, in that court.”.

#### **Marginal Citations**

**M17** 1972 (c.59).

**9.** In section 32 (overseas judgments given in proceedings brought in breach of agreement for settlement of disputes), in subsection (4)(a) after “the Regulation” insert “ or the Maintenance Regulation ”.

**10.** In section 33 (certain steps not to amount to submission to jurisdiction of overseas court), in subsection (2) after “the Regulation” insert “ or the Maintenance Regulation ”.

**11.** In Schedule 4 (Chapter II of the Regulation as modified for allocation of jurisdiction within the UK), paragraph 3(b) is repealed.

**12.** Paragraph 5 of Schedule 5(proceedings excluded from Schedule 4) is repealed.

**13.** In Schedule 8 (rules as to jurisdiction in Scotland), paragraph 2(e) is repealed.

## SCHEDULE 5

Regulation 7

### AMENDMENTS TO THE CIVIL JURISDICTION AND JUDGMENTS ORDER 2001

1. Schedule 1 to the Order is amended in accordance with this Schedule.
2. In paragraph 3, sub-paragraphs (1) and (2) are revoked.
- 3.—(1) Paragraph 4 is amended as follows.
  - (2) In sub-paragraph (1), “other than a maintenance order” is revoked.
  - (3) Sub-paragraph (3) is revoked.

## SCHEDULE 6

Regulation 8

### ALLOCATION WITHIN THE UNITED KINGDOM OF JURISDICTION RELATING TO MAINTENANCE MATTERS

**1.** The provisions of this Schedule have effect for determining, as between the parts of the United Kingdom, whether the courts of a particular part of the United Kingdom, or any particular court in that part, have or has jurisdiction in proceedings where the subject-matter of the proceedings is within the scope of the Maintenance Regulation as determined by Article 1 of that Regulation.

**2.** In this Schedule, a reference to an Article by number alone is a reference to the Article so numbered in the Maintenance Regulation.



**3.** The provisions of Chapter II of the Maintenance Regulation apply to the determination of jurisdiction in the circumstances mentioned in paragraph 1, subject to the modifications specified in the following provisions of this Schedule.

**4.** Article 3 applies as if—

- (a) the references in Article 3(a) and (b) to the court for the place where the defendant or the creditor is habitually resident were references to the court for the part of the United Kingdom in which the defendant, or the creditor, as the case may be, is habitually resident;
- (b) the references to a person's nationality were references to a person's domicile.

**5.** Article 4(1) to (3) applies as if—

- (a) for “Member State”, wherever it occurs, there were substituted “part of the United Kingdom”;
- (b) the reference to a person's nationality was a reference to a person's domicile.

**6.** Article 5 applies as if—

- (a) after “this Regulation” there were inserted “as modified by Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011”;
- (b) for “Member State” there were substituted “part of the United Kingdom”.

**7.** Where Article 6, as read with the second paragraph of Article 2(3), indicates that the courts of the United Kingdom have jurisdiction under the Maintenance Regulation, and the parties are domiciled in different parts of the United Kingdom, the courts of either part may exercise jurisdiction (subject to Article 12 as it has effect by virtue of this Schedule).

**8.** Article 7 applies as if for the second sentence there were substituted—

“The dispute must have a sufficient connection with the part of the United Kingdom in which the court seised is located.”.

**9.—(1)** Sub-paragraphs (2) and (3) have effect in addition to Article 8.

(2) Where a decision is given in a part of the United Kingdom where the creditor is habitually resident, proceedings to modify the decision or to have a new decision given cannot be brought by the debtor in any other part of the United Kingdom as long as the creditor remains habitually resident in the part of the United Kingdom in which the decision was given.

(3) Sub-paragraph (2) does not apply where—

- (a) the parties have agreed that the courts of that other part of the United Kingdom are to have jurisdiction in accordance with Article 4 as applied by paragraph 5 of this Schedule, or
- (b) the creditor submits to the jurisdiction of the courts of that other part of the United Kingdom pursuant to Article 5 as applied by paragraph 6 of this Schedule.

**10.** Article 9 does not apply.

**11.—(1)** Sub-paragraphs (2) and (3) have effect instead of Articles 10 and 11.

(2) Where a defendant habitually resident in one part of the United Kingdom is sued in a court of another part of the United Kingdom and does not enter an appearance, the court will declare of its own initiative that it has no jurisdiction unless its jurisdiction is derived from the provisions of this Schedule.

(3) The court will stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

**12.** Article 12 applies as if after “different Member States” there were inserted “or different parts of the United Kingdom”.

**13.** Article 13 applies as if after “different Member States” there were inserted “or different parts of the United Kingdom”.

**14.** Article 14 applies as if—

- (a) for “a Member State” there were substituted “a part of the United Kingdom”;
- (b) after “another Member State” there were inserted “or another part of the United Kingdom”.

**15.** Notwithstanding the preceding provisions of this Schedule, the exercise of jurisdiction in any proceedings in a court in the United Kingdom is subject to—

- (a) the Maintenance Regulation;
- (b) the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30th October 2007 <sup>M18</sup>;
- (c) the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters signed at Brussels on the 27th September 1968 <sup>M19</sup>; and
- (d) the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters concluded at Lugano on the 16th September 1988 <sup>M20</sup>.

#### Marginal Citations

**M18** O.J. No.L 339, 21.12.2007, p.3.

**M19** O.J. No. L.299, 31.12.1972, p.32-42

**M20** O.J. No. L 319, 25.11.1988, p.9-48.

**16.** This Schedule does not apply to—

- (a) matters in relation to which—
  - (i) [<sup>F12</sup>the Secretary of State] has jurisdiction to make a maintenance calculation by virtue of section 44 of the Child Support Act 1991 <sup>M21</sup>;
  - (ii) the Department for Social Development in Northern Ireland has jurisdiction to make a maintenance calculation by virtue of Article 41 of the Child Support (Northern Ireland) Order 1991 <sup>M22</sup>;
- (b) proceedings for, or otherwise relating to, an order under any of the following provisions—
  - (i) paragraph 23 of Schedule 2 to the Children Act 1989 <sup>M23</sup> (contribution orders);
  - (ii) section 106 of the Social Security Administration Act 1992 <sup>M24</sup> (recovery of expenditure on benefit from person liable for maintenance);
  - (iii) section 80 of the Social Work (Scotland) Act 1968 <sup>M25</sup> (enforcement of duty to make contributions);
  - (iv) section 81 of the Social Work (Scotland) Act 1968 (provisions as to decrees for aliment);
  - (v) Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>M26</sup> (recovery of cost of accommodation for persons in need);
  - (vi) section 101 of the Social Security Administration (Northern Ireland) Act 1992 <sup>M27</sup> (recovery of expenditure on benefit from person liable for maintenance);

(vii) Article 41 of the Children (Northern Ireland) Order 1995<sup>M28</sup> (contribution orders).

