

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Family Law (Scotland) Act 1985, Cross Heading: The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18). (See end of Document for details)

SCHEDULES

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

Extent Information

- E1** Sch. 1: so much of s. 28 and Sch. 1 as affects the operation of 1950 c. 37 and 1972 c. 18 extends to England, Wales, Scotland and Northern Ireland, see s. 29(4)

The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)

- 6 In section 31 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application by person in convention country for recovery of maintenance in Scotland—
- (a) for subsection (1A) there shall be substituted the following subsections—
- “(1A) Proceedings arising out of an application under subsection (1) above shall be treated as an action for aliment within the meaning of the Family Law (Scotland) Act 1985 and, subject to subsections (1B) to (1D) below, the provisions of that Act relating to aliment shall apply in relation to claims for maintenance in such proceedings and decrees therein.
- (1B) Without prejudice to subsection (2) below, any proceedings mentioned in subsection (1A) above shall be brought in the sheriff court.
- (1C) In its application to proceedings mentioned in subsection (1A) above, section 5 of the said Act of 1985 (power to vary or recall decree of aliment) shall be subject to section 34(1) of this Act.
- (1D) Where an application under subsection (1) above is for the recovery of maintenance from a person who is a former spouse of the applicant—
- (a) then, for the purposes of the said Act of 1985, there shall be assumed to be an obligation of aliment within the meaning of that Act owed by the former spouse to the applicant;
- (b) section 2(7) and (8) of that Act shall not apply; and
- (c) an order for payment of maintenance in proceedings arising out of the application—
- (i) shall, if subsisting at the death of the party making the payment, continue to operate against that party’s estate, but without prejudice to the power of the court to vary or recall the order; and

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- (ii) shall cease to have effect on the re-marriage or death of the party receiving payment, except in relation to any arrears due under it”;
 - (b) after subsection (4) there shall be inserted the following new subsection—
 - “(4A) In subsection (4)(i) above the reference to the dissolution of a marriage by divorce shall be construed as including a reference to the annulment of a purported marriage and any reference to a marriage, a divorce, a divorced person, a former spouse or divorce proceedings shall be construed accordingly.”; and
 - (c) subsection (5) shall cease to have effect.
- 7 In section 39 of that Act, in the definition of “maintenance”, for the words “as a periodical allowance” there shall be substituted the words “by one former spouse for the support of the other”.

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