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Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART II

RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF MAINTENANCE

Application by person in convention country for recovery of maintenance in England, Wales or Northern Ireland

27 General provisions relating to application for recovery of maintenance in England, etc.

- (1) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in England and Wales or in Northern Ireland, he shall send the application, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which that other person is residing; and the application shall be treated for the purposes of any enactment as if it were a complaint [^{F1}made at the time when the application was received by the Secretary of State or the Lord Chancellor] and references in this section and in [^{F2}sections 28, 28A, 29, 29A] and 30 of this Act to the complaint, the complainant and the defendant shall be construed accordingly.
- (2) Where the complaint is for an affiliation order, a magistrates' court [^{F3}[^{F4}appointed for the commission area (within the meaning of [^{F5}the Justices of the ^{M1}Peace Act 1979]) or] acting for the . . . ^{F6} petty sessions district, as the case may be][^{F3}acting for the petty session district], in which the defendant is residing shall have jurisdiction to hear the complaint.
- (3) ^{F7}

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- (4) If a summons to appear before a magistrates' court having jurisdiction to hear the complaint cannot be duly served on the defendant, the clerk of the court shall, subject to subsection (5) below, return the complaint and the accompanying documents to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the defendant, and unless the Secretary of State is satisfied that the defendant is not residing in the United Kingdom he shall deal with the complaint in accordance with subsection (1) above or section 31 of this Act, as the circumstances of the case require.
- (5) If the clerk of a magistrates' court to whom the complaint is sent in pursuance of a provision of this section is satisfied that the defendant is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the first-mentioned court is he shall send the complaint and accompanying documents to the clerk of that other court and shall inform the Secretary of State that he has done so.
- (6) The clerk of a court to whom the complaint is sent under subsection (5) above shall proceed as if it had been sent to him under subsection (1) above.
- (7) When hearing the complaint a magistrates' court shall proceed as if the complainant were before the court.
- (8) If a magistrates' court makes an order on the complaint, the clerk of the court shall register the order in the prescribed manner in that court.
- (9) Payment of sums due under a registered order shall, while the order is registered in a magistrates' court, be made in such manner and to such person as may be prescribed, and none of the following enactments relating to the power of a magistrates' court to direct payments to be made to or through the collecting officer of the court or some other person, that is to say, [F8section 59 of the Magistrates' Courts Act 1980], [F9section 5(5) of the M2Affiliation Proceedings Act 1957], [F10section 32(2) of the M3Domestic Proceedings and Magistrates' Courts Act 1978] . . . F11[F12paragraphs (1) to (7) of Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981][F13and Article 36(i) of the Domestic Proceedings (Northern Ireland) Order 1980], shall apply in relation to a registered order.
- (10) Without prejudice to the generality of the power to make rules under [F14section 144 of the M4Magistrates' Courts Act 1980] (magistrates' courts rules), the said power shall include power to prescribe the orders made or other things done by a magistrates' court, or an officer of such a court, under this Part of this Act, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given.
- (11) In the application of this section to Northern Ireland, in subsection (10), for the reference to [F15section 144 of the Magistrates' Courts Act 1980] there shall be substituted a reference to [F16Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981].

Textual Amendments

- F1** Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), **ss. 37(2)**, 52
- F2** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), s. 89, **Sch. 2 para. 34(a)**
- F3** Words commencing "acting for" substituted (E.W.) for words commencing "appointed for the" by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(1), **Sch. 2 para. 46(a)**

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- F4** Words inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), **ss. 56, 89**
- F5** Words substituted by Justices of the Peace Act 1979 (c. 55), **Sch. 2 para. 18**
- F6** Words repealed by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), **ss. 56, 89**
- F7** S. 27(3) repealed by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 89, **Sch. 3**
- F8** Words substituted by Magistrates' Courts Act 1980 (c. 43), s. 154, **Sch. 7 para. 108(a)**
- F9** Words repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(4), Sch. 2 para. 46(b), **Sch. 4**
- F10** Words substituted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 89, **Sch. 2 para. 34(b)**
- F11** Word repealed by S.I. 1980/564, **Sch.**
- F12** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 Pt. I para. 24(a)**
- F13** Words inserted by S.I. 1980/564, **art. 4(2)**
- F14** Words substituted by Magistrates' Courts Act 1980 (c. 43), s. 154, **Sch. 7 para. 108(b)**
- F15** Words substituted by virtue of Magistrates' Courts Act 1980 (c. 43), s. 154, **Sch. 7 para. 108(b)**
- F16** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 Pt. I para. 24(b)**