#### Textual Amendments

**F12** Words in Sch. 6 para. 16(a)(i) substituted (7.12.2012) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(2), **Sch. 5 para. 8(4)**

#### Marginal Citations

**M21** 1991 c.48. Section 44 of the Child Support Act 1991 was amended by section 22 of the [Child Support Pensions and Social Security Act 2000 \(c.19\)](#) and section 13(4) of and paragraphs 1 and 46 of Schedule 3 to the [Child Maintenance and Other Payments Act 2008 \(c.6\)](#).

**M22** [S.I.1991/2628 \(N.I.23\)](#).

**M23** 1989 c.41.

**M24** 1992 c.5. Section 106 of the Social Security Administration Act 1992 is prospectively repealed by sections 9(3)(b) and 58(1) of and Schedule 7 to the [Welfare Reform Act 2009 \(c.29\)](#).

**M25** 1968 c.49.

**M26** 1972 N.I.14.

**M27** 1992 c.8.

**M28** [S.I.1995/755 \(N.I.2\)](#).

## SCHEDULE 7

Regulation 9

### CONSEQUENTIAL AMENDMENTS

#### Maintenance Orders Act 1950 (c.37)

1.—(1) The Maintenance Orders Act 1950 is amended as follows.

(2) In section 15<sup>M29</sup> (service of process), for subsection (1)(a)(vi), substitute—

“(vi) Council Regulation [\(EC\) No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011; or”.

(3) In section 22 (discharge and variation of maintenance orders registered in summary or sheriff courts)—

(a) in subsection (1), at the beginning insert “ Subject to subsection (1ZA), ”;

(b) after that subsection insert—

“(1ZA) The power under subsection (1) to vary the rate of payments may not be exercised where paragraph 9(2) of Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 applies (restriction on modifying maintenance decision where creditor remains habitually resident in the part of the United Kingdom in which the decision was made).”.

#### Marginal Citations

**M29** Section 15(1) was substituted by section 3 of and paragraph 11 of Schedule 3 to the [Administration of Justice Act 1977 \(c.38\)](#); section 15(1)(a)(vi) was inserted by section 16(5) of the [Civil Jurisdiction and Judgments Act 1982 \(c.27\)](#).

*Status: Point in time view as at 07/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)*

### **Maintenance Orders Act 1958 (c.39)**

- 2.—(1) The Maintenance Orders Act 1958 is amended as follows.
- (2) Section 1 (application of Part 1) is amended as follows.
- (3) In subsection (1A) <sup>M30</sup> after “any order” insert “, decision, settlement or instrument”.
- (4) After subsection (4) <sup>M31</sup>, insert—
- “(5) For the purposes of this section—
- (a) a maintenance decision which is enforceable by a magistrates' court by virtue of Section 1 of Chapter IV of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court;
- (b) a maintenance decision which is registered by a magistrates' court under the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court;
- (c) an authentic instrument or court settlement which is enforceable by a magistrates' court by virtue of Article 48 of the Maintenance Regulation (application of provisions relating to maintenance decisions to authentic instruments and court settlements) and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court.
- (6) In subsection (5)—
- “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;
- “authentic instrument” and “court settlement” have the meanings given by Article 2 of the Maintenance Regulation;
- “maintenance decision” has the meaning given to “decision” by Article 2 of the Maintenance Regulation.”.
- (5) In section 4A(1) <sup>M32</sup>, after “section 1(4)” insert “ or (5) ”.

#### **Marginal Citations**

**M30** Section 1(1A) was inserted by section 27(3) of the [Administration of Justice Act 1970 \(c.31\)](#).

**M31** Section 1(4) was inserted by section 22(1) of and paragraph 4 of the Schedule to the [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c.18\)](#).

**M32** Section 4A was inserted by section 10 of and paragraph 10 of Schedule 1 to the [Maintenance Enforcement Act 1991 \(c.17\)](#).

### **Administration of Justice Act 1970 (c.31)**

- 3.—(1) The Administration of Justice Act 1970 is amended as follows.
- (2) In section 28 (other provisions for the interpretation of Part 2), in subsection (1), in the definition of “maintenance order”—
- (a) after “any order” insert “, decision, settlement or instrument”;
- (b) for “such an order” substitute “ one ”;
- (c) after “discharged” insert “ or has otherwise ceased to operate ”.

(3) In Schedule 8 (which lists maintenance orders for the purposes of the Maintenance Orders Act 1958 and Part 2 of the Administration of Justice Act 1970), after paragraph 13A <sup>M33</sup> insert—

“**13B.**—(1) A decision, court settlement or authentic instrument which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.

(2) In this paragraph—

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;

“decision”, “court settlement” and “authentic instrument” have the meanings given by Article 2 of the Maintenance Regulation.”.

**Marginal Citations**

**M33** Paragraph 13A was inserted by Article 5 of and paragraph 8 of Schedule 3 to [S.I.2001/3929](#).

**Attachment of Earnings Act 1971 (c.32)**

4.—(1) The Attachment of Earnings Act 1971 is amended as follows.

(2) In section 2 (principal definitions), in the definition of “maintenance order”—

(a) after “any order” insert “ , decision, settlement or instrument ”;

(b) for “such an order” substitute “ one ”;

(c) after “discharged” insert “ or has otherwise ceased to operate ”.

(3) In Schedule 1 (which lists maintenance orders to which that Act applies) after paragraph 14 <sup>M34</sup> insert—

“**14A.**—(1) A decision, court settlement or authentic instrument which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.

(2) In this paragraph—

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;

“decision”, “court settlement” and “authentic instrument” have the meanings given by Article 2 of that Regulation.”.

**Marginal Citations**

**M34** Paragraph 14 was inserted by Article 5 of and paragraph 9 of Schedule 3 to [S.I.2001/3929](#).

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

5. In the Maintenance Orders (Reciprocal Enforcement) Act 1972, in section 4 <sup>M35</sup> (power of sheriff to make provisional maintenance order)—

**Status:** Point in time view as at 07/12/2012.

**Changes to legislation:** There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)

- (a) in subsection (1), for “Rule 2(5) of Schedule 8 to the Civil Jurisdiction and Judgments Act 1982” substitute “ the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 ”;
- (b) after subsection (6) insert—
  - “(7) In this section, “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### Marginal Citations

**M35** Section 4(1) was substituted by section 23(2) of and paragraph 3(1) of Schedule 12 to the [Civil Jurisdiction and Judgments Act 1982 \(c.27\)](#).

