

1999 No. 1318

MAINTENANCE OF DEPENDANTS

**The Reciprocal Enforcement of Maintenance Orders (Hague
Convention Countries) (Variation) Order 1999**

<i>Made</i> - - - -	<i>11th May 1999</i>
<i>Laid before Parliament</i>	<i>24th May 1999</i>
<i>Coming into force</i>	<i>28th June 1999</i>

At the Court at Buckingham Palace, the 11th day of May 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas Her Majesty is satisfied that arrangements have been made in the Republic of Estonia and the Republic of Poland to ensure that maintenance orders made by courts in the United Kingdom can be enforced there:

And whereas Her Majesty is satisfied that in the interest of reciprocity it is desirable to ensure that maintenance orders made by courts in those countries can be enforced in the United Kingdom:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by sections 40 and 45 (1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(**a**) ("the Act"), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) (Variation) Order 1999 and shall come into force on 28th June 1999.

(2) In this Order, unless the context otherwise requires, a Schedule referred to by number means the Schedule so numbered in the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993(**b**) and any reference to a section of the Act(**c**) shall be a reference to that section as applied with such exceptions, adaptations and modifications as are specified in Schedule 2 to that Order.

2. Schedule 1 shall be varied by inserting, after the word "Portugal", the words "Republic of Estonia" and "Republic of Poland".

3.—(1) Paragraph 5 of Schedule 2 shall be varied by—

(a) omitting the words "or by a competent court in a Hague Convention country" in subsections (9) and (10); and

(b) omitting subsection (11);

of section 5 of the Act.

(a) 1972 c. 18; section 40 was amended by the Civil Jurisdiction and Judgments Act 1982 (c. 27), Schedules 11 and 14.

(b) S.I. 1993/593; the relevant amending instrument is S.I. 1994/1902.

(c) "Act" is defined as the Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18) in the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993.

- (2) Schedule 2 shall be further varied by—
- (a) substituting in paragraph 6, the words “two calendar months” for the words “one calendar month” in section 6(12) of the Act;
 - (b) inserting in paragraph 9(2)—
 - (i) in subsection (1)(a) of section 9 of the Act after the word “vary”, the words “the method of payment of”;
 - (ii) in subsection (1)(b) of section 9 of the Act after the word “vary”, the words “the method of payment of”; and
 - (c) inserting after paragraph 9(2)—

“(2A) Subsection (1ZA)(a) shall be amended as follows—

 - (a) at the end of paragraph (za)(b), there shall be inserted the words
“and for the words “revoke, revive or vary the order”, there were substituted “vary the order in accordance with subsection (3)” ”;
 - (b) after paragraph (za), there shall be inserted the following paragraph—
“(zab) as if subsection (2) were omitted;”;
 - (c) in paragraph (a), for the words from “as if in subsection (3)” to “there were inserted—”, there shall be substituted “as if in subsection (3)—
 - (i) for the words “shall include”, there were substituted “means the;”;
 - (ii) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “subsection (3A) below”; and
 - (iii) after that subsection there were inserted—”.

(2B) Subsection (1ZB)(c) shall be amended as follows—

 - (a) at the end of paragraph (za)(d), there shall be inserted the words—
“and for the words “revoke, revive or vary the order”, there were substituted “vary the order in accordance with paragraph (3)” ”;
 - (b) after paragraph (za), there shall be inserted the following paragraph—
“(zab) as if paragraph (2) were omitted;”;
 - (c) in paragraph (a), for the words from “as if in paragraph (3)” to “there were inserted—”, there shall be substituted “as if in paragraph (3)—
 - (i) for the words “shall include”, there were substituted “means the;”;
 - (ii) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (3A)”;
 - (iii) after that paragraph there were inserted—”.
- (3) Paragraph 9(4) of Schedule 2 shall be varied by—
- (a) omitting subsections (3) to (7) of section 9 of the Act; and
 - (b) after subsection (10) of section 9 of the Act, inserting the following—
“(11) This section shall not apply to a court in Scotland.”.

