



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 the United Kingdom

3 Power of magistrates' court to make provisional maintenance order against person residing in reciprocating country.

[^{F1}(1) Where an application is made to a magistrates' court for a maintenance order against a person residing in a reciprocating country and the court would have jurisdiction to determine the application under the Domestic Proceedings and Magistrates' Courts Act 1978 or the Children Act 1989 if that person—

- (a) were [^{F2}habitually resident] in England and Wales, and
- (b) received reasonable notice of the date of the hearing of the application,

the court shall (subject to subsection (2) below) have jurisdiction to determine the application.]

(2) A maintenance order made by virtue of this section shall be a provisional order.

[^{F3}(3) If the court hearing a complaint to which subsection (1) above applies is satisfied—

- (a) that there are grounds on which a maintenance order containing a provision requiring the making of payments for the maintenance of a child may be made on that complaint, but
- (b) that it has no jurisdiction to make that order unless it also makes an order providing for the legal custody of that child,

then, for the purpose of enabling the court to make the maintenance order, the complainant shall be deemed to be the person to whom the legal custody of that child has been committed by an order of the court which is for the time being in force.]

Status: Point in time view as at 07/12/2012. This version of this provision has been superseded.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 3. (See end of Document for details)

- [^{F4}(4) No enactment (or provision made under an enactment) requiring or enabling—
- (a) a court to transfer proceedings from a magistrates' court to a county court or the High Court, or
 - (b) a magistrates' court to refuse to make an order on an application on the ground that any matter in question is one that would be more conveniently dealt with by the High Court,

shall apply in relation to an application to which subsection (1) above applies.]

- (5) Where a court makes a maintenance order which is by virtue of this section a provisional order, the following documents, that is to say—
- (a) a certified copy of the maintenance order;
 - (b) a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings;
 - (c) a certificate signed by the prescribed officer of the court certifying that the grounds stated in the certificate are the grounds on which the making of the order might have been opposed by the payer under the order;
 - (d) a statement giving such information as was available to the court as to the whereabouts of the payer;
 - (e) a statement giving such information as the officer possesses for facilitating the identification of the payer; and
 - (f) where available, a photograph of the payer;

shall be sent by that officer to the Secretary of State with a view to their being transmitted by the Secretary of State to the responsible authority in the reciprocating country in which the payer is residing if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

- (6) A maintenance order made by virtue of this section which has been confirmed by a competent court in a reciprocating country shall be treated for all purposes as if the magistrates' court which made the order had made it in the form in which it was confirmed and as if the order had never been a provisional order, and subject to section 5 of this Act, any such order may be enforced, varied or revoked accordingly.

[^{F5}(7) In the application of this section to Northern Ireland—

- (a) for subsection (1) there shall be substituted—

- (1) Where an application is made to a magistrates' court against a person residing in a reciprocating country and the court would have jurisdiction to determine the application under the Domestic Proceedings (Northern Ireland) Order 1980 or the Children (Northern Ireland) Order 1995 if that person—

- (a) were [^{F6}habitually resident] in Northern Ireland, and
- (b) received reasonable notice of the date of the hearing of the application,

the court shall (subject to subsection (2) below) have jurisdiction to determine the application.

- (b) in subsection (4), for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.]

Textual Amendments

- F1** S. 3(1) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, [Sch. 1 Pt. II para. 6\(2\)](#); S.I. 1993/618, [art. 2](#)

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- F2** Words in s. 3(1)(a) substituted (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(2)(a)**
- F3** S. 3(3) repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(4), **Sch. 4** and (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)**
- F4** S. 3(4) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 6(3)**; S.I. 1993/618, **art. 2**
- F5** S. 3(7) substituted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 66** (with Sch. 8 para. 1(1)); S.R. 1996/297, **art. 2(2)**
- F6** Words in s. 3(7)(a) substituted (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(2)(b)**

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