#### Matrimonial Causes Act 1973 (c.18)

6.—(1) The Matrimonial Causes Act 1973 is amended as follows.

(2) In section 27<sup>M36</sup> (financial provision orders in case of neglect to maintain), for subsection (2), substitute—

“(2) The court may not entertain an application under this section unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

(3) In section 35 (alteration of agreements by court during lives of parties)—

- (a) in subsection (1), for “subsection (3)” substitute “ subsections (1A) and (3) ”;
- (b) after that subsection insert—

“(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

- (a) the requirement as to domicile or residence in subsection (1) does not apply to the application or that part of it, but
- (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”.

(4) In section 52<sup>M37</sup>, in subsection (1), after the definition of “maintenance calculation” insert—  
 ““the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”.

#### Marginal Citations

**M36** Section 27(2) was amended by section 6(1) of the [Domicile and Matrimonial Proceedings Act 1973 \(c.45\)](#).

**M37** In Section 52(1), the definition of maintenance calculation was substituted by section 26 of and paragraph 3(1) and (4) of Schedule 3 to the [Child Support Pensions and Social Security Act 2000 \(c.19\)](#).

### **Domicile and Matrimonial Proceedings Act 1973 (c.45)**

7. In the Domicile and Matrimonial Proceedings Act 1973, in section 10 (ancillary and collateral orders), after subsection (1B) <sup>M38</sup> insert—

“(1C) If the application or part of it relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the Court of Session or a sheriff court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.

(1D) In subsection (1C) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **Marginal Citations**

**M38** Section 10(1) was amended by section 105(4) of and paragraph 20(2)(a) of Schedule 4 to the [Children \(Scotland\) Act 1995 \(c.36\)](#). Subsection (1B) of section 10 was inserted by regulation 2(1), and (4) of [S.S.I. 2001/36](#).

### **Domestic Proceedings and Magistrates' Courts Act 1978 (c.22)**

8. In the Domestic Proceedings and Magistrates' Courts Act 1978, in section 30 (provisions as to jurisdiction and procedure)—

- (a) in subsection (1), after “subject to” insert “ subsection (1A) and to ”;
- (b) after that subsection insert—

“(1A) If an application or part of an application for an order under this Part relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, a magistrates' court may not entertain that application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;

- (c) after subsection (5) insert—

“(6) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

### **Magistrates' Courts Act 1980 (c. 43)**

9.—(1) The Magistrates' Courts Act 1980 is amended as follows.

(2) In section 60 <sup>M39</sup> (revocation, variation etc of orders for periodical payments), after subsection (10) insert—

“(10A) The power in subsection (1) is not exercisable in relation to a maintenance order which falls to be enforced by a magistrates' court by virtue of —

- (a) the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, or
- (b) the Council Regulation.

(10B) In subsection (10A)—

*Status: Point in time view as at 07/12/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. (See end of Document for details)*

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;

“the Council Regulation” means Council Regulation (EC) No 44/2001 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) Section 95<sup>M40</sup> (remission of arrears and manner in which arrears to be paid) is amended as follows.

(4) After subsection (1) insert—

“(1A) The power in subsection (1) is not exercisable in relation to a maintenance order which falls to be enforced by a magistrates' court by virtue of—

- (a) the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, or
- (b) the Council Regulation.”.

(5) In subsection (7)—

(a) after “In this section—” insert—

““the Council Regulation” means Council Regulation (EC) No 44/2001 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”;

(b) after the definition of “English maintenance order” insert—

““the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”;

(c) in the definition of “non-English maintenance order”—

(i) in paragraph (a), for sub-paragraph (v) substitute—

“(v) under the Council Regulation;”;

(ii) the “or” at the end of paragraph (b) is repealed;

(iii) at the end of paragraph (c) insert—

“or

(d) a maintenance order which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

(6) In section 150 (interpretation of other terms), in subsection (1), in the definition of “maintenance order”—

(a) after “any order” insert “, decision, settlement or instrument ”;

(b) for “such an order” substitute “ one ”;

(c) after “discharged” insert “ or has otherwise ceased to operate ”.

### Marginal Citations

**M39** Section 60 was substituted by section 4 of the [Maintenance Enforcement Act 1991 \(c.17\)](#). It is modified by section 9 of the [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c.18\)](#), [section 4](#) of the [Maintenance Orders \(Facilities for Enforcement\) Act 1920 \(c.33\)](#), [section 22](#) of the [Maintenance Orders Act 1950 \(c.37\)](#), and section 4 of the [Maintenance Orders Act 1958 \(c.39\)](#) (as amended by section 261(1) of and paragraph 22 of Schedule 27 to the [Civil Partnership Act 2004 \(c.33\)](#)).



**M40** Section 95 was substituted by section 11(1) of, and paragraph 8 of Schedule 2 to, the [Maintenance Enforcement Act 1991 \(c.17\)](#). Subsection (7)(a)(v) was inserted by article 5 of and paragraphs 10 and 12(c) of Schedule 3 to [S.I. 2001/3929](#), which was amended by regulation 5 and paragraphs 8 and 10 of the Schedule to [S.I.2007/1655](#).

### **Matrimonial and Family Proceedings Act 1984 (c. 42)**

**10.**—(1) The Matrimonial and Family Proceedings Act 1984 is amended as follows.

(2) In section 15<sup>M41</sup> (jurisdiction of the court)—

(a) in subsection (1), for “subsection (2)”, substitute “ subsections (1A) and (2) ”;

(b) after that subsection, insert—

“(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, those requirements are to determine whether the court has jurisdiction to entertain the application or that part of it.”;

(c) in subsection (2)—

(i) the words from “or by virtue of Council Regulation” to “at p 62)” are repealed;

(ii) in paragraphs (a) and (b), the words “that Regulation or” are repealed;

(d) after subsection (2) insert—

“(3) In this section, “the Maintenance Regulation” means Council Regulation [\(EC\) No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) In section 16 (duty of court to consider whether England and Wales is appropriate venue)—

(a) in subsection (1), at the beginning, insert “ Subject to subsection (3), ”;

(b) after subsection (2) insert—

“(3) If the court has jurisdiction in relation to the application or part of it by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not dismiss the application or that part of it on the ground mentioned in subsection (1) if to do so would be inconsistent with the jurisdictional requirements of that Regulation and that Schedule.

