



# Maintenance Orders (Reciprocal Enforcement) Act 1972

## 1972 CHAPTER 18

### PART II

#### RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF MAINTENANCE

##### *Convention countries*

#### **25 Convention countries**

- (1) Her Majesty may by Order in Council declare that any country or territory specified in the Order, being a country or territory outside the United Kingdom to which the Maintenance Convention extends, is a convention country for the purposes of this Part of this Act.
- (2) In this section " the Maintenance Convention" means the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June 1956.

##### *Application by person in the United Kingdom for recovery, etc. of maintenance in convention country*

#### **26 Application by person in United Kingdom for recovery, etc. of maintenance in convention country**

- (1) Where a person in the United Kingdom (" the applicant") claims to be entitled to recover in a convention country maintenance from another person, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Secretary of State, in accordance with the provisions of this section, to have his claim for the recovery of maintenance from that other person transmitted to that country.

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- (2) Where the applicant seeks to vary any provision made in a convention country for the payment by any other person of maintenance to the applicant, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Secretary of State, in accordance with the provisions of this section, to have his application for the variation of that provision transmitted to that country.
- (3) An application to the Secretary of State under subsection (1) or (2) above shall be made through the appropriate officer, and that officer shall assist the applicant in completing an application which will comply with the requirements of the law applied by the convention country and shall send the application to the Secretary of State, together with such other documents, if any, as are required by that law.
- (4) On receiving an application from the appropriate officer the Secretary of State shall transmit it, together with any accompanying documents, to the appropriate authority in the convention country, unless he is satisfied that the application is not made in good faith or that it does not comply with the requirements of the law applied by that country.
- (5) The Secretary of State may request the appropriate officer to obtain from the court of which he is an officer such information relating to the application as may be specified in the request, and it shall be the duty of the court to furnish the Secretary of State with the information he requires.
- (6) Where the applicant is residing in England and Wales or in Northern Ireland the appropriate officer for the purposes of this section is the clerk of a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which the applicant is residing.
- (7) Where the applicant is residing in Scotland the appropriate officer for the purposes of this section is the sheriff clerk or sheriff clerk depute of the sheriff court within the jurisdiction of which the applicant is residing.

*Application by person in convention country for recovery  
of maintenance in England, Wales or Northern Ireland*

## **27 General provisions relating to application for recovery of maintenance in England, etc.**

- (1) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in England and Wales or in Northern Ireland, he shall send the application, together with any accompanying documents, to the clerk of a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which that other person is residing; and the application shall be treated for the purposes of any enactment as if it were a complaint and references in this section and in sections 28, 29 and 30 of this Act to the complaint, the complainant and the defendant shall be construed accordingly.
- (2) Where the complaint is for an affiliation order, a magistrates' court acting for the petty sessions area or petty sessions district, as the case may be, in which the defendant is residing shall have jurisdiction to hear the complaint.

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- (3) Section 15(2)(a) of the Guardianship of Minors Act 1971 (which restricts the power of a magistrates' court to entertain an application under that Act relating to a minor who has attained the age of sixteen) shall not apply to the complaint.
- (4) If a summons to appear before a magistrates' court having jurisdiction to hear the complaint cannot be duly served on the defendant, the clerk of the court shall, subject to subsection (5) below, return the complaint and the accompanying documents to the Secretary of State with a statement giving such information as he possesses as to the whereabouts of the defendant, and unless the Secretary of State is satisfied that the defendant is not residing in the United Kingdom he shall deal with the complaint in accordance with subsection (1) above or section 31 of this Act, as the circumstances of the case require.
- (5) If the clerk of a magistrates' court to whom the complaint is sent in pursuance of a provision of this section is satisfied that the defendant is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the first-mentioned court is he shall send the complaint and accompanying documents to the clerk of that other court and shall inform the Secretary of State that he has done so.
- (6) The clerk of a court to whom the complaint is sent under subsection (5) above shall proceed as if it had been sent to him under subsection (1) above.
- (7) When hearing the complaint a magistrates' court shall proceed as if the complainant were before the court.
- (8) If a magistrates' court makes an order on the complaint, the clerk of the court shall register the order in the prescribed manner in that court.
- (9) Payment of sums due under a registered order shall, while the order is registered in a magistrates' court, be made in such manner and to such person as may be prescribed, and none of the following enactments relating to the power of a magistrates' court to direct payments to be made to or through the collecting officer of the court or some other person, that is to say, section 52 of the Magistrates' Court Act 1952, section 5(5) of the Affiliation Proceedings Act 1957, section 13(2) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 and subsections (1) to (8) of section 95 of the Magistrates' Courts Act (Northern Ireland) 1964, shall apply in relation to a registered order.
- (10) Without prejudice to the generality of the power to make rules under section 15 of the Justices of the Peace Act 1949 (magistrates' courts rules), the said power shall include power to prescribe the orders made or other things done by a magistrates' court, or an officer of such a court, under this Part of this Act, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given.
- (11) In the application of this section to Northern Ireland, in subsection (10), for the reference to section 15 of the Justices of the Peace Act 1949 there shall be substituted a reference to section 23 of the Magistrates' Courts Act (Northern Ireland) 1964.

