



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART I

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN UNITED KINGDOM OR RECIPROCATING COUNTRY

Orders made by courts in the United Kingdom

5 Variation and revocation of maintenance order made in United Kingdom.

- (1) This section applies to a maintenance order a certified copy of which has been sent to a reciprocating country in pursuance of section 2 of this Act and to a maintenance order made by virtue of section 3 or 4 thereof which has been confirmed by a competent court in such a country.
- (2) A court in the United Kingdom having power to vary a maintenance order to which this section applies shall have power to vary that order by a provisional order.
- (3) Where the court hearing an application for the variation of a maintenance order to which this section applies proposes to vary it by increasing the rate of the payments under the order then, unless either—
 - (a) both the payer and the payee under the order appear in the proceedings, or
 - (b) the applicant appears and the appropriate process has been duly served on the other party,the order varying the order shall be a provisional order.

^{F1}(3A)

[^{F2}(3B) Where paragraph (1) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 applies in relation to a maintenance order to which this section applies, that paragraph shall have effect as if for the words "by order on complaint," there were substituted "on an application being made, by order".]

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 5. (See end of Document for details)

- (4) Where a court in the United Kingdom makes a provisional order varying a maintenance order to which this section applies, the prescribed officer of the court shall send in the prescribed manner to the court in a reciprocating country having power to confirm the provisional order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.
- (5) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying or revoking a maintenance order to which this section applies, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the court in the United Kingdom which made the maintenance order, that court may confirm or refuse to confirm the provisional order and, if that order is an order varying the maintenance order, confirm it either without alteration or with such alterations as it thinks reasonable.
- (6) For the purpose of determining whether a provisional order should be confirmed under subsection (5) above, the court shall proceed as if an application for the variation or revocation, as the case may be, of the maintenance order in question had been made to it.
- (7) Where a maintenance order to which this section applies has been varied by an order (including a provisional order which has been confirmed) made by a court in the United Kingdom or by a competent court in a reciprocating country, the maintenance order shall, as from [^{F3}the date on which under the provisions of the order the variation is to take effect], have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.
- (8) Where a maintenance order to which this section applies has been revoked by an order made by a court in the United Kingdom or by a competent court in a reciprocating country, including a provisional order made by the last-mentioned court which has been confirmed by a court in the United Kingdom, the maintenance order shall, as from [^{F4}the date on which under the provisions of the order the revocation is to take effect], be deemed to have ceased to have effect except as respects any arrears due under the maintenance order at that date.
- (9) Where before a maintenance order made by virtue of section 3 or 4 of this Act is confirmed a document, duly authenticated, setting out or summarising evidence taken in a reciprocating country for the purpose of proceedings relating to the confirmation of the order is received by the court in the United Kingdom which made the order, or that court, in compliance with a request made to it by a court in such a country, takes the evidence of a person residing in the United Kingdom for the purpose of such proceedings, the court in the United Kingdom which made the order shall consider that evidence and if, having done so, it appears to it that the order ought not to have been made—
 - (a) it shall, in such manner as may be prescribed, give to the person on whose application the maintenance order was made an opportunity to consider that evidence, to make representations with respect to it and to adduce further evidence; and
 - (b) after considering all the evidence and any representations made by that person, it may revoke the maintenance order.
- (10) In the application of this section to Scotland—

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 5. (See end of Document for details)

- (a) for subsection (3) there shall be substituted the following subsections:—
- “(3) Where the payer under a maintenance order to which this section applies is for the time being residing in a reciprocating country, the court shall not, on an application made by the payee under the order for the variation of the order, vary the order by increasing the rate of the payments thereunder otherwise than by a provisional order.
- (3A) It shall not be necessary for the payee under a maintenance order to which this section applies to intimate to any person the making by him of an application for a provisional order varying the said maintenance order by increasing the rate of the payments thereunder;”
- (b) for subsection (6) there shall be substituted the following subsection:—
- “(6) Where a certified copy of a provisional order varying or revoking a maintenance order to which this section applies is received by a court as mentioned in subsection (5) above, the prescribed officer of that court shall intimate to the payee under the maintenance order, in the prescribed manner, that the provisional order has been received as aforesaid and that, unless the payee enters appearance within the prescribed period, the court will confirm the provisional order under this section.”

Textual Amendments

- F1** S. 5(3A) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 32](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F2** S. 5(3B) inserted (N.I.) (4.11.1996) by [1995/755 \(N.I. 2\)](#), art. 185(1), Sch. 9 para. 67 (with Sch. 8 para. 1(1)); [S.R. 1996/297](#), art. 2(2)
- F3** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. 54(a), 89
- F4** Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), ss. 54(b), 89

Modifications etc. (not altering text)

- C1** Ss. 5, 12-15, 17, 18, 21 applied (28.5.2002) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2002 \(S.I. 2002/788\)](#), art. 4(2)(3)
- C2** S. 5 applied (19.6.2008) by [The Reciprocal Enforcement of Maintenance Orders \(Designation of Reciprocating Countries\) Order 2008 \(S.I. 2008/1202\)](#), arts. 1, 4(3)

Changes to legislation:

There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 5.