(4) In this section, “the Maintenance Regulation” means Council Regulation [\(EC\) No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(4) In section 28<sup>M42</sup> (circumstances in which a Scottish court may entertain application for financial provision)—

(a) in subsection (1), for “subsection (4)” substitute “ subsections (3A) and (4) ”;

(b) after subsection (3) insert—

“(3A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

(a) those requirements are to be satisfied in respect of the application, or that part of it, instead of the requirements set out in subsection (2), and

(b) the condition mentioned in subsection (3)(e) does not apply.”;

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- (c) in subsection (4)—
  - (i) the words from “or by virtue of Council Regulation” to “at p 62)” are repealed;
  - (ii) in paragraphs (a) and (b) the words “that Regulation or” are repealed;
- (d) after that subsection insert—
  - “(5) “The Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### Marginal Citations

- M41** Section 15(2) was amended by article 5 of and paragraphs 18 and 19 of Schedule 3 to [S.I.2001/3929](#), and by paragraphs 12 and 13 of the Schedule to [S.I.2007/1655](#).
- M42** Section 28(4) was amended by article 5 of and paragraphs 18 and 20 of Schedule 3 to [S.I.2001/3929](#), and by paragraphs 12 and 14 of the Schedule to [S.I.2007/1655](#).

#### Debtors (Scotland) Act 1987 (c.18)

- 11.**—(1) The Debtors (Scotland) Act 1987 <sup>M43</sup> is amended as follows.
- (2) In section 54 (current maintenance arrestment to be preceded by default)—
- (a) in subsection (1)(a)(i), after “(a)” insert “, (aa) ”;
  - (b) in subsection (1)(a)(ii), after “(g)” insert “, (ga) ”;
  - (c) in subsection (2)(a), for “or (g)” substitute “, (g) or (ga) ”;
  - (d) after subsection (3) insert—
    - “(4) In subsections (1) and (2), “order” includes decision, settlement and instrument.
    - (5) In the case of a decision, settlement or instrument mentioned in paragraph (aa) of the definition of “maintenance order” in section 106, the reference in subsection (1)(a)(i) to the making of the order is to be construed as a reference—
      - (a) in the case of a decision, to the making of the decision;
      - (b) in the case of a settlement, to the approval by or, as the case may be, conclusion before a court of the settlement;
      - (c) in the case of an instrument, to the authentication by a competent authority of the instrument.”.
- (3) In section 55 (review and termination of current maintenance arrestment)—
- (a) in subsection (9), for “or (g)” substitute “, (g) or (ga) ”;
  - (b) after subsection (9) insert—
    - “(10) In subsections (8)(a) and (9), “order” includes decision, settlement and instrument.”.
- (4) In section 66 (recall and variation of conjoined arrestment order)—
- (a) in subsection (5), for “or (g)” substitute “, (g) or (ga) ”;
  - (b) after subsection (10) insert—
    - “(11) In subsections (4)(b) and (5), “order” includes decision, settlement and instrument.”.
- (5) In section 73A(4) (arrestment and action of furthcoming: interpretation), in the definition of “decree”, after paragraph (d) insert—

- “(da) a decision, court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is enforceable in Scotland by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;”.
- (6) In section 106 (interpretation)—
- (a) in the definition of “maintenance order”—
- (i) after paragraph (a) insert—
- “(aa) a decision, court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which falls to be enforced by the sheriff court by virtue of Section 1 of Chapter IV of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;”;
- (ii) after paragraph (g) insert—
- “(ga) a decision, court settlement or authentic instrument (within the meaning of Article 2 of the Maintenance Regulation) which is registered in Scotland under the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;”;
- (b) after that definition insert—
- ““the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”.

**Marginal Citations**

**M43** 1987 (c.18).

**Children Act 1989 (c.41)**

**12.**—(1) Schedule 1 to the Children Act 1989 is amended as follows.

(2) In paragraph 10—

- (a) in sub-paragraph (2), for “Where” substitute “ Subject to sub-paragraph (2A), where ”;
- (b) after that sub-paragraph insert—

“(2A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

- (a) the requirement as to domicile or residence in sub-paragraph (2) does not apply to the application or that part of it, but
- (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.

(2B) In sub-paragraph (2A), “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) For paragraph 14 substitute—

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“14.—(1) If an application under paragraph 1 or 2, or part of such an application, relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.

(2) In sub-paragraph (1), “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

### **Child Support Act 1991 (c.48)**

13. In section 44 of the Child Support Act 1991, after subsection (3) insert—

“(4) The Commission does not have jurisdiction under this section if the exercise of jurisdiction would be contrary to the jurisdictional requirements of the Maintenance Regulation.

(5) In subsection (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

### **Social Security Administration Act 1992 (c.5)**

14. In section 108<sup>M44</sup> of the Social Security Administration Act 1992 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State)—

(a) in subsection (4)(a)—

(i) insert “ or ” at the end of sub-paragraph (ii);

(ii) paragraph (iv) and the “or” immediately preceding it are repealed;

(b) after that paragraph, but before the “and” immediately following it insert—

“(aa) to apply for recognition and enforcement of the maintenance order under the Maintenance Regulation, to the extent permitted by Article 64 of that Regulation;”;

(c) after subsection (8) insert—

“(9) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **Marginal Citations**

**M44** Section 108 is prospectively repealed by sections 9(3)(b) and 58(1) of and Schedule 7 to the [Welfare Reform Act 2009 \(c.24\)](#). Subsection (4)(a)(iv) was inserted by article 5 and paragraph 24(c) of the Schedule to [S.I.2001/3929](#), and amended by regulation 5 and paragraph 16 of the Schedule to [S.I.2007/1655](#). Subsection (8) was substituted by section 57(1) of, and paragraph 2 of Schedule 7 to the [Child Maintenance and Other Payments Act 2008 \(c.6\)](#).

### **Social Security Administration (Northern Ireland) Act 1992 (c.8)**

15. In section 103<sup>M45</sup> of the Social Security Administration Act (Northern Ireland) 1992 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department)—

(a) in subsection (4)(a)—

- (i) insert “ or ” at the end of sub-paragraph (ii);
- (ii) paragraph (iv) and the “or” immediately preceding it are repealed;
- (b) after that paragraph, but before the “and” immediately following it insert—
  - “(aa) to apply for recognition and enforcement of the maintenance order under the Maintenance Regulation, to the extent permitted by Article 64 of that Regulation.”;
- (c) after subsection (8) insert—
  - “(9) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### Marginal Citations

**M45** Section 103 is prospectively repealed by sections 9(3)(b) and 34(1) of and Schedule 4 to the [Welfare Reform Act \(Northern Ireland\) 2010 \(c.13\)](#). Subsection (4)(a)(iv) was inserted by article 5 and paragraph 24(c) of the Schedule to [S.I.2001/3929](#), and amended by regulation 5 and paragraph 16 of the Schedule to [S.I.2007/1655](#). Subsection (8) was substituted by section 38(1) of, and paragraph 2 of Schedule 4 to the [Child Maintenance Act \(Northern Ireland\) 2008 \(c.10\)](#).

