

iGuide: Enforcing English Financial Orders Abroad

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If you have divorced in England and Wales and you or your husband or wife have assets or income outside of England and Wales, it may be necessary for you to enforce a financial order made in your favour in a foreign country.

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

The method of enforcement will depend on the type of Order being enforced and the country where the order is being 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. We have access to a network of foreign lawyers and can put you in touch and liaise with specialists in this area.

Making enforcement easier, or not needed at all, is very important. This can depend on the terms of the final court order. We recommend liaising with lawyers in the country where any enforcement may occur – before the terms of the final settlement are concluded.

Maintenance Orders

On 18 June 2011, a new EU law came into force, known as the Maintenance Regulation. It applies to all EU member states and therefore applied to the UK until 11.00pm on 31 December 2020.

Maintenance orders are automatically recognised across the EU and automatically enforceable. If you have a maintenance order that was made in England before 1 January 2021 you can enforce it in an EU member state under the Maintenance Regulation.

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.

Maintenance Orders Outside of the Maintenance Regulation and 2007 Hague Convention

Various reciprocal arrangements exist between England and non-EU / non-Hague Convention countries for the enforcement of English maintenance orders outside the EU. There are numerous different treaties, conventions and agreements in what is a complex area of law. It depends on the nature of the order and the asset being enforced against. It is beyond the scope of this iGuide to go through the various international arrangements.

At iFLG we can provide you with guidance in navigating the various international agreement and in liaising with foreign lawyers. It may be the case that additional applications are required through English Courts to allow the relevant order to be enforced and at iFLG we can assist and advise accordingly.

The REMO Unit of the UK Government also provide assistance in these circumstances <https://www.gov.uk/child-maintenance-if-one-parent-lives-abroad>

Real Property Orders

Enforcing a property order is not as straightforward as maintenance orders. Whether and how an English order is enforceable will depend on the country in which the property is located.

As with maintenance orders, there are numerous different treaties, conventions and agreements for the enforcement of English financial orders throughout the world.

Pensions

There can be particular difficulties in enforcing orders against foreign pension companies. Preliminary enquiries are needed abroad before the final settlement.

At iFLG we can provide guidance and liaise with foreign lawyers as to whether your English order can be enforced abroad.

For more information about enforcing English financial orders abroad, 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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iFLG

Hudson House
8 Tavistock Street,
London WC2E 7PP

Contact

+44 (0) 203 178 5668
enquiries@iflg.uk.com

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