

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, or
- (c) any other matter relevant to enforcement arises.

(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(1) have effect as modified by section 5(5B) and (5C)(2) of the Act.

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(1) 1980 c.43.

(2) 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).

(b) In this sub-paragraph “maintenance order” has the meaning given by section 150(1)(3) 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 Article 98 of the Magistrates’ Courts (Northern Ireland) Order 1981(4) has effect as modified by section 5(6A)(5) 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.

## 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—

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(3) 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).

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

(5) Section 5(6A) was inserted by S.I. 1993/1576 (N.I.6).

*Status: This is the original version (as it was originally made).*

- (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.
- (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).
- (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;
  - (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.
- (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(6) 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.

## **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(7) or section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(8) (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.

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

(7) [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).

(8) [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.