Marginal Citations

- M1** 1979 c. 55.
M2 1957 c. 55.
M3 1978 c. 22.
M4 1980 c. 43.

VALID FROM 05/04/1993

[^{F17}27A Applications for recovery of maintenance in England and Wales.

- (1) This section applies to any application which—
- is received by the Lord Chancellor from the appropriate authority in a convention country, and
 - is an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in England and Wales.
- (2) Subject to sections 27B to 28B of this Act, an application to which this section applies shall be treated for the purposes of any enactment as if it were an application for a maintenance order under the relevant Act, made at the time when the application was received by the Lord Chancellor.
- (3) In the case of an application for maintenance for a child (or children) alone, the relevant Act is the Children Act 1989.
- (4) In any other case, the relevant Act is the Domestic Proceedings and Magistrates' Courts Act 1978.
- (5) In subsection (3) above, “child” means the same as in Schedule 1 to the Children Act 1989.]

Textual Amendments

- F17** Ss. 27A-28C substituted (5.4.1993) for ss. 27, 28, 28A by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para.13**; S.I. 1993/618, **art.2**

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VALID FROM 05/04/1993

^{F18}27B Sending application to the appropriate magistrates' court.

- (1) On receipt of an application to which section 27A of this Act applies, the Lord Chancellor shall send it, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions area in which the respondent is residing.
- (2) Subject to subsection (4) below, if notice of the hearing of the application by a magistrates' court having jurisdiction to hear it cannot be duly served on the respondent, the clerk of the court shall return the application and the accompanying documents to the Lord Chancellor with a statement giving such information as he possesses as to the whereabouts of the respondent.
- (3) If the application is returned to the Lord Chancellor under subsection (2) above, then, unless he is satisfied that the respondent is not residing in the United Kingdom, he shall deal with it in accordance with subsection (1) above or section 28C of this Act or send it to the Secretary of State to be dealt with in accordance with section 31 of this Act (as the circumstances of the case require).
- (4) If the clerk of a court to whom the application is sent under this section is satisfied that the respondent is residing within the petty sessions area for which another magistrates' court acts, he shall send the application and accompanying documents to the clerk of that other court and shall inform the Lord Chancellor that he has done so.
- (5) If the application is sent to the clerk of a court under subsection (4) above, he shall proceed as if it had been sent to him under subsection (1) above.

Textual Amendments

F18 Ss. 27A-28C substituted (5.4.1993) for ss. 27, 28, 28A by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II para.13](#); S.I. 1993/618, [art.2](#)

VALID FROM 05/04/1993

^{F19}27C Applications to which section 27A applies: general.

- (1) This section applies where a magistrates' court makes an order on an application to which section 27A of this Act applies.
- (2) Section 59 of the Magistrates' Courts Act 1980 (orders for periodical payment: means of payment) shall not apply.
- (3) The court shall, at the same time that it makes the order, exercise one of its powers under subsection (4) below.
- (4) Those powers are—
 - (a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates' court in England and Wales;

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- (b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates' court in England and Wales, by such method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.) as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- (5) In deciding which of the powers under subsection (4) above it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.
- (6) Subsection (4) of section 59 of the Magistrates' Courts Act 1980 (power of court to require debtor to open account) shall apply for the purposes of subsection (4) above as it applies for the purposes of that section, but as if for paragraph (a) there were substituted—
- (?) the court proposes to exercise its power under paragraph (b) of section 27C(4) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and?
- (7) The clerk of the court shall register the order in the prescribed manner in the court.

