



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART II

RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF MAINTENANCE

Transfer, enforcement, variation and revocation of registered orders

32 Transfer of orders.

- (1) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, then, unless he is of opinion that the payer has ceased to reside in the United Kingdom, he shall, subject to subsection (2) below, send a certified copy of the order and the related documents to the Secretary of State, and if he is of opinion that the payer has ceased to reside in the United Kingdom he shall send a notice to that effect to the Secretary of State.
- (2) Where [^{F1}the clerk] of the registering court, being a magistrates' court [^{F2}in Northern Ireland], is of opinion that the payer is residing within the jurisdiction of another magistrates' court in [^{F3}Northern Ireland], he shall transfer the order to that other court by sending a certified copy of the order and the related documents to [^{F1}the clerk] of that other court and, subject to subsection (4) below, [^{F4}that clerk] shall register the order in the prescribed manner in that court.

^{F5}(2A)

- (3) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order is still residing in the United Kingdom, he shall transfer the order to the appropriate court by sending the copy of the order and the related documents to the prescribed officer of the appropriate court and, subject to subsection (4) below, that officer shall register the order in the prescribed manner in that court.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Transfer, enforcement, variation and revocation of registered orders. (See end of Document for details)

- (4) Before registering an order in pursuance of subsection (2) or (3) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order and the related documents to the officer of the court or the Secretary of State, as the case may be, from whom he received them, together with a statement giving such information as he possesses as to the whereabouts of the payer.
- (5) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order has ceased to reside in the United Kingdom he shall return the copy of the order and the related documents to the registering court.
- (6) An officer of a court on registering an order in the court in pursuance of subsection (2) or (3) above shall give notice of the registration in the prescribed manner to the prescribed officer of the court in which immediately before its registration under this section the order was registered.
- (7) The officer to whom notice is given under subsection (6) above shall on receiving the notice cancel the registration of the order in that court.

[^{F6}(7A) The Secretary of State on receiving notice under subsection (6) above shall send a copy of the registered order and of the related documents to the Secretary of the Law Society of Scotland who shall send the copy of the order and of the related documents to a solicitor practising in the registering court or to such other solicitor practising in Scotland as appears to the Secretary to be appropriate for the purpose of enabling the solicitor to take, on behalf of the person entitled to the payments for which the order provides, such steps as appear to the solicitor appropriate to enforce the order.

(7B) Where an order is registered in the sheriff court by virtue of subsection (3) above, any provision of the order by virtue of which the payments for which the order provides are required to be made through or to any officer or person on behalf of the person entitled thereto shall be of no effect so long as the order is so registered.]

(8) In this section—

“the appropriate court” [^{F7}—]

(a) in relation to a person residing in England and [^{F8}Wales, means the family court; and

(b) in relation to a person residing] in Northern Ireland, means a magistrates’ court within the jurisdiction of which that person is residing;

“certificate of arrears” and “certified copy” have the same meanings respectively as in Part I of this Act;

“payer”, in relation to a registered order, means the person liable to make payments under the order; and

“related documents” means—

- (a) the application on which the order was made;
- (b) a certificate of arrears signed by the prescribed officer of the registering court;
- (c) a statement giving such information as he possesses as to the whereabouts of the payer; and
- (d) any relevant documents in his possession relating to the case.

(9) In the application of this section to Scotland—

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- (a) in subsection (1), for the words “within the jurisdiction of that court” there shall be substituted the words “in Scotland”;
- (b) subsection (2) shall be omitted;
- (c) in subsection (4), for the words “the officer of the court or the Secretary of State, as the case may be, from whom he received them” there shall be substituted the words “the Secretary of State”;
- (d) at the end of subsection (6) there shall be inserted the words “and to the Secretary of State”;
- [^{F9}(e) after subsection (7) there shall be inserted the following subsections:—
 - “(7A) The Secretary of State on receiving notice under subsection (6) above shall send a copy of the registered order and of the related documents to the secretary of the committee mentioned in section 31(1) of this Act, and the secretary shall thereupon send the copy of the order and of the related documents to a solicitor practising in the registering court, with a view to the solicitor’s taking on behalf of the person entitled to the payments for which the order provides such steps as appear to the solicitor appropriate to enforce the order.
 - (7B) Where an order is registered in the sheriff court by virtue of subsection (3) above, any provision of the order by virtue of which the payments for which the order provides are required to be made through or to any officer or person on behalf of the person entitled thereto shall be of no effect so long as the order is so registered”];
- (f) “appropriate court”, in relation to a person residing in Scotland, means the sheriff court within the jurisdiction of which that person is residing.

