

STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 34 **E+W**

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS

CHAPTER 2 **E+W**

ENFORCEMENT OF MAINTENANCE ORDERS UNDER PART 1 OF THE 1972 ACT

Interpretation **E+W**

34.12.—(1) In this Chapter—

- (a) “reciprocating country” means a country to which Part 1 of the 1972 Act extends; and
- (b) ‘relevant court in the reciprocating country’ means, as the case may be—
 - (i) the court which made the order which has been sent to England and Wales for confirmation;
 - (ii) the court which made the order which has been registered in a court in England and Wales;
 - (iii) the court to which an order made in England and Wales has been sent for registration; or
 - (iv) the court to which a provisional order made in England and Wales has been sent for confirmation.

(2) In this Chapter, an expression defined in the 1972 Act has the meaning given to it in that Act.

(3) In this Chapter, “Hague Convention Countries” means the countries listed in Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order [^{F1}1993].

Textual Amendments

F1 Word in rule 34.12(3) substituted (18.6.2011) by [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), rules 1, **19**

Scope **E+W**

34.13.—(1) Section 1 of this Chapter contains rules relating to the reciprocal enforcement of maintenance orders under Part 1 of the 1972 Act.

(2) Section 2 of this Chapter modifies the rules contained in Section 1 of this Chapter in their application to—

- ^{F2}(a)
- (b) the Hague Convention Countries; and

(c) the United States of America.

(Practice Direction 34A sets out in full the rules for ^{F3}... the Hague Convention Countries and the United States of America as modified by Section 2 of this Chapter.)

[^{F4}(3) Section 3 of this Chapter contains a rule in relation to notification of proceedings in a Hague Convention Country or the United States of America.

(4) Section 4 of this Chapter contains rules in relation to proceedings under Part 2 of the 1972 Act (reciprocal enforcement of claims for the recovery of maintenance).]

Textual Amendments

- F2** Rule 34.13(2)(a) omitted (18.6.2011) by virtue of [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), [rules 1, 20\(a\)](#)
- F3** Words in rule 34.13 omitted (18.6.2011) by virtue of [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), [rules 1, 20\(b\)](#)
- F4** Rule 34.13(3)(4) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 111](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

SECTION 1

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

Application for transmission of maintenance order to reciprocating country **E+W**

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 **E+W**

34.15. A document setting out or summarising evidence is authenticated by a court in England and Wales by a certificate signed [^{F5}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

- F5** 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 **E+W**

34.16.—(1) This rule applies to proceedings for the confirmation of a provisional order made in a reciprocating country [^{F6}, 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
 - (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.

^{F7}(6)

(Section 5(5) and 7 of the 1972 Act provide for proceedings for the confirmation of a provisional order.) ^{F8} ...

Textual Amendments	
F6	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
F7	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
F8	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 [^{F9}the family court] E+W

34.17.—(1) This rule applies where—

- (a) [^{F10}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 [^{F11}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

- F9** 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](#)
- F10** 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](#)
- F11** 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 [F12the family court] E+W

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

- F12** 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 [F13, variation] or revocation of a maintenance order by [F14the family court] E+W

34.19.—(1) This rule applies where [F15the family court] makes an order—

- (a) not being a provisional order, revoking [F16or varying] a maintenance order to which section 5 of the 1972 Act M1 applies;
- (b) under section 9 of the 1972 Act, revoking [F17or 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, [F18variation,] revocation or confirmation of the order, as appropriate, to the relevant court in the reciprocating country.

F19(3)

(Section 5 of the 1972 Act applies to a provisional order made by [F20the family court] in accordance with section 3 of that Act which has been confirmed by a court in a reciprocating country.) F21 ...

Textual Amendments

- F13** 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](#)

- F14** 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
- F15** 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
- F16** 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
- F17** 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
- F18** 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
- F19** 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
- F20** 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
- F21** 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 **E+W**

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.

[^{F22}(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

- F22** 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 **E+W**

34.21.—(1) This rule applies where a request is made by [^{F23}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

- F23** 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 **E+W**

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 **E+W**

34.23.—(1) Where an order is registered in [^{F24}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 ^{F25}... 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 [^{F26}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.

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

Textual Amendments

- F24** 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](#)
- F25** 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](#)
- F26** 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 **E+W**

34.24.—(1) This rule applies where a court has ordered periodical payments under a registered maintenance order to be made to the court ^{F27}...

(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

- F27** 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 **E+W**

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.

