



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART I

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

Orders made by courts in reciprocating countries

7 Confirmation by United Kingdom court of provisional maintenance order made in reciprocating country.

- (1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Act, by a court in a reciprocating country being a provisional order.
- (2) Where a certified copy of an order to which this section applies together with—
 - (a) a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the order was made; and
 - (b) a statement of the grounds on which the making of the order might have been opposed by the payer under the order,

is received by the Secretary of State from the responsible authority in a reciprocating country, and it appears to the Secretary of State that the payer under the order is residing in the United Kingdom, he shall send the copy of the order and documents which accompanied it to the prescribed officer of the appropriate court, and that court shall—

- (i) if the payer under the order establishes [^{F1}any grounds on which he might have opposed the making of the order] in the proceedings in which the order was made, refuse to confirm the order; and
- (ii) in any other case, confirm the order either without alteration or with such alterations as it thinks reasonable.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 7. (See end of Document for details)

- (3) In any proceedings for the confirmation under this section of a provisional order, the statement received from the court which made the order of the grounds on which the making of the order might have been opposed by the payer under the order shall be conclusive evidence that the payer might have [^{F2}opposed the making of the order on any of those grounds.].
- (4) For the purpose of determining whether a provisional order should be confirmed under this section [^{F3}a magistrates' court in Northern Ireland] shall proceed as if an application for a maintenance order against the payer under the provisional order had been made to it.
- (5) The prescribed officer of a court having power under this section to confirm a provisional order shall, if the court confirms the order, register the order in the prescribed manner in that court, and shall, if the court refuses to confirm the order, return the certified copy of the order and the documents which accompanied it to the Secretary of State.
- [^{F4}(5A) Where [^{F5}the family court] confirms a provisional order under this section, it [^{F6}may] at the same time exercise one of its powers under subsection (5B) below.
- (5B) The powers of the court are—
- (a) the power to order that payments under the order be made directly to [^{F7}the court];
 - (b) the power to order that payments under the order be made to [^{F7}the court], by such method of payment falling within section [^{F8}1(5) of the Maintenance Enforcement Act 1991] (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.
- (5C) In deciding [^{F9}whether to exercise any of its] powers under subsection (5B) above [^{F10}...], the court shall have regard to any representations made by the payer under the order.
- (5D) [^{F11}Subsection (6) of section 1 of the Maintenance Enforcement Act 1991] (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—
- “(a) the court proposes to exercise its power under paragraph (b) of section 7(5B) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”].
- [^{F12}(5E) Where a court of summary jurisdiction in Northern Ireland confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5F) below.
- (5F) The powers of the court are—
- (a) the power to order that payments under the order be made directly to the collecting officer;
 - (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 Magistrates' Courts (Northern Ireland) Order 1981 (standing order, etc.) as may be specified;
 - (c) the power to make an attachment of earnings order under Part IX of the Order of 1981 to secure payments under the order;

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

(5G) In deciding which of the powers under subsection (5F) above it is to exercise, the court shall have regard to any representations made by the payer under the order.

(5H) Paragraph (5) of Article 85 of the Magistrates’ Courts (Northern Ireland) Order 1981 (power of court to require debtor to open account) shall apply for the purposes of subsection (5F) above as it applies for the purposes of that Article but as if for subparagraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 7(5F) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”]

(6) If [^{F13}notice of] the proceedings for the confirmation of the provisional order cannot be duly served on the payer under that order the officer by whom the certified copy of the order was received shall return that copy and the documents which accompanied it to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the payer.

(7) This section shall apply to Scotland subject to the following modifications:—

(a) for subsection (4) there shall be substituted the following subsection:—

“(4) On receiving a certified copy of a provisional order sent to him in pursuance of subsection (2) above the prescribed officer of the appropriate court shall intimate to the payer under the order, in the prescribed manner, that the order has been received as aforesaid and that, unless the payer enters appearance within the prescribed period, the court will confirm the order under this section.”;

(b) in subsection (6), for the words from the beginning to “that order” there shall be substituted the words “ If such intimation as is mentioned in subsection (4) above cannot be given to the payer under a provisional order in pursuance of that subsection”; and

(c) in any proceedings for the confirmation under this section of a provisional order made by a court in a reciprocating country, the sheriff shall apply the law in force in that country with respect to the sufficiency of evidence.

[^{F14}(8) In the application of this section to Northern Ireland—

(a) in subsection (2)(i), for the words from “any grounds” to “making of the order” there shall be substituted “any such defence as he might have raised”,

(b) in subsection (3), for the words from “opposed the making” to the end there shall be substituted “raised a defence on any of those grounds in the proceedings in which the order was made.”, and

(c) in subsection (6), for the words “notice of” there shall be substituted “a summons to appear in”.]

Textual Amendments

F1 Words in s. 7(2)(i) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II para. 8\(2\)](#); S.I. 1993/618, [art. 2](#)

F2 Words in s. 7(3) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II](#), para. 8(3); S.I. 1993/618, [art. 2](#)

Changes to legislation: *There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 7. (See end of Document for details)*

- F3** Words in s. 7(4) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#) , s. 1 , [Sch. 1 Pt. II para. 8\(4\)](#) ; S.I. 1993/618 , [art. 2](#)
- F4** S. 7(5A)-(5D) inserted (E.W.)(1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#) , s. 10 , [Sch. 1 para. 12](#) , S.I. 1992/455 , [art. 2](#)
- F5** Words in s. 7(5A) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(a\)\(i\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F6** Word in s. 7(5A) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(a\)\(ii\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F7** Words in s. 7(5B)(a)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(b\)\(i\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F8** Words in s. 7(5B)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(b\)\(ii\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F9** Words in s. 7(5C) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(c\)\(i\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F10** Words in s. 7(5C) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(c\)\(ii\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F11** Words in s. 7(5D) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#) , s. 61(3) , [Sch. 11 para. 33\(d\)](#) ; S.I. 2014/954 , [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956 , [arts. 3-11](#))
- F12** S. 7(5E)-(5H) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6) , [art. 11](#) , [Sch. 1 para. 7](#) ; S.R. 1996/454 , [art. 3](#)
- F13** Words in s. 7(6) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#) , s. 1 , [Sch. 1 Pt. II para. 8\(5\)](#) ; S.I. 1993/618 , [art. 2](#)
- F14** S. 7(8) added (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#) , s. 1 , [Sch. 1 Pt. II para. 8\(6\)](#) ; S.I. 1993/618 , [art. 2](#) ; and repealed (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2) , [art. 185\(2\)](#) , [Sch. 10](#) (with [Sch. 8 paras. 1\(1\)](#) , [23\(4\)](#)) ; S.R. 1996/297 , [art. 2\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 7(5) extended (28.5.2002) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2002 \(S.I. 2002/788\)](#) , [art. 4\(6\)\(7\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 7.