STATUTORY RULES OF NORTHERN IRELAND

2012 No. 413

JUDGMENTS

The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012

Made - - - - 16th November 2012

Coming into operation in accordance with regulation 1

The Department of Justice, being a Northern Ireland department designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to private international law [F2], makes the following Regulations in exercise of the power under section 2(2) of the European Communities Act 1972.

F1 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).

F2 The European Communities (Designation) (No.5) Order 2010 (S.I. 2010/2690).

Modifications etc. (not altering text)

C1 Rule applied (with modifications) (31.12.2020) by The International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018 (S.I. 2018/1125), regs. 1, **8**; 2020 c. 1, Sch. 5 para. 1(1)

Citation and commencement

1.—(1) These Regulations may be cited as the International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 and, subject as follows, shall come into operation on the day on which the Convention enters into force in respect of the European Union, which day will be notified in the London, Edinburgh and Belfast Gazettes.

(2) The following provisions come into force on 1st January 2013—

(a) regulations 1, 2, 5 and 8;

(b) Schedule 2 except in so far as it applies to the enforcement of a maintenance decision registered under the Convention;

(c) Schedule 5.

Interpretation

2. In these Regulations—

"the Convention" means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007 [F3]

[F4]…[F5][F6]

F3 OJ No. L192, 22.7.2011, p.51-70

F4 Words in reg. 2 omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(2)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F5 OJ No. L7, 10.1.2009, p.1-79

F6 OJ No. L299, 16.11.2005, p62-70.

Central Authority for Northern Ireland

3.—(1) The Department of Justice is designated under Article 4 of the Convention as the Central Authority in relation to Northern Ireland.

(2) If a person outside the United Kingdom does not know to which Central Authority in the United Kingdom a communication should be addressed, the person may address it to the Lord Chancellor.

The Convention

4. Schedule 1 (which contains provisions relating to the establishment, modification, recognition and enforcement in Northern Ireland pursuant to the Convention of maintenance decisions made in States bound by the Convention [F7]...) has effect.

F7 Words in reg. 4 omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(3)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Enforcement

5. Schedule 2 (which contains provisions for the enforcement in Northern Ireland of certain international maintenance obligations in relation to children by way of driving disqualification orders) has effect.

Provisions relating to information

6. Schedule 3 (which contains provisions relating to access to, and the transmission and use of, information) has effect.

Consequential amendments

7. Schedule 4 (which makes consequential amendments) has effect.

[F8Further amendments]

8. Schedule 5 (which contains further amendments [F9]...) has effect.

F8 Reg. 8 heading substituted (31.12.2020) by The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(4)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F9 Words in reg. 8 omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(5)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Sealed with the Official Seal of the Department of Justice on 16th November 2012

L.S.

David Ford
Minister of Justice

SCHEDULE 1

Regulation 4

RECOGNITION AND ENFORCMENTOF [F10]... MAINTENANCE DECISIONS, AND ESTABLISHMENT AND MODIFICATION OF MAINTENANCE UNDER THE CONVENTION

F10 Words in Sch. 1 heading omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(6)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Interpretation

1.—(1) In this Schedule—

"Contracting State" means a State bound by the Convention [F11]...;

"court", in relation to a maintenance decision given in a Contracting State, includes a tribunal, and any administrative authority (within the meaning of Article 19(3)) with competence to make a decision in respect of a maintenance obligation;

"maintenance decision" means a decision, or part of a decision, made by a court in a Contracting State, to which Chapter V of the Convention applies by virtue of Article 19(1).

(2) In this Schedule any reference to a numbered Article is a reference to the Article so numbered in the Convention and any reference to a sub-division of a numbered Article shall be construed accordingly.

(3) Anything authorised or required by the Convention or by this Schedule to be done by, to or before a particular magistrates' court may be done by, to or before any magistrates' court **[**[F12]in Northern Ireland**]** .

F11 Words in Sch. 1 para. 1(1) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 40(6)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F12 Words in Sch. 1 para. 1(3) substituted (coming into force in accordance with art. 1 of the amending Rule) by The Justice Act (Northern Ireland) 2015 (Single Jurisdiction) (Consequential Amendments and Revocations) Order (Northern Ireland) 2016 (S.R. 2016/317), arts. 1, **34(2)(a)**; (as commenced (31.10.2016) by S.R. 2016/387, art. 2(a) (with art. 3))

Recognition and enforcement of maintenance decisions made by courts in Contracting States

2.—(1) Subject to sub-paragraph (2), the court in Northern Ireland to which an application for registration of a maintenance decision under the Convention is to be made is a magistrates' court.

(2) An application for registration is to be transmitted by the Department of Justice to the magistrates' court designated for these purposes by rules of court ("the registering court").

(3) Jurisdiction in relation to applications for registration of maintenance decisions lies with the courts of Northern Ireland if—

(a) the person against whom enforcement is sought is resident in Northern Ireland, or

(b) assets belonging to that person and which are susceptible to enforcement are situated or held in Northern Ireland.

(4) An application for registration shall be determined in the first instance by the prescribed officer of the registering court. In this sub-paragraph and in sub-paragraph (5), "prescribed" means prescribed by rules of court.

(5) The decision of the prescribed officer may be appealed to the registering court in accordance with rules of court.

(6) For the purposes of the enforcement of a maintenance decision registered under the Convention in the registering court—

(a) the decision shall be of the same force and effect,

(b) the registering court shall have in relation to its enforcement the same powers, and

(c) proceedings for or with respect to its enforcement may be taken,

as if the decision had originally been made by the registering court.

(7) Sub-paragraph (6) is subject to sub-paragraph (8).

(8) A maintenance decision which is so registered shall be enforceable in a magistrates' court in Northern Ireland in the same manner as an order made by that court to which Article 98(11) of the 1981 Order applies, subject to the modifications of Article 98 of the 1981 Order specified in section 5(6A) of the Civil Jurisdiction and Judgments Act 1982 [F13].
In this sub-paragraph "the 1981 Order" means the Magistrates' Courts (Northern Ireland) Order 1981 [F14].

(9) Sub-paragraph (6) is also subject to—

(a) paragraph 3;

(b) any provision made by rules of court as to the procedure for the enforcement of maintenance decisions registered in accordance with this paragraph.

(10) The debtor under a maintenance decision registered in accordance with this paragraph in a magistrates' court in Northern Ireland shall give notice of any change of address to the clerk of that court. In this sub-paragraph, "debtor" has the meaning given by Article 3.

(11) A person who without reasonable excuse fails to comply with sub-paragraph (10) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

F13 1982 C.27. Section 5(6A) was inserted by S.I. 1993/1576 (N.I. 6).
F14 S.I. 1981/1675 (N.I. 26).

Interest on judgments

3.—(1) Subject to sub-paragraphs (2) and (3) and rules of court as to the payment of interest under this paragraph, where a person applying for registration of a maintenance decision shows that—

(a) the decision provides for the payment of money, and

(b) in accordance with the law of the Contracting State in which the maintenance decision was given and the terms of the decision, interest on that sum is recoverable at a particular rate and from a particular date or time,

the debt resulting from registration of the decision is to carry interest at that rate and from that date or time.

(2) Interest is not recoverable under sub-paragraph (1) unless the rate of interest and the date or time referred to in sub-paragraph (1)(b) are registered with the decision.

(3) Interest on arrears of sums payable under a maintenance decision registered under the Convention in a magistrates' court in Northern Ireland shall not be recoverable in that court. But this sub-paragraph does not affect the operation in relation to any such maintenance decision of section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 [F15] (which enables interest to be recovered if the decision is registered for enforcement in the High Court).