
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 34

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS

CHAPTER 2

ENFORCEMENT OF MAINTENANCE ORDERS UNDER PART 1 OF THE 1972 ACT

SECTION 1

Reciprocal enforcement of maintenance orders under Part 1 of the 1972 Act

Application for transmission of maintenance order to reciprocating country

34.14. An application for a maintenance order to be sent to a reciprocating country under section 2 of the 1972 Act must be made in accordance with Practice Direction 34A.

Certification of evidence given on provisional orders

34.15. A document setting out or summarising evidence is authenticated by a court in England and Wales by a certificate signed [^{F1}by the judge] before whom that evidence was given.

(Section 3(5)(b), 5(4) and 9(5) of the 1972 Act require a document to be authenticated by the court.)

Textual Amendments

F1 Words in rule 34.15 substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **112** (with rule 137); S.I. 2014/954, **art. 2**

Confirmation of a provisional order made in a reciprocating country

34.16.—(1) This rule applies to proceedings for the confirmation of a provisional order made in a reciprocating country [^{F2}, including proceedings in the family court for the confirmation of a provisional order made in a reciprocating country varying a maintenance order to which section 5(5) or 9(6) of the 1972 Act applies].

- (2) Paragraph (3) applies on receipt by the court of—
- (a) a certified copy of the order; and
 - (b) the documents required by the 1972 Act to accompany the order.
- (3) On receipt of the documents referred to in paragraph (2)—
- (a) the court must fix the date, time and place for a hearing or a directions appointment; and

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the The Family Procedure Rules 2010, Cross Heading: SECTION 1. (See end of Document for details)

- (b) the court officer must send to the payer notice of the date, time and place fixed together with a copy of the order and accompanying documents.
- (4) The date fixed for the hearing must be not less than 21 days beginning with the date on which the court officer sent the documents to the payer in accordance with paragraph (2).
- (5) The court officer will send to the relevant court in the reciprocating country a certified copy of any order confirming or refusing to confirm the provisional order.
- ^{F3}(6)

(Section 5(5) and 7 of the 1972 Act provide for proceedings for the confirmation of a provisional order.) ^{F4} ...

Textual Amendments

F2 Words in rule 34.16(1) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 113\(a\)](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

F3 Rule 34.16(6) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 113\(b\)](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

F4 Words in rule 34.16 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 113\(c\)](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

Consideration of revocation of a provisional order made by [^{F5}the family court]

34.17.—(1) This rule applies where—

- (a) [^{F6}the family court] has made a provisional order by virtue of section 3 of the 1972 Act;
- (b) before the order is confirmed, evidence is taken by the court or received by it as set out in section 5(9) of the 1972 Act; and
- (c) on consideration of the evidence the court considers that the order ought not to have been made.

(Section 5(9) of the 1972 Act provides that [^{F7}the family court] may revoke a provisional order made by it, before the order has been confirmed in a reciprocating country, if it receives new evidence.)

(2) The court officer must serve on the person who applied for the provisional order (“the applicant”) a notice which must—

- (a) set out the evidence taken or received by the court;
- (b) inform the applicant that the court considers that the order ought not to have been made; and
- (c) inform the applicant that the applicant may—
 - (i) make representations in relation to that evidence either orally or in writing; and
 - (ii) adduce further evidence.

(3) If an applicant wishes to adduce further evidence—

- (a) the applicant must notify the court officer at the court which made the order;
- (b) the court will fix a date for the hearing of the evidence; and
- (c) the court officer will notify the applicant in writing of the date fixed.

Textual Amendments

- F5** Words in rule 34.17 heading substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 114](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)
- F6** Words in rule 34.17(1)(a) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 114](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)
- F7** Words in rule 34.17 substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 114](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Notification of variation or revocation of a maintenance order by the High Court or [F8the family court]

34.18.—(1) This rule applies where—

- (a) a maintenance order has been sent to a reciprocating country in pursuance of section 2 of the 1972 Act; and
- (b) the court makes an order, not being a provisional order, varying or revoking that order.