Textual Amendments

- F1** Words in s. 32(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(2\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F2** Words in s. 32(2) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(2\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** Words in s. 32(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(2\)\(c\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4** Words in s. 32(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(2\)\(d\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F5** S. 32(2A) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(3\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F6** S. 32(7A)(7B) inserted (S.) by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 45, 46(4), [Sch. 3 para. 1\(2\) \(a\)](#)
- F7** Words in s. 32(8) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(4\)\(a\)](#); 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. 32(8) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 48\(4\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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F9 S. 32(9)(e) repealed (S.) by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 45, 46(4), **Sch. 3 para. 1(2)** (b), Sch. 5

33 Enforcement of orders.

(1) Subject to subsection (2) below, a registered order which is registered in a court other than the court by which the order was made may be enforced as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken in accordance with this subsection but not otherwise.

(2) Subsection (1) above does not apply to an order which is for the time being registered^{F10} ... in the High Court of Justice in Northern Ireland under Part II of the^{M1} Maintenance and Affiliation Orders Act (Northern Ireland) 1966.

(3) [^{F11}An order which by virtue of subsection (1) above is enforceable by a magistrates' court [^{F12}shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 (enforcement of sums adjudged to be paid and complaint for arrears) specified in subsection (4C) of section 8 of this Act, be enforceable] as [^{F13}an order made by that court to which that Article applies].]

^{F14}(3A)

[^{F15}(3B) Where, by virtue of being registered in the court of summary jurisdiction [^{F16}in Northern Ireland] in which it was made, a registered order is enforceable as a maintenance order made by a court of summary jurisdiction, Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 shall have effect subject to the modifications specified in subsection (4C) of section 8 of this Act.]

(4) A magistrates' court [^{F17}in Northern Ireland] in which an order is registered under this Part of this Act, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.

(5) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent under section 32 of this Act to the prescribed officer of the court shall be evidence of the facts stated therein.

(6) Part II of the^{M2} Maintenance Orders Act 1950 (enforcement of certain orders throughout the United Kingdom) shall not apply to a registered order.

(7) In the application of this section to Scotland—

(a) subsections (2) to (4) shall be omitted; and

(b) in subsection (5), for the word “evidence” there shall be substituted the words “sufficient evidence”.

Textual Amendments

F10 Words in s. 33(2) omitted (22.4.2014) by virtue of [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **9**

F11 S. 33(3) omitted (E.W.) (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 49(a)** (with s. 61(13)(f)); [S.I. 2014/954](#), **art. 2(e)** (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), **arts. 3-11**)

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- F12** Words in s. 33(3) substituted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 13(a)**; S.R. 1996/454, **art. 3**
- F13** Words in s. 33(3) substituted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 73** (with **Sch. 8 para. 1(1)**); S.R. 1996/297, **art. 2(2)**
- F14** S. 33(3A) omitted (22.4.2014) by virtue of **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 49(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** S. 33(3B) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 13(b)**; S.R. 1996/454, **art. 3**
- F16** Words in s. 33(3B) inserted (22.4.2014) by **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 49(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F17** Words in s. 33(4) inserted (22.4.2014) by **Crime and Courts Act 2013 (c. 22)**, s. 61(3), **Sch. 11 para. 49(c)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

- C1** S. 33(1) excluded (22.4.2014) by **The Crime and Courts Act 2013 (Family Court: Consequential Provision) Order 2014 (S.I. 2014/605)**, arts. 1, **11**

Marginal Citations

- M1** 1966 c. 35 (N.I.)
M2 1950 c. 37.