#### Civil Partnership Act 2004 (c.33)

- 16.—**(1) The Civil Partnership Act 2004 is amended as follows.
- (2) In section 227 (Scottish ancillary and collateral orders)—
    - (a) in subsection (3), for “If” substitute “ Subject to subsections (3A) and (3B), if ”;
    - (b) in subsection (3), for “the application unless—” substitute—
      - “the application.
      - (3A) The court may not entertain the application if—”;
    - (c) after the subsection (3A) so formed insert—
      - “(3B) If the application or part of it relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;
    - (d) after subsection (5) insert—
      - “(6) In this section “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.
  - (3) In Schedule 5, in Part 9 (failure to maintain: financial provision (and interim orders)), in paragraph 39—
    - (a) in sub-paragraph (2) for the words from “unless” to the end substitute “ unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. ”;
    - (b) after sub-paragraph (4) insert—
      - “(5) In this paragraph, “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

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- (4) In Schedule 5, in Part 13 (consent orders and maintenance agreements), in paragraph 69—
- (a) in sub-paragraph (1) at the beginning insert “ Subject to sub-paragraph (1A), ”;
  - (b) after that sub-paragraph, insert—
 

“(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

    - (a) the requirement as to domicile or residence in sub-paragraph (1)(b) does not apply to the application or that part of it, but
    - (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;
  - (c) after sub-paragraph (6) insert—
 

“(7) In this paragraph, “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.
- (5) In Schedule 6, in Part 8 (financial relief in magistrates' courts: supplementary), in paragraph 47<sup>M46</sup>—
- (a) in sub-paragraph (1), after “Subject to” insert “ sub-paragraph (1A) and to ”;
  - (b) after that sub-paragraph insert—
 

“(1A) If an application or part of an application for an order under this Schedule relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, a magistrates' court may not entertain that application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;
  - (c) after sub-paragraph (4) insert—
 

“(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.
- (6) In Schedule 7, in Part 1 (financial relief in England and Wales after overseas dissolution etc of a civil partnership)—
- (a) in paragraph 7—
    - (i) in sub-paragraph (1), at the beginning insert “ Subject to sub-paragraph (6), ”;
    - (ii) after sub-paragraph (5) insert—
 

“(6) If an application or part of an application relates to a matter where jurisdiction falls to be determined by the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, those requirements are to determine whether the court has jurisdiction to entertain the application or that part of it.

(7) In sub-paragraph (6) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”;
  - (b) in paragraph 8—
    - (i) in sub-paragraph (2), at the beginning insert “ Subject to sub-paragraph (4), ”;

(ii) after sub-paragraph (3) insert—

“(4) If the court has jurisdiction in relation to the application or part of it by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not dismiss the application or that part of it on the ground mentioned in sub-paragraph (2) if to do so would be inconsistent with the jurisdictional requirements of that Regulation and that Schedule.

(5) In sub-paragraph (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(7) In Schedule 11, in Part 2 (circumstances in which the court may entertain application for financial provision), in paragraph 2<sup>M47</sup>—

(a) in sub-paragraph (1) for “sub-paragraph (4)” substitute “ sub-paragraphs (3A) and (4) ”;

(b) after sub-paragraph (3) insert—

“(3A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

(a) those requirements are to be satisfied in respect of the application, or that part of it, instead of the requirements set out in sub-paragraph (2), and

(b) the condition mentioned in sub-paragraph (3)(c) does not apply.”;

(c) in sub-paragraph (4) the words from “or by virtue of Council Regulation” to “p 62)” are repealed;

(d) after that sub-paragraph insert—

“(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(8) In Schedule 15, in Part 8 (failure to maintain: financial provision (and interim orders)), in paragraph 34—

(a) in sub-paragraph (2), for the words from “unless” to the end substitute “ unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. ”;

(b) after sub-paragraph (4) insert—

“(5) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(9) In Schedule 15, in Part 12 (consent orders and maintenance agreements), in paragraph 62—

(a) in sub-paragraph (1), at the beginning insert “ Subject to sub-paragraph (1A), ”;

(b) after sub-paragraph (1) insert—

“(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

(a) the requirement as to domicile or residence in sub-paragraph (1)(b) does not apply to the application or to that part of it, but

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- (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;
- (c) after sub-paragraph (6) insert—
- “(7) In this paragraph “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.
- (10) In Schedule 17, in Part 1 (financial relief in Northern Ireland after overseas dissolution etc of a civil partnership)—
- (a) in paragraph 7—
- (i) in sub-paragraph (1), at the beginning insert “ Subject to sub-paragraph (6), ”;
- (ii) after sub-paragraph (5), insert—
- “(6) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, those requirements are to determine whether the court has jurisdiction to entertain the application or that part of it.
- (7) In sub-paragraph (6) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”;
- (b) in paragraph 8—
- (i) in sub-paragraph (2), at the beginning insert “ Subject to sub-paragraph (4), ”;
- (ii) after sub-paragraph (3) insert—
- “(4) If the court has jurisdiction in relation to the application or part of it by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not dismiss the application or that part of it on the ground mentioned in sub-paragraph (2) if to do so would be inconsistent with the jurisdictional requirements of that Regulation and that Schedule.
- (5) In sub-paragraph (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **Marginal Citations**

**M46** Paragraph 47(4) was inserted by article 2 of and paragraphs 21 and 23 of Schedule 1 to [S.I.2006/1016](#).

**M47** Paragraph 2(4) was amended by regulation 5 of and paragraph 18 of the Schedule to [S.I.2007/1655](#).

#### **Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35) (NI)**

17.—(1) The Maintenance and Affiliation Orders Act (Northern Ireland) 1966 is amended as follows.

- (2) Section 10 (orders to which this Part applies) is amended as follows.
- (3) In subsection (5)<sup>M48</sup>, after “an order” insert “ , decision, settlement or instrument ”.
- (4) After subsection (5), insert—



- “(6) For the purposes of this section—
- (a) a maintenance decision which is enforceable by a court of summary jurisdiction by virtue of Section 1 of Chapter IV of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court;
  - (b) a maintenance decision which is registered by a court of summary jurisdiction under the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court;
  - (c) an authentic instrument or court settlement which is enforceable by a court of summary jurisdiction by virtue of Article 48 of the Maintenance Regulation (application of provisions relating to maintenance decisions to authentic instruments and court settlements) and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 is to be deemed to be a maintenance order made by that court.
- (7) In subsection (6) —
- “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;
- “authentic instrument” and “court settlement” have the meanings given by Article 2 of the Maintenance Regulation;
- “maintenance decision” means a decision within the meaning of the Maintenance Regulation.”.
- (5) In section 13A <sup>M49</sup> (variation etc, of orders registered in the High Court), in sub-paragraph (1), after “section 10(5)” insert “ or section 10(6) ”.