SECTION 2

Modification of rules in Section 1 of this Chapter

SUB-SECTION 1 *Republic of Ireland*

Application of Section 1 of this Chapter to the Republic of Ireland **E+W**

^{F28}**34.26.**

Textual Amendments

F28 Pt. 34 Ch. 2 Section 2(1) omitted (18.6.2011) by virtue of [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), [rules 1, 22](#) (with transitional provisions in [rule 38\(2\)](#)); and rule 34.26, in so far as it is still in force, amended (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 121](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

SUB-SECTION 2 *Hague Convention Countries*

Application of Section 1 of this Chapter to the Hague Convention Countries **E+W**

34.27.—(1) In relation to the Hague Convention Countries, Section 1 of this Chapter has effect as modified by this rule.

(2) A reference in this rule, and in any rule which has effect in relation to the Hague Convention Countries by virtue of this rule to—

- (a) the 1972 Act is a reference to the 1972 Act as modified by Schedule 2 to the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993 ^{M5}; and
- (b) a section under the 1972 Act is a reference to the section so numbered in the 1972 Act as so modified.

(3) A reference to a reciprocating country in rule 34.12(1) and Section 1 of this Chapter is a reference to a Hague Convention Country.

(4) Rules 34.15 (certification of evidence given on provisional orders), 34.16 (confirmation of provisional orders), 34.19 (notification of confirmation [^{F29}, variation] or revocation of a maintenance order by [^{F30}the family court]) and 34.21 (request for the taking of evidence by a court in a reciprocating country) do not apply.

(5) For rule 34.17 (consideration of revocation of a provisional order made by [^{F31}the family court]) substitute—

[^{F32c}Consideration of variation or revocation of a maintenance order made by the family court]

34.17.—(1) This rule applies where—

- (a) an application has been made to [^{F33}the family court by a payee for the variation or revocation] of an order to which section 5 of the 1972 Act applies; and
- (b) the payer resides in a Hague Convention Country.

(2) The court officer must serve on the payee, by post, a copy of any representations or evidence adduced by or on behalf of the payer.

(^{F34} ...).”

(6) For rule 34.18 (notification of variation or revocation of a maintenance order by the High Court or [^{F35}the family court]) substitute—

**“Notification of variation or revocation of a maintenance order by the High Court or
[^{F36}the family court]**

34.18.—(1) This rule applies if the High Court or [^{F37}the family court] makes an order varying or revoking a maintenance order to which section 5 of the 1972 Act applies.

(2) If the time for appealing has expired without an appeal having been entered, the court officer will send to the Lord Chancellor—

- (a) the documents required by section 5(8) of the 1972 Act; and
- (b) a certificate signed by [^{F38}a judge] stating that the order of variation or revocation is enforceable and no longer subject to the ordinary forms of review.

(3) A party who enters an appeal against the order of variation or revocation must, at the same time, give written notice to the court officer.”.

(7) For rule 34.23(2) (method of payment under registered orders) substitute—

“(2) Where the court orders payment to be [^{F39}made to the court], the court officer must send the payments by post to the payee under the order.”.

(8) For rule 34.25 (notification of registration and cancellation) substitute—

“Notification of registration and cancellation

34.25. The court officer must send written notice to—

- (a) the Lord Chancellor, on the due registration of an order under section 10(4) of the 1972 Act; and
- (b) the payer under the order, on—
 - (i) the registration of an order under section 10(4) of the 1972 Act; or
 - (ii) the cancellation of the registration of an order under section 10(1) of the 1972 Act.”.

(9) After rule 34.25 insert—

“General provisions as to notices

34.25A.—(1) A notice to a payer of the registration of an order in [^{F40}the family court] in accordance with section 6(3) of the 1972 Act must be in the form referred to in a practice direction. (Section 6(8) of the 1972 Act requires notice of registration to be given to the payer.)

(2) If the court sets aside the registration of a maintenance order following an appeal under section 6(9) of the 1972 Act, the court officer must send written notice of the decision to the Lord Chancellor.

(3) A notice to a payee that the court officer has refused to register an order must be in the form referred to in a practice direction. (Section 6(11) of the 1972 Act requires notice of refusal of registration to be given to the payee.)

(4) Where, under any provision of Part 1 of the 1972 Act, a court officer serves a notice on a payer who resides in a Hague Convention Country, the court officer must send to the Lord Chancellor a certificate of service.”.