(2) The court officer must send a certified copy of the order of variation or revocation to the relevant court in the reciprocating country.

(Rule 34.22 provides for the transmission of documents to a court in a reciprocating country.)

Textual Amendments

- F8** Words in rule 34.18 heading substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 115](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Notification of confirmation [F9, variation] or revocation of a maintenance order by [F10the family court]

34.19.—(1) This rule applies where [F11the family court] makes an order—

- (a) not being a provisional order, revoking [F12or varying] a maintenance order to which section 5 of the 1972 Act ^{M1} applies;
- (b) under section 9 of the 1972 Act, revoking [F13or varying] a registered order; or
- (c) under section 7(2) of the 1972 Act ^{M2}, confirming an order to which section 7 of that Act applies.

(2) The court officer must send written notice of the making, [F14variation,] revocation or confirmation of the order, as appropriate, to the relevant court in the reciprocating country.

^{F15}(3)

(Section 5 of the 1972 Act applies to a provisional order made by [F16the family court] in accordance with section 3 of that Act which has been confirmed by a court in a reciprocating country.) ^{F17} ...

Textual Amendments

- F9** Word in [rule 34.19](#) heading inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 116\(a\)\(i\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the The Family Procedure Rules 2010, Cross Heading: SECTION 1. (See end of Document for details)

- F10** Words in rule 34.19 heading substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(a)(ii)** (with rule 137); S.I. 2014/954, art. 2
- F11** Words in rule 34.19(1) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(b)(i)** (with rule 137); S.I. 2014/954, art. 2
- F12** Words in rule 34.19(1)(a) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(b)(ii)** (with rule 137); S.I. 2014/954, art. 2
- F13** Words in rule 34.19(1)(b) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(b)(ii)** (with rule 137); S.I. 2014/954, art. 2
- F14** Word in rule 34.19(2) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(c)** (with rule 137); S.I. 2014/954, art. 2
- F15** Rule 34.19(3) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(d)** (with rule 137); S.I. 2014/954, art. 2
- F16** Words in rule 34.19 substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(e)(i)** (with rule 137); S.I. 2014/954, art. 2
- F17** Words in rule 34.19 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **116(e)(ii)** (with rule 137); S.I. 2014/954, art. 2

Marginal Citations

- M1** [Section 5](#) was amended by section 1 (2) of and paragraph 7 of Schedule 1 to the Maintenance Orders (Reciprocal Enforcement) Act 1992 and article 185(1) of and paragraph 67 of Schedule 9 to the [Children \(Northern Ireland\) Order 1995 \(S.I. 1995/755\)](#) and section 54(a) and (b) of the Domestic Proceedings and Magistrates' Courts Act 1978.
- M2** [Section 7\(2\)](#) was amended by section 1(2) of and paragraphs 8(2) to (5) of Schedule 1 to the Maintenance Orders (Reciprocal Enforcement) Act 1992.

Taking of evidence for court in reciprocating country

34.20.—(1) This rule applies where a request is made by or on behalf of a court in a reciprocating country for the taking of evidence for the purpose of proceedings relating to a maintenance order to which Part 1 of the 1972 Act applies. (Section 14 of the 1972 ^{M3} Act makes provision for the taking of evidence needed for the purpose of certain proceedings.)

- (2) The High Court has power to take the evidence where—
- the request for evidence relates to a maintenance order made by a superior court in the United Kingdom; and
 - the witness resides in England and Wales.

[^{F18}(3) The family court has power to take evidence where—

- the request for evidence relates to a maintenance order—
 - made by the family court; or
 - registered in the family court; or
- the Lord Chancellor sends to the family court a request to take evidence.

(Practice Direction 34E makes further provision on this matter)]

- (6) The evidence is to be taken in accordance with Part 22.