#### **Marginal Citations**

**M48** Section 10(5) was inserted by section 22(1) of and paragraph 5 of the Schedule to the [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c.18\)](#).

**M49** Section 13A was inserted by Article 11 of and paragraph 2 of Schedule 1 to [S.I.1993/1576 \(N.I.6\)](#).

#### **Matrimonial Causes (Northern Ireland) Order 1978 (SI 1978/1045 (NI 15))**

**18.**—(1) The Matrimonial Causes (Northern Ireland) Order 1978 is amended as follows.

(2) In Article 2 <sup>M50</sup> (interpretation), in paragraph (2), after the definition of “maintenance calculation” insert—

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) In Article 37 (alteration of agreements by the court, or by a court of summary jurisdiction, during lives of the parties)—

- (a) in paragraph (1), for “paragraph (3)” substitute “ paragraphs (1A) and (3) ”;
- (b) after that paragraph insert—

“(1A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 then—

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- (a) the requirement as to domicile or residence in paragraph (1) does not apply to the application or that part of it, but
  - (b) the court may not entertain the application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”.
- (4) In Article 49 (jurisdiction of court), for paragraph (5), substitute—
- “(5) The court shall not entertain an application for financial provision under Article 29 unless it has jurisdiction to do so by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.

#### Marginal Citations

**M50** In Article 2, the definition of maintenance calculation was substituted by section 6 and paragraph 3 of Schedule 3 to the [Child Support Pensions and Social Security Act \(Northern Ireland\) 2000 \(c.4\)](#) (N.I.).

#### Domestic Proceedings (Northern Ireland) Order 1980 (SI 1980/563 (NI 5))

19. In the Domestic Proceedings (Northern Ireland) Order 1980, in Article 32 (jurisdiction)—
- (a) in paragraph (1), after “Subject to” insert “ paragraph (1A) and to ”;
  - (b) after that paragraph, insert—
    - “(1A) If an application or part of an application for an order under this Order relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, a court of summary jurisdiction may not entertain that application or that part of it unless it has jurisdiction to do so by virtue of that Regulation and that Schedule.”;
  - (c) after paragraph (5), insert—
    - “(6) In this Article “the Maintenance Regulation” means Council Regulation [\(EC\) No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### Magistrates' Courts (Northern Ireland) Order 1981 (SI 1981/1675 (NI 26))

- 20.—(1) The Magistrates' Courts (Northern Ireland) Order 1981 is amended as follows.
- (2) In Article 86 <sup>M51</sup> (revocation, variation, etc of orders for periodical payment), after paragraph (1), insert—
- “(1A) The power under paragraph (1) is not exercisable in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction by virtue of—
    - (a) Council Regulation [\(EC\) No 4/2009](#) including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;
    - (b) Council Regulation [\(EC\) No 44/2001](#) of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.”.
- (3) Article 87 <sup>M52</sup> (remission of arrears and manner in which arrears to be paid) is amended as follows.
- (4) After paragraph (1), insert—

- “(1A) The power under paragraph (1) is not exercisable in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction by virtue of—
- (a) Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;
  - (b) Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.”.
- (5) In paragraph (7), in the definition of “non-Northern Ireland maintenance order”—
- (a) the “or” at the end of sub-paragraph (b) is repealed;
  - (b) at the end of paragraph (c) insert—  
“or  
(d) a maintenance order which falls to be enforced by a magistrates' court by virtue of Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.
- (6) In Article 88<sup>M53</sup> (nature of domestic proceedings), in paragraph (a), for the words from “Council Regulation (EC) No 44/2001” to the end, substitute—  
“Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”.
- (7) Article 98<sup>M54</sup>, (enforcement of orders for periodical payment of money) is amended as follows.
- (8) After paragraph (1), insert—  
“(1A) The power in paragraph (1) is exercisable at any time after the expiration of 14 days, and before the expiration of 3 years, from the date of default, or the expiration of any longer limitation period under the law of the State of origin in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction by virtue of Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”.
- (9) After paragraph (11)(b)<sup>M55</sup> insert—  
“(bb) maintenance orders which fall to be enforced by a court of summary jurisdiction by virtue of Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark, and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011;”.
- (10) After paragraph (12) insert—  
“(13) Paragraph (12) is subject to—  
(a) Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October between the European Community and the Kingdom of Denmark, and

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- (b) Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.”.

#### Marginal Citations

- M51** Article 86 was substituted by Article 7 of S.I.1993/1576 (N.I.6). It is modified by section 9 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18), section 22 of the Maintenance Orders Act 1950 (c.37) and section 13 of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c.35) (N.I.).
- M52** Article 87 was substituted by Article 9(2) of S.I.1993/1576 (N.I.6). It was amended by Article 5 and paragraphs 13 and 14 of Schedule 3 to S.I.2001/3929 and by regulation 5 and paragraphs 22 and 23 of the Schedule to S.I.2007/1655.
- M53** Article 88 was amended by sections 15(4) and 36(6) of and Parts 1 and III of Schedule 12 to the Civil Jurisdiction and Judgments Act 1982 (c.27), by Article 5 of and paragraphs 13 and 15 of Schedule 3 to S.I.2001/3929 and by regulation 5 and paragraphs 22 and 24 of the Schedule to S.I.2007/1655.
- M54** Article 98 is modified by section 5(6A) of the Civil Jurisdiction and Judgments Act 1982 (c.27). Section 5(6A) was inserted by S.I.1993/1576 (N.I.6).
- M55** Article 98(11) was amended by sections 15(4) and 36(6) of, and Parts I and III of Schedule 12 to, the Civil Jurisdiction and Judgments Act 1982 (c.27), by Article 5 of and paragraph 16 of Schedule 3 to S.I.2001/3929, and by regulation 5 and paragraph 25 of the Schedule to S.I.2007/1655.

#### Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (SI 1989/677 (NI 4))

**21.**—(1) The Matrimonial and Family Proceedings (Northern Ireland) Order 1989 is amended as follows.

(2) In Article 19 (jurisdiction of the court)—

- (a) in paragraph (1), for “paragraph (2)”, substitute “ paragraphs (1A) and (2) ”;
- (b) after that paragraph insert—

“(1A) If an application or part of an application for an order under this Part relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, those requirements are to determine whether the court has jurisdiction to entertain the application or that part of it.”;

- (c) in paragraph (2) the words from “or by virtue of the Council Regulation” to “commercial matters” are repealed;

(d) after that paragraph, insert—

“(3) “The Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) In Article 20 (duty of the court to consider whether Northern Ireland is the appropriate venue for the application) —

- (a) at the beginning of paragraph (1), insert “ Subject to paragraph (3), ”;
- (b) after paragraph (2), insert—

“(3) If the court has jurisdiction in relation to the application or part of it by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court may not dismiss the application or that part of it on the ground mentioned in paragraph (1) if to do so would be inconsistent with the jurisdictional requirements of that Regulation and that Schedule.