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- (a) Subsection (1ZA) of section 9 of the Act was inserted by the Maintenance Enforcement Act 1991 (c. 17), section 10, Schedule 1, paragraph 14.
 - (b) Paragraph (za) of subsection (1ZA) of section 9 of the Act was inserted before paragraph (a) by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), section 1(2), Schedule 1, Part II, paragraph 9.
 - (c) Subsection (1ZB) of section 9 of the Act was inserted by the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6)), Article 11 and Schedule 1, paragraph 9.
 - (d) Paragraph (za) of subsection (1ZB) of section 9 of the Act was inserted before paragraph (a) of that subsection by the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), Article 185(1) and Schedule 9, paragraph 69.

4. Schedule 3 shall be varied by–

- (a) omitting the words “or by a competent court in a Hague Convention country” in subsections (9) and (10); and
- (b) omitting subsection (11);

of section 5 of the Act.

5. Schedule 3 shall be further varied by substituting the words “two calendar months” for the words “one calendar month” in section 6(12) of the Act.

6. Schedule 3 shall be further varied by inserting in section 9 of the Act–

- (a) in subsection (1)(a) after the word “vary”, the words “the method of payment of”;
- (b) in subsection (1)(b) after the word “vary”, the words “the method of payment of”;
- (c) in subsection (1ZA)–

- (i) at the end of paragraph (za), the words
“and for the words “revoke, revive or vary the order”, there were substituted
“vary the order in accordance with subsection (3)””;

- (ii) after paragraph (za), the following paragraph–
“(zab) as if subsection (2) were omitted.”; and

- (iii) in paragraph (a), for the words from “as if in subsection (3)” to “there were inserted–”, there shall be substituted “as if in subsection (3)–

- (i) for the words “shall include”, there were substituted “means the”;
 - (ii) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “subsection (3A) below”; and

- (iii) after that subsection there were inserted–”.

- (d) after subsection (1ZA)–

“(1ZB) Where the registering court is a court of summary jurisdiction in Northern Ireland, Article 86 of the Magistrates’ Court (Northern Ireland) Order 1981(a) (revocation, variation etc., of orders for periodical payment) shall have effect in relation to the registered order–

- (za) as if in paragraph (1) for the words “by order on complaint” there were substituted “on an application being made, by order” and for the words “revoke, revive or vary the order”, there were substituted “vary the order in accordance with paragraph (3)”;

- (zab) as if paragraph (2) were omitted;

- (a) as if in paragraph (3)–

- (i) for the words “shall include”, there were substituted “means the”,
 - (ii) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (3A)”, and

- (iii) after that paragraph there were inserted–

- “(3A) 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) (standing order, etc.) as may be specified;

- (c) the power to make an attachment of earnings order under Part IX to secure payments under the order;”

(a) S.I. 1981/1675.

- (b) as if in paragraph (4) for sub-paragraph (b) there were substituted—
“(b) payments under the order are required to be made to the collecting officer by any method of payment falling within Article 85(7) (standing order, etc.)”;
and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts”;
- (c) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with sub-paragraph (a) of paragraph (3A)”;
- (d) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;
- (e) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (3A)”;
- (f) as if for paragraphs (9) and (10) there were substituted the following paragraphs—
“(9) In deciding, for the purposes of paragraphs (3) and (8), which of the powers under paragraph (3A) it is to exercise, the court shall have regard to any representations made by the debtor.
(10) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (3A) as it applies for the purpose of that Article but as if for sub-paragraph (a) there were substituted—
“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 86(3A), and”.”.”.

7. Schedule 3 shall be further varied by—

- (a) omitting subsections (3) to (7) of section 9 of the Act; and
(b) inserting after subsection (10) of section 9 of the Act, the following—
“(11) This section shall not apply to a court in Scotland.”.

A. K. Galloway
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

The Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993 provides for the implementation in the United Kingdom of the Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations concluded in The Hague on 2nd October 1973. The Republic of Estonia and the Republic of Poland, in accordance with Article 31 of the Convention, have deposited their instruments of accession to the Convention.

This Order—

- (a) varies Schedule 1 to the 1993 Order by adding the Republic of Estonia and the Republic of Poland to the list of Hague Convention countries to which that Order applies (*article 2*);
- (b) varies Schedules 2 and 3 to the 1993 Order to—
 - (i) extend the period of time allowed for a payee to appeal to the court against the refusal to register an order from one month to two months; and
 - (ii) remove from the courts in the United Kingdom the power to vary a maintenance order (except for the method of payment) made in a Hague Convention country and the right to recognise variations to an order made in the United Kingdom by a court in a Hague Convention country (*articles 3 to 7*).

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