



Maintenance Orders (Facilities for Enforcement) Act 1920

1920 CHAPTER 33 10 and 11 Geo 5

4 Power of court of summary jurisdiction to confirm maintenance order made out of the United Kingdom.

(1) Where a maintenance order has been made by a court in a part of His Majesty's dominions outside the United Kingdom to which this Act extends, and the order is provisional only and has no effect unless and until confirmed by^[F1] the family court or by] a court of summary jurisdiction in ^{F2}... Ireland, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed has been transmitted to the Secretary of State, and it appears to the Secretary of State that the person against whom the order was made is resident in England or Ireland, the Secretary of State may send the said documents ^[F3] to the family court if it appears to the Lord Chancellor that the person is resident in England and Wales or] to the prescribed officer of a court of summary jurisdiction^[F4] in Northern Ireland if it appears to the Lord Chancellor that the person is resident in Northern Ireland], with a requisition that a ^[F5]notice be served on the person informing him that he may attend a hearing at the time and place specified in the notice] to show cause why that order should not be confirmed, and upon receipt of such documents and requisition the court shall ^[F6]cause such a notice] to be served upon such person.

^[F7](2) A notice required to be served under this section may be served by post.]

(3) At the hearing it shall be open to the person on whom the ^[F8]notice] was served to ^[F9]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], and the certificate from the court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the ^[F10]notice] does not appear or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm

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the order either without modification or with such modifications as to the court after hearing the evidence may seem just.

- (5) If the person [F11served with the notice] appears at the hearing and satisfies the court that for the purpose of [F12establishing any grounds on which he opposes the confirmation of the order] it is necessary to remit the case to the court which made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.
- F13[(5A) Where court confirms a provisional order under this section, it at the same time exercise one of its powers under 49: subsection (5B).
- (5B) The powers of the court are—
- (a) the power to order that payments under the order be made directly to[F16]
 - (b) the power to order that payments under the order be made to the clerk of [F16], by such method of payment falling within section (standing order, etc.) as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- (5C) In deciding powers under subsection (5B) [F20it is to exercise], the court shall have regard to any representations made by the person liable to make payments under the order.
- (5D) (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) as it applies for the purposes of that section but as if for paragraph (a) there were substituted—
- “(a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920, and”]
- F22[(6) [F23Subject to subsection (6A),] where a provisional order has been confirmed under this section, it may be varied or revoked in like manner as if it had originally been made by the confirming court.
- (6A) [F24 Where the confirming court is a magistrates’ court, section 60 of the Magistrates’ Courts Act 1980 (revocation, variation etc. of orders for periodical payment) shall have effect in relation to a provisional order confirmed under this section—
- [F25(z) as if in subsection (1) for the words “by order on complaint” there were substituted “on an application being made, by order”.]
 - (a) as if in subsection (3) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;
 - (b) as if in subsection (4) for paragraph (b) there were substituted—
 - “(b) payments under the order are required to be made to [F26 the designated officer for the court or for any other magistrates’ court] by any method of payment falling within section 59(6) above (standing order, etc.) ”
- F27
- . . . ;
- (c) as if in subsection (5) for the words “to the [F28 designated officer for the court]” there were substituted “in accordance with paragraph (a) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;

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- (d) as if in subsection (7), paragraph (c) and the word “and” immediately preceding it were omitted;
- (e) as if in subsection (8) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;
- (f) as if for subsections (9) and (10) there were substituted the following subsections—

“(9) In deciding, for the purposes of subsections (3) and (8) above, which of the powers under section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920 it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsections (3) and (8) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920, and”.””]

- (6B) Where on an application for variation or revocation the confirming court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.]
- (7) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order.

Textual Amendments

- F1** Words in s. 4(1) inserted (temp.) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 paras. 4\(2\), 7\(2\)\(a\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F2** Words in s. 4(1) omitted (temp.) (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 4\(2\)](#)**Sch. 11 para. 7(2)(b)**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** Words in s. 4(1) inserted (temp.) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 paras. 4\(2\), 7\(2\)\(c\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F4** Words in s. 4(1) inserted (temp.) (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 paras. 4\(2\), 7\(2\)\(d\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** Words in s. 4(1) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, **Sch. 1 Pt. I para 2(2)(a)**; [S.I. 1993/618](#), **art. 2**
- F6** Words in s. 4(1) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, **Sch. 1 Pt. I para 2(2)(b)**; [S.I. 1993/618](#), **art. 2**
- F7** S. 4(2) substituted (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 1, **Sch. 1 Pt. I para 2(3)**; [S.I. 1993/618](#), **art. 2**

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- F8** Word in s. 4(3) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(4)(a)**; S.I. 1993/618, **art. 2**
- F9** Words in s. 4(3) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(4)(b)**; S.I. 1993/618, **art. 2**
- F10** Word in s. 4(4) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(5)**; S.I. 1993/618, **art. 2**
- F11** Words in s. 4(5) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(6)(a)**; S.I. 1993/618, **art. 2**
- F12** Words in s. 4(5) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(6)(b)**; S.I. 1993/618, **art. 2**
- F13** S. 4(5A)-(5D) inserted (01.04.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 1(1)**; S.I. 1992/455, **art. 2**.
- F14** Words in s. 4(5A) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(3)(a); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** Word in s. 4(5A) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(3)(b); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F16** Words in s. 4(5B) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 69(2) (with Sch. 8 para. 69(4))**; S.I. 2005/910, art. 3(y)
- F17** Words in s. 4(5B)(a)(b) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(4)(a); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F18** Words in s. 4(5B)(b) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(4)(b); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F19** Words in s. 4(5C) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(5)(a); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F20** Words in s. 4(5C) omitted (temp.) (E.W.) (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(5)(b); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F21** Words in s. 4(5D) substituted (temp.) (E.W.) (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(6); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F22** S. 4(6)(6A)(6B) substituted (01.04.1992) for s. 4(6) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 1(2)**; S.I. 1992/455, **art. 2**.
- F23** Words in s. 4(6) omitted (temp.) (E.W.) (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(7); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F24** S. 4(6A) omitted (temp.) (E.W.) (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 paras. 4(2), 7(8); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F25** S. 4(6A)(za) substituted (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. I para 2(7)**; S.I. 1993/618, **art. 2**
- F26** Words in s. 4(6A)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 69(3) (a) (with Sch. 8 para. 69(4))**; S.I. 2005/910, art. 3(y)
- F27** Words in s. 4(6A)(b) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(7)** (with Sch. 14. para. 7(2)); S.I. 2001/916, **art. 2(c)(ii)** (with Sch. 2 para. 2)
- F28** Words in s. 4(6A)(c) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 69(3) (b) (with Sch. 8 para. 69(4))**; S.I. 2005/910, art. 3(y)

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Commencement Orders yet to be applied to the Maintenance Orders (Facilities for Enforcement) Act 1920

Commencement Orders bringing legislation that affects this Act into force:

- [S.R. 2016/387 art. 2 commences \(2015 c. 9 \(N.I.\)\)](#)