(4) “The Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **Child Support (Northern Ireland) Order 1991 (SI 1991/2628 (NI 23))**

**22.** In the Child Support (Northern Ireland) Order 1991, in Article 41 (jurisdiction), after paragraph (3) insert—

“(4) The Department does not have jurisdiction under this Article if the exercise of jurisdiction would be contrary to the jurisdictional requirements of the Maintenance Regulation.

(5) In paragraph (4) “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **Children (Northern Ireland) Order 1995 (SI 1995/755 (NI 2))**

**23.**—(1) Schedule 1 to the Children (Northern Ireland) Order 1995 is amended as follows.

(2) In paragraph 12—

- (a) in sub-paragraph (2) for “Where” substitute “ Subject to sub-paragraph (2A), where ”;
- (b) after that sub-paragraph, insert—

“(2A) If an application or part of an application relates to a matter where jurisdiction falls to be determined by reference to the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011—

- (a) the requirement as to domicile or residence in sub-paragraph (2) does not apply to the application or that part of it, but
- (b) the court may not entertain the application or that part of it unless it has jurisdiction by virtue of that Regulation and that Schedule.

(2B) In sub-paragraph (2A), “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

(3) For paragraph 16 substitute—

“**16.**—(1) Where jurisdiction in relation to the subject-matter of an application under paragraph 1 to this Schedule would fall to be determined by the jurisdictional requirements of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, the court will not entertain the application unless it has jurisdiction by virtue of the Maintenance Regulation and the 2011 Regulations.

(2) In sub-paragraph (1), “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

#### **The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001**

**24.**—(1) The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001 <sup>M56</sup> is amended as follows.

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- (2) In Article 1(3)(b) delete “and maintenance orders”.
- (3) In Article 2(1) delete “(b) concern maintenance as if they were maintenance orders”.
- (4) In Article 4 delete “or maintenance orders, as appropriate”.

#### Marginal Citations

M56 [S.I. 2001/3928](#)

### The Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993

**25.**—(1) The Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993 <sup>M57</sup> is amended as follows.

- (2) In Schedule 1, references to the following Hague Convention countries are revoked—
  - (a) Denmark;
  - (b) Federal Republic of Germany;
  - (c) Finland;
  - (d) France;
  - (e) Italy;
  - (f) Luxembourg;
  - (g) Netherlands;
  - (h) Portugal;
  - (i) Republic of Estonia;
  - (j) Republic of Poland;
  - (k) Slovakia;
  - (l) Spain;
  - (m) Sweden;
  - (n) the Czech Republic.
- (3) Schedule 2 is amended as follows—
  - (a) in paragraph 3(2), for section 3(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by that paragraph) substitute—
    - “(1) This section applies to an application made to a magistrates' court in England and Wales if—
      - (a) the application is an application for a maintenance order against a person residing in a Hague Convention country, and
      - (b) the court has jurisdiction to entertain the application by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”;
  - (b) in paragraph 3(5), in section 3(6D) and (6E) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by that paragraph) for “under this section” substitute “pursuant to an application to which subsection (1) applies”;
  - (c) for paragraph 3(6) substitute—
    - “(6) For subsection (7)(a) substitute—

- “(a) for subsection (1) there shall be substituted—
- (1) This section applies where a complaint is made to a magistrates' court in Northern Ireland if—
- (a) the complaint is a complaint for a maintenance order against a person residing in a Hague Convention country, and
- (b) the court has jurisdiction to entertain the complaint by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”
- (d) paragraph 4 is omitted;
- (e) in paragraph 5, in section 5 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by that paragraph)—
- (i) in subsection (1), after “enforcement of the order” insert “, and in relation to which the court has jurisdiction to entertain proceedings for revocation or variation of that order by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”;
- (ii) subsection (2) is omitted;
- (f) in paragraph 9—
- (i) in section 9(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by paragraph 9(2)), paragraph (b) is omitted;
- (ii) section 9(2) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by paragraph 9(4)) is omitted;
- (iii) after section 9(8) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as substituted by paragraph 9(4)) insert—
- “(8A) Where a registered order was made by a court in a Member State of the European Union which was a Hague Convention country before 18th June 2011, and that court varies the order on or after that date—
- (a) subsection (8) does not apply;
- (b) the prescribed officer of the registering court shall record the variation of the order against the original registration.”;
- (g) for paragraph 17 substitute—
- “17. Subsections (5A) to (7) of section 17 are omitted.”;
- (h) in paragraph 21(2), after sub-paragraph (e) insert—
- “(ea) after that definition insert—
- “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”
- (4) In Schedule 3, Part 1 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (as it has effect as set out in that Schedule) is amended as follows—
- (a) in section 3—
- (i) for subsection (1) substitute—
- “(1) This section applies to an application made to a magistrates' court in England and Wales if—
- (a) the application is an application for a maintenance order against a person residing in a Hague Convention country, and

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- (b) the court has jurisdiction to entertain the application by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.”;
- (ii) in section 3(6D) and (6E) for “under this section” substitute “ pursuant to an application to which subsection (1) applies ”;
- (iii) for subsection (7)(a) substitute—
  - “(a) for subsection (1) there shall be substituted—
    - “(2) This section applies where a complaint is made to a magistrates' court in Northern Ireland if—
      - (a) the complaint is a complaint for a maintenance order against a person residing in a Hague Convention country, and
      - (b) the court has jurisdiction to entertain the complaint by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.””
- (b) section 4 is omitted;
- (c) in section 5—
  - (i) in subsection (1), after “enforcement of the order” insert “ , and in relation to which the court has jurisdiction to entertain proceedings for revocation or variation of that order by virtue of the Maintenance Regulation and Schedule 6 to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011. ”;
  - (ii) subsection (2) is omitted;
- (d) in section 9—
  - (i) in subsection (1), paragraph (b) is omitted;
  - (ii) subsection (2) is omitted;
  - (iii) after subsection (8) insert—
    - “(8A) Where a registered order was made by a court in a Member State of the European Union which was a Hague Convention country before 18th June 2011, and that court varies the order on or after that date—
      - (a) subsection (8) does not apply;
      - (b) the prescribed officer of the registering court shall record the variation of the order against the original registration.”;
- (e) in section 17, subsections (5) to (7A) are omitted;
- (f) in section 21(1), after the definition of “maintenance order” insert—
  - “”the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”