34 Variation and revocation of orders.

- (1) [^{F18}Subject to [^{F19}subsection (3B) below and] section 34B of this Act][^{F20}Subject to ^{F21}... section 34A of this Act] where a registered order is registered in a court other than the court by which the order was made, the registering court shall have the like power to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it; and no court other than the registering court shall have power to vary or revoke a registered order.
- (2) Where the registering court revokes a registered order it shall cancel the registration.
- (3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he [^{F22}shall—
- (a) if the registering court is the family court, send the application together with any documents accompanying it to that court;
 - (b) if the registering court is a magistrates' court in Northern Ireland, send the application together with any documents accompanying it to the clerk of that court.]

^{F23}(3A)

[^{F24}(3B) Where paragraph (1) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (revocation, variation etc. of orders for periodical payment) applies in relation to a registered order, that paragraph shall have effect as if for the words "by order on complaint," there were substituted "on an application being made, by order".]

- (4) Where a court in a part of the United Kingdom makes, or refuses to make, an order varying or revoking a registered order made by a court in another part thereof, any

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person shall have the like right of appeal (if any) against the order or refusal as he would have if the registered order had been made by the first-mentioned court.

(5) In the application of this section to Scotland—

[^{F25}(a) the words “and no court other than the registering court shall have power to vary or revoke a registered order ” in subsection (1) above are subject to any power of the Court of Session on appeal; and]

[^{F26}(b) for subsection (3) there shall be substituted the following subsection—

“(3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he shall, if the registering court is a sheriff court, send the application, together with any documents accompanying it, to the Secretary of the Law Society of Scotland who shall send the application and any accompanying documents to a solicitor practising in the registering court or to such other solicitor practising in Scotland as appears to the Secretary to be appropriate, for the purpose of enabling the solicitor to take on behalf of the applicant such steps as appear to the solicitor appropriate in respect of the application.”]

Textual Amendments

- F18** Words in s. 34(1) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 14(a)**; S.R. 1996/454, **art. 3**
- F19** Words in s. 34(1) inserted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 74(1)** (with **Sch. 8 para. 1(1)**); S.R. 1996/297, **art. 2(2)**
- F20** Words in s. 34(1) inserted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17), s. 10, **Sch. 1 para. 19(1)**, S.I. 1992/455, art. 2
- F21** Words in s. 34(1) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 50(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F22** Words in s. 34(3) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 50(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F23** S. 34(3A) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 11 para. 50(c)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F24** S. 34(3B) inserted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 74(2)** (with **Sch. 8 para. 1(1)**); S.R. 1996/297, **art. 2(2)**
- F25** Words inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), **ss. 60(2)**, 89
- F26** S. 34(5)(b) substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), **ss. 45, 46(4)**, **Sch. 3 para. 1(3)**

[^{F27} **34A Variation of orders by [^{F28}the family court] in England and Wales.**

(1) The provisions of this section shall have effect in relation to a registered order which is registered in [^{F29}the family court] (whether or not the court made the order) in place of the following enactments, that is to say—

[^{F30}(a) section 1(3A) of the Maintenance Enforcement Act 1991;]

(b) section 20ZA of the ^{M3} Domestic Proceedings and Magistrates' Courts Act 1978; and

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- (c) paragraph 6A of Schedule 1 to the ^{M4} Children Act 1989.
- (2) The power of [^{F31}the family court] to vary a registered order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under subsection (3) below.
- (3) The powers of the court are—
- (a) the power to order that payments under the order be made directly to [^{F32}the court];
 - (b) the power to order that payments under the order be made to [^{F32}the court], by such method of payment falling within section [^{F33}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 ^{M5} Attachment of Earnings Act 1971 to secure payments under the order.
- ^{F34}(4)
- ^{F34}(5)
- ^{F34}(6)
- ^{F34}(7)
- ^{F34}(8)
- (9) In deciding, for the purposes of [^{F35}subsection (2)] above, [^{F36}whether to exercise any of its] powers under subsection (3) above ^{F37}... , the court shall have regard to any representations made by the debtor [^{F38}or the creditor].
- (10) [^{F39}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 (3) 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 34A(3) of the ^{M6}Maintenance Orders (Reciprocal Enforcement) Act 1972, and
- (11) In this section “creditor” and “debtor” have the same meaning as they have in [^{F40}section 1 of the Maintenance Enforcement Act 1991].]

