
Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1992, Part I. (See end of Document for details)

SCHEDULES

SCHEDULE 1

AMENDMENT OF THE 1920 AND 1972 ACTS

PART I

AMENDMENT OF THE MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT 1920 (C. 33)

- 1 (1) Section 3 (power to make provisional orders of maintenance against persons resident in certain Commonwealth countries) shall be amended as follows.
- (2) In subsection (1), for the words “a summons had been duly served on that person and he” there shall be substituted “that person had been resident in England and Wales, had received reasonable notice of the date of the hearing of the application and”.
- (3) In subsection (3), for the words “duly served with a summons” there shall be substituted “resident in England and Wales, had received reasonable notice of the date of the hearing”.
- (4) In subsection (4), for the word “rescind” there shall be substituted “revoke”.
- (5) In subsection (5), for the words “rescind” and “rescinding” there shall be substituted “revoke” and “revoking” respectively.
- (6) In subsection (6), for the words from “a summons” to the end there shall be substituted “the person against whom the order is sought to be made been resident in England and Wales and received reasonable notice of the date of the hearing of the application”.
- (7) After subsection (6), there shall be added—
- “(7) Where subsection (1) of section 60 of the Magistrates’ Courts Act 1980 (revocation, variation etc. of orders for periodical payment) applies in relation to an order made under this section which has been confirmed, that subsection shall have effect as if for the words “by order on complaint,” there were substituted “on an application being made, by order”.
- (8) In this section “revoke” includes discharge.”
- 2 (1) Section 4 (power of court of summary jurisdiction to confirm maintenance order made out of the United Kingdom) shall be amended as follows.
- (2) In subsection (1)—
- (a) for the words “summons be issued calling upon the person” there shall be substituted “notice be served on the person informing him that he may attend a hearing at the time and place specified in the notice”, and

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- (b) for the words “issue such a summons and cause it” there shall be substituted “ cause such a notice ”.
- (3) For subsection (2) there shall be substituted—
 - “(2) A notice required to be served under this section may be served by post.”
- (4) In subsection (3)—
 - (a) for the word “summons” there shall be substituted “ notice ”, and
 - (b) for the words from “raise any defence” to “no other defence” there shall be substituted “ oppose the confirmation of the order on any grounds on which he might have opposed the making of the order in the original proceedings had he been a party to them, but on no other grounds ”.
- (5) In subsection (4), for the word “summons” there shall be substituted “ notice ”.
- (6) In subsection (5)—
 - (a) for the words “against whom the summons was issued” there shall be substituted “ served with the notice ”, and
 - (b) for the words “any defence” there shall be substituted “ establishing any grounds on which he opposes the confirmation of the order ”.

^{F1}(7)

Textual Amendments

F1 Sch. 1 para. 2(7) repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#) Table; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

3 After section 4, there shall be inserted—

“4A Variation and revocation of maintenance orders.

- (1) This section applies to—
 - (a) any maintenance order made by virtue of section 3 of this Act which has been confirmed as mentioned in that section; and
 - (b) any maintenance order which has been confirmed under section 4 of this Act.
- (2) Where the respondent to an application for the variation or revocation of a maintenance order to which this section applies is residing in a part of Her Majesty’s dominions outside the United Kingdom to which this Act extends, a magistrates’ court in England and Wales shall have jurisdiction to hear the application (where it would not have such jurisdiction apart from this subsection) if that court would have had jurisdiction to hear it had the respondent been residing in England and Wales.
- (3) Where the defendant to a complaint for the variation or revocation of a maintenance order to which this section applies is residing in a part of Her Majesty’s dominions outside the United Kingdom to which this Act extends, a court of summary jurisdiction in Northern Ireland shall have jurisdiction to hear the complaint if that court would have had jurisdiction to hear it had the defendant been residing in Northern Ireland.

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- (4) Where—
- (a) the respondent to an application for the variation or revocation of a maintenance order to which this section applies does not appear at the time and place appointed for the hearing of the application by a magistrates' court in England and Wales, and
 - (b) the court is satisfied that the respondent is residing in a part of Her Majesty's dominions outside the United Kingdom to which this Act extends,

the court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

- (5) Subsection (4) shall apply to Northern Ireland with the following modifications—
- (a) for the word “respondent” (in each place where it occurs) there shall be substituted “defendant”,
 - (b) for the words “an application” and “the application” (in each place where they occur) there shall be substituted “a complaint” and “the complaint” respectively, and
 - (c) for the words “a magistrates' court in England and Wales” there shall be substituted “a court of summary jurisdiction in Northern Ireland”.

(6) In this section “revocation” includes discharge.”

- 4 The provisions of section 7 (application of the ^{M1}Magistrates' Courts Act 1980) shall become subsection (1) of that section and the following subsection shall be added after that subsection—

“(2) Without prejudice to the generality of the power to make rules under section 144 of the Magistrates' Courts Act 1980 (magistrates' courts rules), for the purpose of giving effect to this Act such rules may make, in relation to any proceedings brought under or by virtue of this Act, any provision which—

- (a) falls within subsection (2) of section 93 of the Children Act 1989, and
- (b) may be made in relation to relevant proceedings under that section.”

Marginal Citations

M1 1980 c. 43.

- 5 In section 11 (application to Ireland), after paragraph (c) there shall be inserted—

“(d) the amendments of section 3(1), (3) and (6) and section 4 made by the Maintenance Orders (Reciprocal Enforcement) Act 1992 shall be disregarded.”

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