Textual Amendments

F19 Ss. 27A-28C substituted (5.4.1993) for ss. 27, 28, 28A by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II para.13](#); S.I. 1993/618, [art.2](#)

[^{F20}28 **Complaint by spouse in convention country for recovery in England and Wales of maintenance from other spouse.**

Where the complaint is a complaint made for an order under section 2 of the ^{M5}Domestic Proceedings and Magistrates' Courts Act 1978, the court hearing the complaint may make any order which it has power to make under section 2 or [^{F21}19(1) of that ^{M6}Act; and Part I of that Act, except sections 6 to 8, 16 to 18, 23(1), 24 to 27, 28(2) and 32(2)] shall apply in relation to the complaint and to any order made on the complaint.]

Textual Amendments

F20 S. 28 substituted (E.W.) by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), [ss. 57](#), 89

F21 Words in s. 28 substituted (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 116, [Sch. 1 para. 39\(1\)](#); S.I. 1991/1883, [art.3](#), [Sch.](#)

Marginal Citations

M5 1978 c. 22.

M6 1978 c.22 (49:3).

[^{F22}28A **Complaint by former spouse in convention country for recovery in England and Wales of maintenance from other spouse.**

[Where on an application under section 27(1) of this Act for the recovery of ^{F23}(1) maintenance from a person who is residing in England and Wales—

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- (a) that person is a former spouse of the applicant in a convention country who is seeking to recover maintenance, and
- (b) the marriage between the applicant and the former spouse has been dissolved or annulled in a country or territory outside the United Kingdom by a divorce or annulment which is recognised as valid by the law of England and Wales, and
- (c) an order for the payment of maintenance for the benefit of the applicant or a child of the family has, by reason of the divorce or annulment, been made by a court in a convention country, and
- (d) in a case where the order for the payment of maintenance was made by a court of a different country from that in which the divorce or annulment was obtained, either the applicant or his or her former spouse was resident in the convention country whose court made the maintenance order at the time the application for that order was made,

the application shall, notwithstanding that the marriage has been dissolved or annulled, be treated as a complaint for an order under section 2 of the Domestic Proceedings and Magistrates' Courts Act ^{M7}1978, and the provisions of this section shall have effect.]

- (2) On hearing a complaint by virtue of this section the magistrates' court may, if satisfied that the defendant has failed to comply with the provisions of any such order as is mentioned in subsection (1)(c) above, make any order which it has power to make under section 2 of section 19(1)(i) of the Domestic Proceedings and Magistrates Courts Act 1978 except that—
 - (a) an order for the making of periodical payments for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the making of periodical payments for the benefit of the applicant or, as the case may be, that child, and
 - (b) an order for the payment of a lump sum for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the payment of a lump sum to the applicant or, as the case may be, to that child.
- (3) Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 shall apply in relation to any application which is treated by virtue of this section as a complaint for an order under section 2 of that Act, and in relation to any order made on the complaint, subject to the following modifications, that is to say—
 - (a) section 1 shall be omitted;
 - (b) for the reference in section 2(1) to any ground mentioned in section 1 of that Act there shall be substituted a reference to non-compliance with any such order as is mentioned in subsection (1)(c) of this section;
 - (c) in [^{F24}section 3(2) and (3)] for the reference to the occurrence of the conduct which is alleged as the ground of the application there shall be substituted a reference to the breakdown of the marriage;
 - (d) in section 4(2) the reference to the subsequent dissolution or annulment of the marriage of the parties affected by the order shall be omitted;

[sections 6 to 8, 16 to 18, 23(1), 24 to 28 and 32(2) shall be omitted.]
^{F25}(e)

- ^{F26}(4) [A divorce or annulment obtained in a country or territory outside the United Kingdom shall be presumed for the purposes of this section to be one the validity of which is recognised by the law of England and Wales, unless the contrary is proved by the defendant.]

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(5) F27

(6) In this section the expression “child of the family” has the same meaning as in section 88 of the Domestic Proceedings and Magistrates’ Courts Act 1978.]