Textual Amendments

- F27** S. 34A inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17\), s. 10, Sch. 1 para. 19\(2\); S.I. 1992/455, art. 2](#)
- F28** Words in s. 34A heading substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 51\(9\); S.I. 2014/954, art. 2\(e\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)
- F29** Words in s. 34A(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 51\(2\)\(a\); S.I. 2014/954, art. 2\(e\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)
- F30** S. 34A(1)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 51\(2\)\(b\); S.I. 2014/954, art. 2\(e\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)
- F31** Words in s. 34A(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 51\(3\); S.I. 2014/954, art. 2\(e\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)

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- F32** Words in s. 34A(3)(a)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(4\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F33** Words in s. 34A(3)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(4\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F34** Ss. 34A(4)-(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(5\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F35** Words in s. 34A(9) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(6\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F36** Words in s. 34A(9) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(6\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F37** Words in s. 34A(9) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(6\)\(c\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F38** Words in s. 34A(9) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(6\)\(d\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F39** Words in s. 34A(10) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(7\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F40** Words in s. 34A(11) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 51\(8\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Marginal Citations

- M3** 1978 c. 22.
M4 1989 c. 41.
M5 1971 c. 32.
M6 1972 c. 18.

[^{F41}34B Variation of orders by courts of summary jurisdiction in Northern Ireland.

- (1) The provisions of this section shall have effect in relation to a registered order which is registered in a court of summary jurisdiction in Northern Ireland (whether or not the court made the order) in place of the following enactments, that is to say—
 - (a) paragraphs (3) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981; and
 - (b) Article 22A of the Domestic Proceedings (Northern Ireland) Order 1980.
- (2) The power of a court of summary jurisdiction in Northern Ireland to vary a registered order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under subsection (3) below.
- (3) 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

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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.

(4) In any case where—

- (a) a registered order is registered in a court of summary jurisdiction in Northern Ireland, and
- (b) payments under the order are required to be made to the collecting officer in Northern Ireland, by any method of payment falling within Article 85(7) of the Magistrates’ Courts (Northern Ireland) Order 1981 (standing order, etc.),

an interested party may apply in writing to the clerk of petty sessions in which the order is registered for the order to be varied as mentioned in subsection (5) below.

(5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, and opportunity to make written representations, may vary the order to provide that payments under the order shall be made in accordance with paragraph (a) of subsection (3) above.

(6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.

(7) In subsections (4) to (6) above “interested party”, in relation to an order, means the debtor or the creditor.

(8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under subsection (3) above.

(9) In deciding, for the purposes of subsections (2) and (8) above, which of the powers under subsection (3) above it is to exercise, the court shall have regard to any representations made by the debtor.

(10) 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 (3) 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 34B(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, and”]

Textual Amendments

F41 S. 34B inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, Sch. 1 para. 14(b); S.R. 1996/454, art. 3

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Transfer, enforcement, variation and revocation of registered orders. (See end of Document for details)

[^{F42}35 Further provisions with respect to variation etc. of orders by [^{F43}the family court] in England and Wales.

- ^{F44}(1) Subsection (1A) applies in relation to an application for the variation or revocation of a registered order registered in [^{F45}the family court] (“the registering court”) made—
- (a) by the person against whom or on whose application the registered order was made, and
 - (b) in circumstances where the person by or against whom the application is made is residing outside England and Wales.

