

iGuide: Enforcing Foreign Financial Orders in England

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If you have divorced in another country it may be necessary for you to enforce a financial order made in your favour in England.

This may be required if a foreign court order provided for the transfer of a property in England, or for your husband or wife to pay you maintenance, and they live and work in England, or they have assets here.

The method of enforcement will depend on the type of Order being enforced and the country where the order was made.

We are often instructed by foreign lawyers on behalf of their clients before foreign orders are made to ensure that they can be enforced.

This iGuide summarises the key provisions although we suggest specialist legal advice is taken. At iFLG we will guide you through the relevant process applicable to your particular circumstances.

Maintenance

The enforcement of a maintenance order depends on when the order was made. On 18 June 2011, the Council Regulation (EC) No. 4/2009 came into force, known as the Maintenance Regulation. It applies to all EU member states with the exception of Denmark. It stopped applying to England at the end of the transitional period in relation to the UK's departure from the EU at 11pm UK time on 31 December 2020.

Orders for maintenance made within these countries after 18 June 2011 within proceedings commenced after that date which concluded before 31 December 2020 are automatically recognised and enforceable in England and Wales (subject to limited ways in which the English Courts can refuse or suspend the foreign maintenance order).

If the person ordered to pay maintenance is resident in England and Wales or has assets in England and Wales the maintenance order can be enforced automatically.

Where the order was made in the above countries before 18 June 2011, or in proceedings commenced prior to 18 June 2011, or in relation to orders obtained after 31 December 2021, separate rules apply.

If the EU Maintenance Regulation does not apply, it may be possible to use the 2007 Hague Convention on the international recovery of child support and other forms of family maintenance. It applies to all EU member states and some other countries including the USA.

Outside of the EU Maintenance Regulation and 2007 Hague Convention

Enforcing an order made outside of these regulations/conventions is not as straightforward and whether and how a foreign order is enforceable will depend on the country in which the order was made.

There are numerous different statutes, treaties, conventions and agreements for the enforcement of foreign financial orders throughout the world. The international enforcement of family court order is a complex area.

It is beyond the scope of this iGuide to go through the various international arrangements for enforcement of foreign orders and we suggest specialist advice is obtained. At iFLG we can provide guidance on whether your foreign order can be enforced in England and Wales.

Property

Foreign property orders, for examples orders that a house is to be transferred from one party to another, are dealt with differently to orders for maintenance.

In these cases an application is made through the High Court in London by lodging the foreign order together with certified translations at the Court offices. The application is then served on the paying party and, so long as no objections are made, the Order will be registered and may then be executed as if it were an English Court Order. There are other ways to enforce the foreign order, treating it as an interest in a property and forcing a sale or transfer.

Pension Sharing Orders

In some circumstances foreign financial orders provide for one of the party's pensions to be shared or transferred to the other.

Most pension providers based in England will not automatically recognise and action a pension sharing order made abroad. They require an English court order in order to effect the pension share. If a pension sharing order has been made in your favour abroad, or may be made in your favour in foreign family court proceedings, please contact us about enforcement.

For more information about enforcing foreign financial orders in England, or other questions you may have, please contact a member of our specialist family law team. You can do so via our website, by email to enquiries@iflg.uk.com or telephone on +44 (0) 203 178 5668.

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