## **28 Complaint by spouse in convention country for recovery in England and Wales of maintenance from other spouse**

- (1) Where the complaint is a complaint under section 1 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960, the provisions of this section shall have effect.

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- (2) Where the complainant is the wife of the defendant, the only provisions which the court hearing the complaint may include in an order under section 2(1) of the said Act of 1960, or in an interim order under section 6 thereof, are either or both of the following provisions, namely—
- (a) a provision such as is mentioned in paragraph (b) of the said section 2(1); and
  - (b) a provision for the making by the defendant for the maintenance of any child of the family of weekly payments, being—
    - (i) if and for so long as the child is under the age of sixteen years, payments to the complainant;
    - (ii) if it appears to the court that the child is, or will be, or if such payments were made would be, a dependant though over the age of sixteen years, and that it is expedient that such payments should be made in respect of that child while such a dependant, payments to such person (who may be the child or the complainant) as may be specified in the order, for such period during which the child is over that age but under the age of twenty-one years as may be so specified.
- (3) Where the complainant is the husband of the defendant, the only provisions which the court hearing the complaint may include in an order under the said section 2(1), or in an interim order under the said section 6, are either or both of the following provisions, namely—
- (a) where, by reason of the impairment of the husband's earning capacity through age, illness or disability of mind or body, it appears to the court reasonable in all the circumstances so to do, a provision such as is mentioned in paragraph (c) of the said section 2(1); and
  - (b) a provision such as is mentioned in subsection (2)(b) above.
- (4) Where the court has begun to hear the complaint, being a complaint for maintenance for the complainant and for a child of the family, then, whether or not the court makes an order containing a provision such as is mentioned in paragraph (b) or (c) of the said section 2(1), it may, subject to section 2(5) of the said Act of 1960 (order for payments by a party in respect of child who is not a child of that party), make a matrimonial order containing a provision such as is mentioned in subsection (2)(b) above; and the court shall not dismiss or make its final order on the complaint until it has decided whether or not, and if so how, the power conferred on it by this subsection should be exercised.
- (5) For the avoidance of doubt it is hereby declared that the power of a magistrates' court under section 53 of the Magistrates' Courts Act 1952 to vary an order for the periodical payment of money includes power to vary an order made under the said Act of 1960 on the complaint by adding to that order any provision authorised by this section to be included in such an order.
- (6) Subject to subsections (2) and (3) above, the said Act of 1960 shall, in its application to the complaint and to a matrimonial order or interim order made on the complaint, have effect subject to the following modifications, that is to say—
- (a) in sections 2(5), 6(2)(a), 7(3) and 8(2), for references to section 2(1)(h) of that Act there shall be substituted references to subsection (2)(b) above ;
  - (b) in sections 6(3) and (4), 7(2) and 11(2), and in the definitions of those orders in section 16, references to section 8 of that Act shall be construed as including references to section 53 of the Magistrates' Courts Act 1952;
  - (c) in section 13(4), the reference to that Act shall be construed as including a reference to this Part of this Act; and

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(d) sections 3, 4, 5, 8(1), 9, 10 and 13(2) shall be omitted.

