
STATUTORY INSTRUMENTS

2015 No. 1489

JUDGMENTS

**The Civil Jurisdiction and Judgments (Maintenance)
and International Recovery of Maintenance (Hague
Convention 2007 etc) (Amendment) Order 2015**

<i>Made</i>	- - - -	<i>6th July 2015</i>
<i>Laid before Parliament</i>		<i>10th July 2015</i>
<i>Coming into force</i>	- -	<i>31st July 2015</i>

The Secretary of State for Justice, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to private international law(2), makes articles 1 to 4 of the following Order in exercise of the power under section 2(2) of that Act, and the Lord Chancellor makes article 5 of the following Order in exercise of the power under section 59 of the Crime and Courts Act 2013(3):

Citation, extent and commencement

1.—(1) This Order may be cited as the Civil Jurisdiction and Judgments (Maintenance) and International Recovery of Maintenance (Hague Convention 2007 etc) (Amendment) Order 2015.

(2) An amendment made by this Order has the same extent as the enactment amended.

(3) This Order comes into force on 31st July 2015.

Interpretation

2. In this Order—

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- (1) 1972 c. 68. Section 2 was amended by section 27(1)(a) and (b) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the Schedule to the European Union (Amendment) Act 2008 (c. 7).
- (2) S.I. 2008/1792. Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to the Scottish Ministers of functions in relation to implementation of obligations under Community law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by the Secretary of State as regards Scotland. Implementation of obligations under Community law in respect of devolved matters is itself a devolved matter in Northern Ireland. However, the designation of the Secretary of State under the European Communities (Designation) (No. 2) Order 2008 (S.I. 2008/1792) in relation to private international law remains exercisable in relation to Northern Ireland. This is despite the designation of Northern Ireland Departments in relation to that matter by virtue of the European Communities (Designation) (No. 5) Order 2010 (S.I. 2010/2690) as that designation does not restrict the scope of other designations.
- (3) 2013 c. 22.

“the 2011 Regulations” means the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011⁽⁴⁾; and

“the 2012 Regulations” means the International Recovery of Maintenance (Hague Convention 2007 etc) Regulations 2012⁽⁵⁾.

Amendment of Schedule 1 to the 2011 Regulations

3. In paragraph 11 of Schedule 1 to the 2011 Regulations (establishment and modification of maintenance under the Maintenance Regulation)⁽⁶⁾—

(a) in sub-paragraph (2) for “Designated Family Judge area” substitute “Maintenance Enforcement Business Centre for the area”;

(b) in sub-paragraph (7)—

(i) for “reside in the Designated Family Judge area” substitute “reside in the area covered by the Maintenance Enforcement Business Centre”; and

(ii) in paragraph (a)—

(aa) for “another Designated Family Judge area” substitute “the area covered by another Maintenance Enforcement Business Centre”; and

(bb) after “family court in” insert “the Maintenance Enforcement Business Centre for”; and

(c) in sub-paragraph (10)—

(i) omit paragraph (d);

(ii) after paragraph (e) insert—

“(ea) “(ea) in sub-paragraph (2), for “the Maintenance Enforcement Business Centre for the area” there were substituted “the petty sessions district”.”;

(iii) in paragraph (g) omit “and”; and

(iv) after paragraph (g) insert—

“(ga) “(ga) in sub-paragraph (7)—

(i) for “the area covered by the Maintenance Enforcement Business Centre” there were substituted “the petty sessions district”; and

(ii) in paragraph (a)—

(aa) for “the area covered by another Maintenance Enforcement Business Centre” there were substituted “another petty sessions district”; and

(bb) “in the Maintenance Enforcement Business Centre for” were omitted; and”.

Amendment of Schedule 1 to the 2012 Regulations

4. In paragraph 7 of Schedule 1 to the 2012 Regulations⁽⁷⁾ (applications for establishment or modification of maintenance in England and Wales)—

(a) in sub-paragraph (1) for “the Designated Family Judge area” substitute “the Maintenance Enforcement Business Centre for the area”; and

(4) S.I. 2011/1484.

(5) S.I. 2012/2814.

(6) Amended by S.I. 2012/2814 and 2014/879.

(7) Amended by S.I. 2014/879.