Textual Amendments

F29 Word in rule 34.27(4) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **122(a)(i)** (with rule 137); S.I. 2014/954, **art. 2**

- F30** Words in rule 34.27(4) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1 **122(a)(ii)** (with rule 137); S.I. 2014/954, **art. 2**
- F31** Words in rule 34.27(5) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(b)(i)** (with rule 137); S.I. 2014/954, **art. 2**
- F32** Words in rule 34.27(5) heading substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(b)(ii)(aa)** (with rule 137); S.I. 2014/954, **art. 2**
- F33** Words in rule 34.27(5) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(b)(ii)(bb)** (with rule 137); S.I. 2014/954, **art. 2**
- F34** Words in rule 34.27(5) omitted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(b)(ii)(cc)** (with rule 137); S.I. 2014/954, **art. 2**
- F35** Words in rule 34.27(6) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(c)(i)** (with rule 137); S.I. 2014/954, **art. 2**
- F36** Words in rule 34.27(6) heading substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(c)(ii)(aa)** (with rule 137); S.I. 2014/954, **art. 2**
- F37** Words in rule 34.27(6) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(c)(ii)(aa)** (with rule 137); S.I. 2014/954, **art. 2**
- F38** Words in rule 34.27(6) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(c)(ii)(bb)** (with rule 137); S.I. 2014/954, **art. 2**
- F39** Words in rule 34.27(7) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(d)** (with rule 137); S.I. 2014/954, **art. 2**
- F40** Words in rule 34.27(9) substituted (22.4.2014) by The Family Procedure (Amendment No.3) Rules 2013 (S.I. 2013/3204), rules 1, **122(e)** (with rule 137); S.I. 2014/954, **art. 2**

Marginal Citations

M5 S.I. 1993/593.

SUB-SECTION 3 *United States of America*

Application of Section 1 of this Chapter to the United States of America **E+W**

34.28.—(1) In relation to the United States of America, Section 1 of this Chapter has effect as modified by this rule.

(2) A reference in this rule and in any rule which has effect in relation to the United States of America by virtue of this rule to—

- (a) the 1972 Act is a reference to the 1972 Act as modified by Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 2007^{M6}; and
- (b) a section under the 1972 Act is a reference to the section so numbered in the 1972 Act as so modified.

(3) A reference to a reciprocating country in rule 34.12(1) and Section 1 of this Chapter is a reference to the United States of America.

(4) Rules 34.15 (certification of evidence given on provisional orders), 34.16 (confirmation of provisional orders), 34.19 (notification of confirmation [^{F41}, variation] or revocation of a maintenance order made by [^{F42}the family court]) and 34.21 (request for the taking of evidence in a reciprocating country) do not apply.

(5) For rule 34.17 (consideration of revocation of a provisional order made by [^{F43}the family court]) substitute—

[^{F44c}Consideration of variation or revocation of a maintenance order made by the family court]

34.17.—(1) This rule applies where—

- (a) an application has been made to [^{F45}the family court by a payee for the variation or revocation] of an order to which section 5 of the 1972 Act applies; and
 - (b) the payer resides in the United States of America.
- (2) The court officer must serve on the payee by post a copy of any representations or evidence adduced by or on behalf of the payer.
(^{F46} ...).”
- (6) For rule 34.18 (notification of variation or revocation), substitute—

“Notification of variation or revocation

- 34.18.** If the High Court or [^{F47}the family court] makes an order varying or revoking a maintenance order to which section 5 of the 1972 Act applies, the court officer will send to the Lord Chancellor the documents required by section 5(7) of that Act.”
- (7) For 34.23(2)(method of payment under registered orders) substitute—
- “(2) Where the court orders payment to be [^{F48}made to the court], the court officer must send the payments by post to the payee under the order.”
- (8) For rule 34.25 (notification of registration and cancellation) substitute—

“Notification of registration and cancellation

- 34.25.** The court officer must send written notice to—
- (a) the Lord Chancellor, on the due registration of an order under section 10(4) of the 1972 Act; or
 - (b) the payer under the order, on—
 - (i) the registration of an order under section 10(4) of the 1972 Act; or
 - (ii) the cancellation of the registration of an order under section 10(1) of that Act.”

