



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

[^{F1}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 ^{F2}(1) maintenance from a person who is residing in England and Wales—

- (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 ^{M1}1978, and the provisions of this section shall have effect.]

Status: Point in time view as at 14/10/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 28A. (See end of Document for details)

- (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 [^{F3}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;
 - ^{F4}(e) [sections 6 to 8, 16 to 18, 23(1), 24 to 28 and 32(2) shall be omitted.]
- ^{F5}(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.]
- (5) ^{F6}
- (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

- F1** S. 28A inserted (E.W.) by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), **ss. 58, 89**
- F2** S. 28A(1) substituted (E.W.) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 26(2), 48(2)**
- F3** Words substituted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 46(1), 48(3), Sch. 1 para. 9**
- F4** 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.**
- F5** S. 28A(4) substituted (E.W.) by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), **ss. 26(3), 48(2)**

Status: Point in time view as at 14/10/1991. This version of this provision has been superseded.
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F6 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

M1 c.32(49:3).

Status:

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Changes to legislation:

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