- (b) in sub-paragraph (6)—
 - (i) for “reside in the Designated Family Judge area” substitute “reside in the area covered by the Maintenance Enforcement Business Centre”; and
 - (ii) in paragraph (a)—
 - (aa) for “another Designated Family Judge area” substitute “the area covered by another Maintenance Enforcement Business Centre”; and
 - (bb) after “family court in” insert “the Maintenance Enforcement Business Centre for”.

Amendment of Schedule 2 to the 2012 Regulations

5. In paragraph 2 of Schedule 2 to the 2012 Regulations⁽⁸⁾ (interpretation), in the definition of “the creditor” for “where there is in force an order that the sum or sums of maintenance be paid to the designated officer of a magistrates’ court, that officer.” substitute “an officer of the family court, where the sum or sums of maintenance must be paid to the family court;”.

6th July 2015

Caroline Dinenge
Parliamentary Under-Secretary of State
Ministry of Justice

(8) Amended by S.I. 2014/879.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (“the 2011 Regulations”) and to the International Recovery of Maintenance (Hague Convention 2007 etc) Regulations 2012 (“the 2012 Regulations”). The amendments are made to ensure continuing implementation of obligations under Council Regulation (EC) No 4/2009 (“the Maintenance Regulation”) and the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007 (“the 2007 Hague Convention”) following administrative and legislative changes relating to the courts of England and Wales.

The 2011 Regulations made provision to facilitate the application of the Maintenance Regulation in the United Kingdom. Schedule 1 to the 2011 Regulations included provision for the enforcement of maintenance decisions made in Member States of the European Union in each part of the United Kingdom in a manner equivalent to the enforcement of maintenance orders made in domestic courts. Paragraph 11 of Schedule 1 to the 2011 Regulations set out the procedure to be followed for the establishment and modification of maintenance under the Maintenance Regulation.

Article 3 of this Order amends paragraph 11 of Schedule 1 to the 2011 Regulations. Amendments are made to the procedure in England and Wales in consequence of administrative changes made by Her Majesty’s Courts and Tribunals Service. These changes mean that the administration of maintenance enforcement work in England and Wales is to be undertaken in specific locations of the family court, to be known as Maintenance Enforcement Business Centres, rather than in individual local offices of the family court.

Prior to the amendments made by this Order, the 2011 Regulations required action to be taken to move documents in a case from one Designated Family Judge area of the family court to another, depending on where the respondent resided. The amendments made by this Order mean that such steps will need to be taken if the respondent does not reside in the area of England and Wales covered by the Maintenance Enforcement Business Centre to which the application has been sent.

Paragraph 11(10) of Schedule 1 to the 2011 Regulations applied sub-paragraphs (2) to (9) of paragraph 11 to applications submitted under Article 56 of the Maintenance Regulation in Northern Ireland. This Order amends paragraph 11(10) of Schedule 1 to the 2011 Regulations to make sure that the procedure in Northern Ireland is not altered despite the amendments this Order makes to procedures in England and Wales.

The 2012 Regulations made provision to facilitate the application of the 2007 Hague Convention in England and Wales.

Schedule 1 to the 2012 Regulations made provision for the enforcement of maintenance obligations and maintenance arrangements made in Contracting States to the 2007 Hague Convention by the courts of England and Wales.

Article 4 of this Order amends paragraph 7 of Schedule 1 to the 2012 Regulations in light of the administration of maintenance enforcement cases in Maintenance Enforcement Business Centres.

Schedule 2 to the 2012 Regulations enabled courts to which an application is made to enforce a maintenance decision under certain international instruments to do so by way of a driving disqualification order. Such applications could be made by a “creditor”.

Paragraph 2 of Schedule 2 to the 2012 Regulations defined “the creditor” to include a designated officer of a magistrates’ court, where it has been ordered that a sum or sums of maintenance be paid

to such an officer. Following the coming into force of section 17 of, and Schedules 10 and 11 to, the Crime and Courts Act 2013 (c. 22) on 22nd April 2014, payments of maintenance could no longer be ordered to be paid to a designated officer of a magistrates' court, but could be ordered to be paid to the family court. Article 5 of this Order amends the definition of "the creditor" in paragraph 2 of Schedule 2 to the 2012 Regulations to bring within that term an officer of the family court where payment of maintenance must be made to the family court.

No impact assessment has been produced for this instrument because no, or minimal, impact is anticipated to result from its provisions.