Textual Amendments

- F41** Word in rule 34.28(4) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(a)(i)** (with rule 137); S.I. 2014/954, art. 2
- F42** Words in rule 34.28(4) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(a)(ii)** (with rule 137); S.I. 2014/954, art. 2
- F43** Words in rule 34.28(5) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(b)(i)** (with rule 137); S.I. 2014/954, art. 2
- F44** Words in rule 34.28(5) heading substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(b)(ii)(aa)** (with rule 137); S.I. 2014/954, art. 2
- F45** Words in rule 34.28(5) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(b)(ii)(bb)** (with rule 137); S.I. 2014/954, art. 2
- F46** Words in rule 34.28(5) omitted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(b)(ii)(cc)** (with rule 137); S.I. 2014/954, art. 2
- F47** Words in rule 34.28(6) inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(c)** (with rule 137); S.I. 2014/954, art. 2
- F48** Words in rule 34.28(7) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **123(d)** (with rule 137); S.I. 2014/954, art. 2

Marginal Citations

- M6** [S.I. 2007/2006](#).

f^{F49}SECTION 3

Proceedings in a Hague Convention Country or in the United States of America

Textual Amendments

F49 Pt. 34 Ch. 2 Section 3 inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013](#) (S.I. 2013/3204), [rules 1, 124](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Notification of proceedings in a Hague Convention Country or in the United States of America **E+W**

34.28ZA. Practice Direction 34E applies where the court officer receives from the Lord Chancellor notice of the institution of proceedings, including notice of the substance of a claim, in a Hague Convention Country or in the United States of America in relation to the making, variation or revocation of a maintenance order.]

f^{F50}SECTION 4

Reciprocal enforcement of claims for the recovery of maintenance

Textual Amendments

F50 Pt. 34 Ch. 2 Section 4 inserted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013](#) (S.I. 2013/3204), [rules 1, 124](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Interpretation **E+W**

34.28ZB. In this Section—

“convention country” means a country or territory specified in an Order in Council made under section 25 of the 1972 Act; and
an expression defined in the 1972 Act has the meaning given to it in that Act.

Dismissal of an application under section 27A of the 1972 Act or application for variation **E+W**

34.28ZC.—(1) Where the family court dismisses an application under—

- (a) section 27A of the 1972 Act (application for recovery of maintenance); or
- (b) an application by a person in a convention country for the variation of a registered order,

the court officer will send a written notice of the court’s decision to the Lord Chancellor.

(2) The notice will include a statement of the court’s reasons for its decision.

Application for recovery of maintenance in England and Wales: section 27B of the 1972 Act **E+W**

34.28ZD.—(1) Where the family court receives an application for the recovery of maintenance sent from the Lord Chancellor under section 27B of the 1972 Act, the court will—

- (a) fix the date, time and place for a hearing or directions appointment, allowing sufficient time for service under this rule to be effected at least 21 days before the date fixed; and

(b) serve copies of the application and any accompanying documents, together with a notice stating the date, time and place so fixed, on the respondent.

(2) Within 14 days of service under this rule, the respondent must file an answer to the application in the form referred to in Practice Direction 5A.

Application under section 26(1) or (2) of the 1972 Act and certificate under section 26(3A) of the 1972 Act: registration **E+W**

34.28ZE. Where—

- (a) an application under section 26(1) or (2) of the 1972 Act; or
- (b) a certificate under section 26(3A) of the 1972 Act,

is required to be registered in the family court by virtue of the Recovery of Maintenance (United States of America) Order 2007, the court officer will enter a minute or memorandum of the application or certificate in the register.

Registration of an order: sections 27C(7) and 32(3) and (6) of the 1972 Act **E+W**

34.28ZF.—(1) Where the family court makes an order which is required under section 27C(7) of the 1972 Act to be registered, the court officer will enter a minute or memorandum of the order in the register.

(2) Where a court officer receives under section 32(3) of the 1972 Act a certified copy of an order, the court officer will register the order by means of a minute or memorandum in the register.

(3) Every minute or memorandum entered under paragraph (1) or (2) will specify the section and subsection of the 1972 Act under which the order in question is registered.

(4) Where a court officer registers an order as required by section 27C(7) or 32(3) of the 1972 Act, the court officer will send written notice to the Lord Chancellor that the order has been registered.

(5) Where a court officer is required by section 32(6) of the 1972 Act to give notice of the registration of an order, the court officer will do this by sending written notice to the officer specified in that subsection that the order has been registered.

Payments made to the family court **E+W**

34.28ZG.—(1) Where payments are made to the family court by virtue of section 27C or 34A of the 1972 Act, the court officer will send those payments by post to such person or authority as the Lord Chancellor may from time to time direct.

(2) Subject to paragraph (3), if it appears to a court officer that any sums payable under a registered order are in arrears, the officer may proceed in the officer's own name for the recovery of those sums.