Textual Amendments

- F22** S. 28A inserted (E.W.) by Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22), ss. 58, 89
- F23** S. 28A(1) substituted (E.W.) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 26(2), 48(2)
- F24** Words substituted by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 46(1), 48(3), Sch. 1 para. 9
- F25** S. 28A(3)(e) substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 39(2); S.I. 1991/1883, art.3, Sch.
- F26** S. 28A(4) substituted (E.W.) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 26(3), 48(2)
- F27** S. 28A(5) repealed (E.W.) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 26(4), 48(2)

Marginal Citations

- M7** c.32(49:3).

VALID FROM 05/04/1993

^{F28}28B Applications under the Children Act 1989.

No provision of an order made under Schedule 11 to the Children Act 1989 requiring or enabling a court to transfer proceedings from a magistrates’ court to a county court or the High Court shall apply in relation to an application which by virtue of section 27A of this Act is to be treated as if it were an application for a maintenance order under that Act.

Textual Amendments

- F28** Ss. 27A-28C substituted (5.4.1993) for ss. 27, 28, 28A by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, Sch. 1 Pt. II para.13; S.I. 1993/618, art.2

VALID FROM 05/04/1993

^{F29}28C Applications for recovery of maintenance in Northern Ireland.

(1) This section applies where the Lord Chancellor receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in Northern Ireland.

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- (2) The Lord Chancellor shall send the application, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions district in which that other person is residing.
- (3) The application shall be treated for the purposes of any enactment as if it were a complaint made at the time when the application was received by the Lord Chancellor, and references in this section and in sections 29, 29A and 30 of this Act to the complaint, the complainant and the defendant shall be construed accordingly.
- (4) Where the complaint is for an affiliation order, a magistrates' court acting for the petty sessions district in which the defendant is residing shall have jurisdiction to hear the complaint.
- (5) If a summons to appear before a magistrates' court having jurisdiction to hear the complaint cannot be duly served on the defendant, the clerk of the court shall (subject to subsection (7) below) return the complaint and the accompanying documents to the Lord Chancellor with a statement giving such information as he possesses as to the whereabouts of the defendant.
- (6) If the complaint is returned to the Lord Chancellor under subsection (5) above, then, unless he is satisfied that the respondent is not residing in the United Kingdom, he shall deal with it in accordance with subsection (2) above or section 27B of this Act or send it to the Secretary of State to be dealt with in accordance with section 31 of this Act (as the circumstances of the case require).
- (7) If the clerk of a court to whom the complaint is sent under this section is satisfied that the defendant is residing within the jurisdiction of another magistrates' court in Northern Ireland, he shall send the complaint and accompanying documents to the clerk of that other court and shall inform the Lord Chancellor that he has done so.
- (8) If the complaint is sent to the clerk of a court under subsection (7) above, he shall proceed as if it had been sent to him under subsection (2) above.
- (9) When hearing the complaint, a magistrates' court shall proceed as if the complainant were before the court.
- (10) If a magistrates' court makes an order on the complaint, the clerk of the court shall register the order in the prescribed manner in that court.
- (11) Payment of sums due under a registered order shall, while the order is registered in a magistrates' court in Northern Ireland, be made in such manner and to such person as may be prescribed, and neither Article 36(1) of the Domestic Proceedings (Northern Ireland) Order 1980 nor Article 85(1) to (7) of the Magistrates' Courts (Northern Ireland) Order 1981 (which relate to the power of a magistrates' court to direct payments to be made to or through the collecting officer of the court or some other person) shall apply in relation to a registered order.

Textual Amendments

F29 Ss. 27A-28C substituted (5.4.1993) for ss. 27, 28, 28A by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II para.13](#); S.I. 1992/618, [art.2](#)

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VALID FROM 04/11/1996

[^{F30}28D Sending application to the appropriate magistrates' court.