#### Marginal Citations

M57 S.I. 1993/593

26.—(1) Despite paragraph 25(2), the countries listed in that paragraph are to continue to be Hague Convention countries for the purposes of Part 1 of the Act, as modified by Schedule 2 to the Hague Convention Countries Order, in relation to—



- (a) proceedings for the establishment of a maintenance order under section 3 of the Act which are continuing on 18th June 2011 pursuant to an application made before that date, save that where a maintenance order is made in those proceedings on or after that date recognition and enforcement of that order may not be sought pursuant to section 3(6D) and (6E);
  - (b) proceedings under section 5 of the Act for the variation or revocation of a maintenance order to which that section applies where those proceedings are continuing on 18th June 2011 pursuant to an application made before that date, save that where an order is made in those proceedings on or after that date, section 5(8) does not apply;
  - (c) proceedings under section 6 of the Act for registration of a maintenance order which are continuing on 18th of June 2011 where the certified copy of the order has been received by the Lord Chancellor or the Secretary of State before that date;
  - (d) enforcement or variation of a registered order pursuant to section 8 or 9 of the Act;
  - (e) the cancellation of the registration, or the transfer, of a registered order pursuant to section 10 of the Act;
  - (f) steps taken by the Lord Chancellor or the Secretary of State pursuant to section 11 of the Act in relation to a registered order.
- (2) In this paragraph—
- (a) “the Act” means the Maintenance Orders (Reciprocal Enforcement) Act 1972, and references to particular provisions of the Act are to those provisions as modified by Schedule 2 to the Hague Convention Countries Order;
  - (b) “the Hague Convention Countries Order” means the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993;
  - (c) “registered order” has the meaning given in section 21(1) of the Act.

### **The Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1993**

**27.** The Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1993 <sup>M58</sup> is revoked.

#### **Marginal Citations**

**M58** [S.I. 1993/594](#)

**28.—(1)** Despite paragraph 27, Part 1 of the Act, as modified by Schedule 1 to the Republic of Ireland Order continues to have effect in relation to—

- (a) proceedings for the establishment of a maintenance order under section 3 of the Act which are continuing on 18th June 2011 pursuant to an application made before that date, save that where a maintenance order is confirmed in those proceedings on or after that date, section 3(6C)(b) does not apply;
- (b) proceedings for the variation or revocation of a maintenance order under section 5 of the Act which are continuing on pursuant to an application made before that date;
- (c) proceedings for registration of a maintenance order under section 6 of the Act which are continuing on 18th June 2011, where the certified copy of the order has been received by the Lord Chancellor or the Secretary of State before that date;
- (d) enforcement of a registered order pursuant to section 8 of the Act;

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- (e) the cancellation of the registration, or the transfer, of a registered order pursuant to section 10 of the Act;
  - (f) steps taken by the Lord Chancellor or the Secretary of State pursuant to section 11 of the Act in relation to a registered order.
- (2) Despite paragraph 27, where a registered order has been varied or revoked by a court in the Republic of Ireland on or after 18th June 2011—
- (a) section 9(2) of the Act applies;
  - (b) section 9(3) of the Act has effect as if for “shall register in the prescribed manner any order varying a registered order” there were substituted “shall record the variation of the order against the original registration.”.
- (3) In this paragraph—
- (a) “the Act” means the Maintenance Orders (Reciprocal Enforcement) Act 1972, and references to particular provisions of the Act are to those provisions as modified by Schedule 1 to the Republic of Ireland Order;
  - (b) “the Republic of Ireland Order” means the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1993;
  - (c) “registered order” has the meaning given in section 21(1) of the Act.

### **The Armed Forces (Forfeitures and Deductions) Regulations 2009**

**29.**—(1) The Armed Forces (Forfeitures and Deductions) Regulations 2009<sup>M59</sup> are amended as follows.

- (2) In Regulation 2, after the definition of the 2000 Council Regulation, insert—
- ““the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;”.
- (3) In Regulation 8—
- (a) after paragraph (2), insert—
 

“(2A) Subject to paragraph (5), if an external maintenance order is enforceable in the United Kingdom without prior registration by virtue of Section 1 of Chapter IV of the Maintenance Regulation, the Defence Council, or an officer authorised by them, may make an order authorising a deduction to be made from the pay of a relevant person and to be appropriated in or towards satisfaction of a payment which he is required to make under the maintenance order.”;
  - (b) in paragraph (5), after “paragraph”, insert “ (2A) or ”;
  - (c) in paragraph (10)(a)—
    - (i) in subparagraph (iii), delete “or”;
    - (ii) after subparagraph (iv) insert “ or ”; and
    - (iii) insert
 

“(v) Section 2 of Chapter IV of the Maintenance Regulation;”.
- (4) In Regulation 9, in subparagraph (2)—
- (a) after (a), delete “or”;
  - (b) after (b), insert “ or ”; and
  - (c) insert—
 

“(c) the Maintenance Regulation;”.

(5) In Regulation 11, at paragraph (2)(b), for “or 8(2)”, substitute “, 8(2) or 8(2A) ”.

**Marginal Citations**

**M59** [S.I. 2009/1109](#)

**The Civil Legal Aid (Scotland) Regulations 2002**

**30.** In regulation 46 of the Civil Legal Aid (Scotland) Regulations 2002 <sup>M60</sup>—

(a) after paragraph (1)(b) insert—

“(c) application for legal aid is made in relation to proceedings in respect of which a sheriff court has jurisdiction, or an appeal in respect of which the Inner House of the Court of Session has jurisdiction, by virtue of the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 by, or on behalf of, a person—

(i) who has made an application to the Scottish Ministers under Article 56 of the Maintenance Regulation; or

(ii) who, in a Member State other than the United Kingdom, benefited in connection with (as the case may be) the decision being made, the authentic instrument being established or the court settlement being approved or concluded, from either—

(aa) complete or partial legal aid or exemption from costs or expenses;  
or

(bb) free proceedings before an administrative authority listed in Annex X to the Maintenance Regulation.”;

(b) after paragraph (2) insert—

“(3) In the case of an application made in the circumstances referred to in paragraph (1)(c)(i), the Act is further modified in accordance with regulation 45(2)(a).

(4) In paragraph (1)(c), “the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark.”.

**Marginal Citations**

**M60** [S.S.I. 2002/494](#). Regulation 46 has been amended by [S.S.I. 2011/161](#).

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**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

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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.

**Status:**

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**Changes to legislation:**

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