Textual Amendments

- F18** Rule 34.20(3) substituted for rule 34.20(3)-(5) (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **117** (with rule 137); S.I. 2014/954, art. 2

Marginal Citations

- M3** Section 14 was amended by article 14(1) of and paragraph 22 of Schedule 5 to the [Northern Ireland \(Modification of Enactments – No 1\) Order 1973 \(S.I. 1973/2163\)](#) and section 154 of and paragraph 105 of Schedule 7 to the Magistrates' Courts Act 1980 and article 170(2) of and paragraph 21 of Schedule 6 to the Magistrates' Courts (Northern Ireland) Order 1981.

Request for the taking of evidence by a court in a reciprocating country

34.21.—(1) This rule applies where a request is made by [^{F19}the family court] for the taking of evidence in a reciprocating country in accordance with section 14(5) of the 1972 Act.

(2) The request must be made in writing to the court in the reciprocating country.

(Rule 34.22 provides for the transmission of documents to a court in a reciprocating country.)

Textual Amendments

- F19** Words in rule 34.21(1) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 118](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

Transmission of documents

34.22.—(1) This rule applies to any document, including a notice or request, which is required to be sent to a court in a reciprocating country by—

- (a) Part 1 of the 1972 Act; or
- (b) Section 1 of Chapter 2 of this Part of these rules.

(2) The document must be sent to the Lord Chancellor for transmission to the court in the reciprocating country.

Method of payment under registered orders

34.23.—(1) Where an order is registered in [^{F20}the family court] in accordance with section 6(3) of the 1972 Act, the court must order that the payment of sums due under the order be made—

- (a) to the ^{F21}... registering court; and
- (b) at such time and place as the court officer directs.

(Section 6(3) of the 1972 Act makes provision for the registration of maintenance orders made in a reciprocating country.)

(2) Where the court orders payments to be made [^{F22}to the court], whether in accordance with paragraph (1) or otherwise, the court officer must send the payments—

- (a) by post to either—
 - (i) the court which made the order; or
 - (ii) such other person or authority as that court, or the Lord Chancellor, directs; or
- (b) if the court which made the order is a country or territory specified in the Practice Direction 34A—
 - (i) to the Crown Agents for Overseas Governments and Administrations for transmission to the person to whom they are due; or
 - (ii) as the Lord Chancellor directs.

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the The Family Procedure Rules 2010, Cross Heading: SECTION 1. (See end of Document for details)

(Practice Direction 34A contains further provisions relating to the payment of sums due under registered orders.)

Textual Amendments

- F20** Words in rule 34.23(1) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 119\(a\)\(i\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)
- F21** Words in rule 34.23(1)(a) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 119\(a\)\(ii\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)
- F22** Words in rule 34.23(2) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 119\(b\)](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Enforcement of payments under registered orders

34.24.—(1) This rule applies where a court has ordered periodical payments under a registered maintenance order to be made to the court ^{F23}...

(2) The court officer must take reasonable steps to notify the payee of the means of enforcement available.

(3) Paragraph (4) applies where periodical payments due under a registered order are in arrears.

(4) The court officer, on that officer's own initiative—

(a) may; or

(b) if the sums due are more than 4 weeks in arrears, must,

proceed in that officer's own name for the recovery of the sums due unless of the view that it is unreasonable to do so.

Textual Amendments

- F23** Word in rule 34.24(1) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 120](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Notification of registration and cancellation

34.25.—(1) The court officer must send written notice to the Lord Chancellor of the due registration of orders registered in accordance with section 6(3), 7(5), or 10(4) of the 1972 Act.

(2) The court officer must, when registering an order in accordance with section 6(3), 7(5), 9(10), 10(4) or (5) or 23(3) of the 1972 Act ^{M4}, send written notice to the payer stating—

(a) that the order has been registered;

(b) that payments under the order should be made to the court officer; and

(c) the hours during which and the place at which the payments should be made.

(3) The court officer must, when cancelling the registration of an order in accordance with section 10(1) of the 1972 Act, send written notice of the cancellation to the payer.

Marginal Citations

- M4** [Section 23\(3\)](#) was amended by section 90(1) of and paragraphs 71 and 75(1) and (2) of Schedule 13 to the Access to Justice Act 1999.

Status:

Point in time view as at 22/04/2014.

Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure Rules 2010,
Cross Heading: SECTION 1.