- (1) On receipt of an application to which section 28C of this Act applies, the Lord Chancellor shall send it, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions district in which the respondent is residing.
- (2) Subject to subsection (4) below, if notice of the hearing of the application by a magistrates' court having jurisdiction to hear it cannot be duly served on the respondent, the clerk of the court shall return the application and the accompanying documents to the Lord Chancellor with a statement giving such information as he possesses as to the whereabouts of the respondent.
- (3) If the application is returned to the Lord Chancellor under subsection (2) above, then, unless he is satisfied that the respondent is not residing in the United Kingdom, he shall deal with it in accordance with subsection (1) above or section 27B of this Act or send it to the Secretary of State to be dealt with in accordance with section 31 of this Act (as the circumstances of the case require).
- (4) If the clerk of a court to whom the application is sent under this section is satisfied that the respondent is residing within the petty sessions district for which another magistrates' court acts, he shall send the application and accompanying documents to the clerk of that other court and shall inform the Lord Chancellor that he has done so.
- (5) If the application is sent to the clerk of a court under subsection (4) above, he shall proceed as if it had been sent to him under subsection (1) above.]

Textual Amendments

F30 Ss. 28C, 28D, 28E, 29, 29A, 29B substituted for ss. 28C, 29, 29A (N.I.) (4.11.1996) by [S.I. 1995/755](#) (N.I. 2), [art. 185\(1\)](#), [Sch. 9 para. 72](#) (with [Sch. 8 para. 1\(1\)](#)); [S.R. 1996/297](#), [art. 2\(2\)](#)

VALID FROM 04/11/1996

[^{F31}28E Applications to which section 28C applies: general.

- (1) This section applies where a magistrates' court makes an order on an application to which section 28C of this Act applies.
- (2) Article 85 of the Magistrates' Courts (Northern Ireland) Order 1981 ("the 1981 Order") (orders for periodical payment: means of payment) shall not apply.
- (3) The court shall, at the same time that it makes the order, exercise one of its powers under subsection (4) below.
- (4) Those powers are—
 - (a) the power to order that payments under the order be made directly to the collecting officer;

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- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) of the 1981 Order (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX of the 1981 Order to secure payments under the order;

and in this subsection “collecting officer” means the officer mentioned in Article 85(4) of the 1981 Order.

- (5) In deciding which of the powers under subsection (4) above it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.
- (6) Paragraph (5) of Article 85 of the 1981 Order (power of court to require debtor to open account) shall apply for the purposes of subsection (4) above as it applies for the purposes of that Article, but as if for sub-paragraph (a) there were substituted—
 - (a) the court proposes to exercise its power under paragraph (b) of section 28E(4) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and.
- (7) The clerk of the court shall register the order in the prescribed manner in the court.]

Textual Amendments

F31 Ss. 28C, 28D, 28E, 29, 29A, 29B substituted for ss. 28C, 29, 29A (N.I.) (4.11.1996) by [S.I. 1995/755](#) (N.I. 2), [art. 185\(1\)](#), [Sch. 9 para. 72](#) (with [Sch. 8 para. 1\(1\)](#)); [S.R. 1996/297](#), [art. 2\(2\)](#)

[^{F32}29 **Complaint by spouse in convention country for recovery in Northern Ireland of maintenance from other spouse.**

Where the complaint is a complaint made for an order under Article 4 of the ^{M8}Domestic Proceedings (Northern Ireland) Order 1980, the court hearing the complaint may make any order which it has power to make under Article 4 or 20(1) (i) of that Order; and that Order except Articles 8 to 19, 20(1)(ii), 21, 23, 25(1), 26 to 29, 36(1), 37 and 38 shall apply in relation to the complaint and to any order made on the complaint.]

Textual Amendments

F32 [S. 29](#) substituted by [S.I. 1980/564](#), [art. 4\(3\)](#)

Marginal Citations

M8 [S.I. 1980/563](#) (N.I. 5).