(1A) The registering court has jurisdiction to hear the application even though—

- (a) a party to the application is residing outside England and Wales, ^{F46}...
- ^{F46}(b)

^{F47}(1B)

(2) None of the powers of the court ^{F48}... under section 34A of this Act shall be exercisable in relation to such an application.

(3) Where the respondent to an application for the variation or revocation of a registered order which is registered in [^{F49}the family court] does not appear at the time and place appointed for the hearing of the application, but the court is satisfied—

- (a) that the respondent is residing outside England and Wales, and
- (b) that the prescribed notice of the making of the application and of the time and place appointed for the hearing has been given to the respondent in the prescribed manner,

the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

^{F50}(4)

Textual Amendments

- F42** Ss. 35, 35A substituted (5.4.1993) for s. 35 by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), ss. 1, 3, **Sch. 1 Pt. II**, para. 16; S.I. 1993/618, **art. 2**
- F43** Words in s. 35 heading substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 52(d)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F44** S. 35(1)-(1B) substituted for s. 35(1) (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. 2(6)(a)**
- F45** Words in s. 35(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 52(a)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F46** S. 35(1A)(b) and preceding word omitted (22.4.2014) by virtue of [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **10**
- F47** S. 35(1B) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), **Sch. para. 5(3)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, **5(2)**); 2020 c. 1, Sch. 5 para. 1(1)
- F48** Words in s. 35(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 52(b)**; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- F49** Words in s. 35(3) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 52\(c\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F50** S. 35(4) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), [Sch. para. 5\(3\)\(b\)](#) (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, [5\(2\)](#)); 2020 c. 1, Sch. 5 para. 1(1)

^{F51}**[35A Further provisions with respect to variation etc. of orders by magistrates' courts in Northern Ireland.**

- ^{F52}(1) Subsection (1A) applies in relation to an application for the variation or revocation of a registered order registered in a magistrates' court in Northern Ireland ("the registering court") made—
- (a) by the person against whom or on whose application the registered order was made, and
 - (b) in circumstances where the person by or against whom the application is made is residing outside Northern Ireland.
- (1A) The registering court has jurisdiction to hear the application even though—
- (a) a party to the application is residing outside England and Wales, and
 - (b) the requirement in Article 32 of the Domestic Proceedings (Northern Ireland) Order 1980, as applied by section 29(2) or 29A(6) of this Act, is not satisfied.

^{F53}(1B)]

- (2) None of the powers of the court, or of the clerk, under section 34B of this Act shall be exercisable in relation to such an application.
- (3) Where the respondent to an application for the variation or revocation of a registered order which is registered in a magistrates' court in Northern Ireland does not appear at the time and place appointed for the hearing of the application, but the court is satisfied—
- (a) that the respondent is residing outside Northern Ireland, and
 - (b) that the prescribed notice of the making of the application and of the time and place appointed for the hearing has been given to the respondent in the prescribed manner,

the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

^{F54}(4)]

Textual Amendments

- F51** S. 35A substituted (N.I.) (4.11.1996) by [S.I. 1995/755 \(N.I. 2\)](#), art. 185(1), [Sch. 9 para. 75](#) (with [Sch. 8 para. 1\(1\)](#)); [S.R. 1996/297](#), art. 2(2)
- F52** Ss. 35A(1)-(1B) substituted for s. 35A(1) (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. 2\(7\)\(a\)](#)
- F53** S. 35A(1B) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), [Sch. para. 5\(4\)\(a\)](#) (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, [5\(2\)](#)); 2020 c. 1, Sch. 5 para. 1(1)

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Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Transfer, enforcement, variation and revocation of registered orders. (See end of Document for details)

F54 S. 35A(4) omitted (31.12.2020) by virtue of [The Jurisdiction and Judgments \(Family\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/519\)](#), reg. 1(1), [Sch. para. 5\(4\)\(b\)](#) (with reg. 8) (as amended by [S.I. 2020/1574](#), regs. 1, [5\(2\)](#)); 2020 c. 1, Sch. 5 para. 1(1)

Status:

Point in time view as at 31/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Cross Heading: Transfer, enforcement, variation and revocation of registered orders.