



Civil Jurisdiction and Judgments Act 1982

1982 CHAPTER 27

PART I

IMPLEMENTATION OF THE CONVENTIONS

Supplementary provisions as to recognition and enforcement of judgments

5 Recognition and enforcement of maintenance orders.

- (1) The function of transmitting to the appropriate court an application under Article 31 for the recognition or enforcement in the United Kingdom of a maintenance order shall be discharged—
- [^{F1}(a) as respects England and Wales and Northern Ireland, by the Lord Chancellor;
and
(b) as respects Scotland, by the Secretary of State.]

In this subsection “the appropriate court” means the magistrates’ court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 32.

- (2) Such an application shall be determined in the first instance by the prescribed officer of that court.
- (3) Where on such an application the enforcement of the order is authorised to any extent, the order shall to that extent be registered in the prescribed manner in that court.
- (4) A maintenance order registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the order had been originally made by the registering court.
- (5) Subsection (4) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under this section may be enforced.

Status: Point in time view as at 01/04/1992. This version of this provision has been superseded.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, Section 5 is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F2}(5A) A maintenance order which by virtue of this section is enforceable by a magistrates' court in England and Wales [^{F3}shall, subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980 specified in subsections (5B) and (5C) below, be enforceable] in the same manner as a magistrates' court maintenance order made by that court.

In this subsection "magistrates' court maintenance order" has the same meaning as in section 150(1) of the ^{M1}Magistrates' Courts Act 1980.]

[^{F4}(5B) Section 76 (enforcement of sums adjudged to be paid) shall have effect as if for subsections (4) to (6) there were substituted the following subsections—

“(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under subsection (5) below.

(5) The powers of the court 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;
- (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, by such method of payment falling within section 59(6) above (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the ^{M2}Attachment of Earnings Act 1971 to secure payments under the order.

(6) In deciding which of the powers under subsection (5) above it is to exercise, the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).

(7) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsection (5) 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 76(5) below, and”

(5C) In section 93 (complaint for arrears), subsection (6) (court not to impose imprisonment in certain circumstances) shall have effect as if for paragraph (b) there were substituted—

“(b) if the court is of the opinion that it is appropriate—

- (i) to make an attachment of earnings order; or
- (ii) to exercise its power under paragraph (b) of section 76(5) above.”]

(6) A maintenance order which by virtue of this section is enforceable by a magistrates' court in [^{F5}England and Wales or] Northern Ireland shall be enforceable in the same manner as an affiliation order made by that court.

(7) The payer under a maintenance order registered under this section in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the clerk of that court.

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A person who without reasonable excuse fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F6}level 2 on the standard scale].

Textual Amendments

- F1** S. 5(1)(a)(b) substituted (1.4.1992) by S.I. 1992/709, **art. 4(7)** (with art. 5(2))
- F2** S. 5(5A) inserted (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 89(2), Sch. 3 paras. 1, **6**
- F3** Words in s. 5(5A) substituted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17), s. 10, **Sch. 1 para. 21(1)**; S.I. 1992/455, **art. 2**
- F4** S. 5(5B)(5C) inserted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17), s. 10, **Sch. 1 para. 21** (2); S.I. 1992/455, **art. 2**
- F5** Words repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 89(3), Sch. 3 paras. 1, **6**
- F6** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. **46** (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. **289G** and (N.I.) by S.I. 1984/703 (N.I. 3), **arts. 5, 6**

Modifications etc. (not altering text)

- C1** S. 5(1): functions of the Secretary of State as respects England and Wales transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, **art. 4(6)(a)** (with art. 5(2))

Marginal Citations

- M1** 1980 c.43
- M2** 1971 c. 32.

Status:

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Changes to legislation:

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