[^{F33}29A **Complaint by former spouse in convention country for recovery in Northern Ireland of maintenance from other spouse.**

[Where on an application under section 27(1) of this Act for the recovery of ^{F34}(1) maintenance from a person who is residing in Northern Ireland—

- (a) that person is a former spouse of the applicant in a convention country who is seeking to recover maintenance, and

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- (b) the marriage between the applicant and the former spouse has been dissolved by a divorce granted in a convention country which is recognised as valid by the law of Northern Ireland, and
- (c) an order for the payment of maintenance for the benefit of the applicant or a child of the the family has, by reason of the divorce proceedings in the convention country, been made by the court which granted the divorce or by any other court in that country,

the application shall, notwithstanding that the marriage has been dissolved, be treated as a complaint for an order under Article 4 of the Domestic Proceedings (Northern Ireland) Order 1980, and the provisions of this section shall have effect.]

[Where on an application under section 27(1) of this Act for the recovery of ^{F34}(1) maintenance from a person who is residing in Northern Ireland—

- (a) that person is a former spouse of the applicant in a convention country who is seeking to recover maintenance, and
- (b) the marriage between the applicant and the former spouse has been dissolved or annulled in a country or territory outside the United Kingdom by a divorce or annulment which is recognised as valid by the law of Northern Ireland, and
- (c) an order for the payment of maintenance for the benefit of the applicant or a child of the family has, by reason of the divorce or annulment, been made by a court in a convention country, and
- (d) in a case where the order for the payment of maintenance was made by a court of a different country from that in which the divorce or annulment was obtained, either the applicant or his or her former spouse was resident in the convention country whose court made the maintenance order at the time the application for that order was made,

the application shall, notwithstanding that the marriage has been dissolved or annulled, be treated as a complaint for an order under Article 4 of the Domestic Proceedings (Northern Ireland) Order 1980, and the provisions of this section shall have effect.]

(2) On hearing a complaint by virtue of this section the magistrates' court may, if satisfied that the defendant has failed to comply with the provisions of any such order as is mentioned in subsection (1)(c) above, make any order which it has power to make under Article 4 or 20(1)(i) of the Domestic Proceedings (Northern Ireland) Order 1980, except that—

- (a) an order for the making of periodical payments for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the making of periodical payments for the benefit of the applicant or, as the case may be, that child, and
- (b) an order for the payment of a lump sum for the benefit of the applicant or any child of the family shall not be made unless the order made in the convention country provides for the payment of a lump sum to the applicant or, as the case may be, to that child.

(3) The Domestic Proceedings (Northern Ireland) Order 1980 shall apply in relation to any application which is treated by virtue of this section as a complaint for an order under Article 4 of that Order, and in relation to any order made on the complaint, subject to the following modifications, that is to say—

- (a) Article 3 shall be omitted;
- (b) for the reference in Article 4(1) to any ground mentioned in Article 3 of that Order there shall be substituted a reference to non-compliance with any such order as is mentioned in subsection (1)(c) of this section;

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Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Application by person in convention country for recovery of maintenance in England, Wales or Northern Ireland. (See end of Document for details)

- (c) in [^{F35}Article 5(2) and (3)] for the reference to the occurrence of the conduct which is alleged, as the ground of the application there shall be substituted a reference to the breakdown of the marriage;
- (d) in Article 6(2) the reference to the subsequent dissolution or annulment of the marriage of the parties affected by the order shall be omitted;
- (e) Articles 8 to 19, 20(1)(ii), 21, 23, 25(1), 26 to 30, 36(1), 37 and 38 shall be omitted.

[A divorce obtained in a convention country shall be presumed for the purposes of this ^{F36}(4) section to be one the validity of which is recognised by the law of Northern Ireland, unless the contrary is proved by the defendant.]

[A divorce or annulment obtained in a country or territory outside the United Kingdom ^{F36}(4) shall be presumed for the purposes of this section to be one the validity of which is recognised by the law of Northern Ireland unless the contrary is proved by the defendant.]

[The reference in subsection (1)(b) above to the dissolution of a marriage by divorce ^{F37}(5) shall be construed as including a reference to the annulment of the marriage and any reference in this section to a divorce or to divorce proceedings shall be construed accordingly.]