(3) Where it appears to the officer that sums payable under the order are in arrears to an amount equal—

- (a) in the case of payments to be made monthly or less frequently, to twice the sum payable periodically; or
- (b) in any other case, to four times the sum payable periodically,

the officer will proceed in the officer's own name for the recovery of those sums, unless it appears to the officer that it is unreasonable in the circumstances to do so.

Method of payment **E+W**

34.28ZH.—(1) This rule applies where the family court exercises its duties or powers under section 27C or 34A of the 1972 Act.

- (2) Where the court orders that payments under the order are to be made by a particular means—
- (a) the court will record on the copy of the order the means of payment that the court has ordered; and
 - (b) the court officer will, as soon as practicable, notify, in writing, the person liable to make the payments under the order how payments are to be made.
- (3) Paragraph (4) applies where the court orders that payments be made to the court by a method of payment falling within section 1(5) of the Maintenance Enforcement Act 1991.
- (4) The court officer will notify the person liable to make the payments under the order of sufficient details of the account into which the payments should be made to enable payments to be made into that account.

Application under section 34 of the 1972 Act: variation or revocation **E+W**

- 34.28ZI.**—(1) This rule applies in relation to an application under section 34 of the 1972 Act for the variation or revocation of a registered order.
- (2) An application which is made directly to the registering court must be filed in the form referred to in Practice Direction 5A.
- (3) Where the court receives an application, either filed in accordance with paragraph (2) or sent from the Lord Chancellor under section 34(3) of the 1972 Act—
- (a) the court will set the date, time and place for a hearing or directions appointment; and
 - (b) the court officer will notify the applicant of the date, time and place.

Application under section 35 of the 1972 Act: variation or revocation **E+W**

- 34.28ZJ.**—(1) This rule applies in relation to an application under section 35 of the 1972 Act for the variation or revocation of a registered order.
- (2) Notice under section 35(3)(b) of the 1972 Act of the time and place appointed for the hearing of the application will be in the form specified in Practice Direction 34D.
- (3) The court officer will send the notice by post to the Lord Chancellor for onward transmission to the appropriate authority in the convention country in which the respondent is residing.
- (4) The time appointed for the hearing of the application will not be less than six weeks later than the date on which the notice is sent to the Lord Chancellor.

Request under section 38(1) of the 1972 Act to the family court **E+W**

- 34.28ZK.**—(1) This rule applies where the family court receives from the Lord Chancellor a request under section 38(1) of the 1972 Act (taking evidence at the request of a court in a convention country) to take the evidence of any person.
- (2) Subject to paragraph (3)—
- (a) the evidence will be taken in the same manner as if the person concerned were a witness in family proceedings;
 - (b) any oral evidence so taken will be put into writing and read to the person who gave it, who must sign the document; and
 - (c) the judge who takes any such evidence of any person will certify at the foot of the document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by that judge.

(3) Where the request referred to in section 38(2) of the 1972 Act includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken will, so far as circumstances permit, comply with that request.

Request under section 38(1) of the 1972 Act to the officer of the court **E+W**

34.28ZL.—(1) This rule applies where an officer of the court receives from the Lord Chancellor a request under section 38(1) of the 1972 Act to take the evidence of any person.

(2) Subject to paragraph (3)—

- (a) the person whose evidence is to be taken will be examined on oath by or before a [F51]justices' legal adviser] or any other court officer determined by the Lord Chancellor;
- (b) any oral evidence will be put into writing and read to the person who gave it, who must sign the document; and
- (c) the [F51]justices' legal adviser] or other officer will certify at the foot of the document setting out the evidence of, or produced by, that person, that such evidence was taken, or document received in evidence, as the case may be, by that [F51]justices' legal adviser] or other officer.

(3) Where the request referred to in section 38(1) of the 1972 Act includes a request that the evidence be taken in a particular manner, the [F51]justices' legal adviser] or other officer by whom the evidence is taken will, so far as circumstances permit, comply with that request.

(4) For the purposes of this rule, the [F51]justices' legal adviser] or other officer has the same power to administer oaths as a single justice of the peace.

Textual Amendments

F51 Words in [rule 34.28ZL](#) substituted (6.4.2020) by [The Family Procedure \(Amendment\) Rules 2020 \(S.I. 2020/135\)](#), [rules 1, 29](#)

Onward transmission of documents **E+W**

34.28ZM. Any document mentioned in rule 34.28ZK(2)(c) or rule 34.28ZL(2)(c) will be sent to the Lord Chancellor for onward transmission to the appropriate authority in the convention country in which the request referred to in section 38(1) of the 1972 Act originated.]

Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure Rules 2010, CHAPTER 2.