(6) In this section the expression “child of the family” has the same meaning as in the Domestic Proceedings (Northern Ireland) Order 1980.]

Textual Amendments

- F33** S. 29A substituted (N.I.) by S.I. 1980/564, art 4(4)
- F34** S. 29A(1) containing paras. (a)–(d) substituted (N.I.) (*prosp.*) for subsection (1) containing paras. (a)–(c) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 45(1)(2), 47(1)(e)
- F35** Words substituted by S.I. 1989/677 (N.I.4), art. 42(1), Sch. 2 para. 11
- F36** S. 29A(4) commencing “A divorce or annulment” substituted (N.I.) (*prosp.*) for subsection (4) commencing “A divorce obtained” by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 45(3), 48(2)
- F37** S. 29A(5) repealed (N.I.) (*prosp.*) by Matrimonial and Family Proceedings Act 1984 (c. 42, SIF 49:3), ss. 45(4), 48(3)

VALID FROM 04/11/1996

[^{F38}29B Applications under the Children (Northern Ireland) Order 1995.

No provision of an order made under Schedule 7 to the Children (Northern Ireland) Order 1995 requiring or enabling a court to transfer proceedings from a magistrates’ court to a county court or the High Court shall apply in relation to an application which by virtue of section 28C of this Act is to be treated as if it were an application for a maintenance order under that Order.]

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Textual Amendments

F38 Ss. 28C, 28D, 28E, 29, 29A, 29B substituted for ss. 28C, 29, 29A (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 72** (with Sch. 8 para. 1(1)); S.R. 1996/297, **art. 2(2)**

30 Further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children

^{F39}(1)

^{F40}(2)

(3) Where the complaint is for an affiliation order under [^{F41}the ^{M9}Affiliation Proceedings Act 1957 or] the ^{M10}Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924—

(a) it shall be sufficient for the purposes of [^{F41}paragraph (b) of section 2(1) of the said Act of 1957 (time for making complaint) or] paragraph (c) of section 2(3) of the said Act of 1924 [^{F41}(provision to the like effect), as the case may be], to prove that the defendant has within the [^{F42}[^{F41}three years (or] twelve months, [^{F41}in the case of a complaint under the said Act of 1924)] next after the birth of the child to whom the complaint relates paid money for its maintenance in pursuance of a requirement of the law applied by a court outside the United Kingdom; ^{F43} . . .

^{F43}(b)

(4) Where the complaint is for an affiliation order under the said Act of 1924, a summons may be issued on the complaint notwithstanding that the complainant has not made the information mentioned in section 2(4) of that Act.

(5) Without prejudice to any other enactment empowering a magistrates' court to vary an affiliation order made by it, an affiliation order made under [^{F44}the said Act of 1957 or] the said Act of 1924, [^{F44}as the case may be], on the complaint may be varied by such a court so as to entitle any person, other than the complainant, who for the time being has the custody of the child to whom the order relates to any payments to be made under the order.

^{F45}(6)

Textual Amendments

F39 S. 30(1) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 39(3), **Sch. 20**; S.I. 1991/1883, art.3, **Schedule**

F40 S. 30(2) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 39(3), **Sch. 20**; S.I. 1991/1883, art. 3, **Schedule**

F41 Words repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(4), Sch. 2 para. 49(4), **Sch. 4**

F42 Words substituted by Affiliation Proceedings (Amendment) Act 1972 (c. 49), **s. 2(2)**

F43 Word and s. 30(3)(b) repealed by Affiliation Proceedings (Amendment) Act 1972 (c. 49), **s. 1(4)(c)**

F44 Words repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(4), Sch. 2 para. 49(5), **Sch. 4**

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F45 S. 30(6) repealed (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 116, 125(7), Sch. 16 para. 39(3), **Sch.20**; S.I. 1991/1883, art.3, **Schedule**

Marginal Citations

M9 1957 c. 55.

M10 1924 c. 27(N.I.)

Status:

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