**29 Complaint by woman in convention country for recovery in Northern Ireland of maintenance from her husband**

- (1) Where the complaint is a complaint under section 1 of the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945, the provisions of this section shall have effect.
- (2) The only provisions which the court hearing the complaint may include in an order under section 3(1) of the said Act of 1945, or in an interim order under section 4 thereof, are either or both of the following provisions, namely—
  - (a) a provision such as is mentioned in paragraph (c) of the said section 3(1); and
  - (b) a provision such as is mentioned in paragraph (d) of that subsection;but in determining whether to include in any such order a provision such as is mentioned in the said paragraph (d) as respects a child the legal custody of whom has not been committed to any person, the court shall proceed as if it had made an order under the said section 3(1) committing the child to the custody of the wife.
- (3) Section 5(2) of the said Act of 1945 (power to make new order where order made on application of a married woman is discharged) shall have effect where an order made on the complaint is discharged as if the words " that the legal custody of the children of the marriage shall continue to be committed to such married woman and " were omitted.
- (4) Section 8 of the said Act of 1945 (power to refuse order in case more suitable for High Court) shall not apply in relation to the complaint.

**30 Further provisions relating to recovery in England, Wales and Northern Ireland of maintenance for children**

- (1) Where the complaint is for an order under section 9(2) of the Guardianship of Minors Act 1971, and the court hearing the complaint is satisfied that, if it made an order under subsection (1) of that section giving the custody of the minor to whom the complaint relates to the complainant, it would have power to make an order under subsection (2) of that section for the payment of sums towards the maintenance of the minor, it shall in determining whether to make an order on the complaint proceed as if it had made an order under subsection (1) of that section giving the custody of the minor to the complainant.
- (2) Section 16(4) of the said Act of 1971 (refusal of order in case more suitable for the High Court) shall not apply in relation to a complaint to which subsection (1) above applies or in relation to an application for the variation or revocation of an order made on such a complaint.
- (3) Where the complaint is for an affiliation order under the Affiliation Proceedings Act 1957 or the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924—
  - (a) it shall be sufficient for the purposes of paragraph (b) of section 2(1) of the said Act of 1957 (time for making complaint) or paragraph (c) of section 2(3) of the said Act of 1924 (provision to the like effect), as the case may be, to prove that the defendant has within the twelve months next after the birth of the child to whom the complaint relates paid money for its maintenance in

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pursuance of a requirement of the law applied by a court outside the United Kingdom; and

- (b) any evidence of the complainant in support of the complaint given in a convention country a record or summary of which is received by the court hearing the complaint, or the court hearing an appeal against an affiliation order made on the complaint or against the refusal to make such an order, shall be treated by the court hearing the complaint or the court hearing such an appeal, as the case may be, as if it had been given by the complainant in person before that court.
- (4) Where the complaint is for an affiliation order under the said Act of 1924, a summons may be issued on the complaint notwithstanding that the complainant has not made the information mentioned in section 2(4) of that Act.
  - (5) Without prejudice to any other enactment empowering a magistrates' court to vary an affiliation order made by it, an affiliation order made under the said Act of 1957 or the said Act of 1924, as the case may be, on the complaint may be varied by such a court so as to entitle any person, other than the complainant, who for the time being has the custody of the child to whom the order relates to any payments to be made under the order.
  - (6) Section 41 of this Act shall not apply in relation to an order under section 9(2) of the said Act of 1971, or an affiliation order under the said Act of 1957, made on the complaint.

*Application by person in convention country for recovery of maintenance in Scotland*

### **31 Application by person in convention country for recovery of maintenance in Scotland**

- (1) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person who is for the time being residing in Scotland, he shall send the application, together with any accompanying documents, to the secretary of the committee established under Article 5 of the Legal Aid (Scotland) Scheme 1958, or under the corresponding provision of any scheme amending or having effect in place of that Scheme ; and the secretary shall thereupon send the application and any accompanying documents to a solicitor practising in the sheriff court within the jurisdiction of which that other person is residing, with a view to the solicitor's taking on behalf of the applicant such steps as appear to the solicitor appropriate in respect of the application.
- (2) Where in any proceedings arising out of such an application as aforesaid the sheriff makes an order containing a provision requiring the payment of maintenance, the sheriff clerk or sheriff clerk depute shall register the order in the prescribed manner in the court.
- (3) Without prejudice to the generality of the powers conferred on the Court of Session by section 32 of the Sheriff Courts (Scotland) Act 1971 to regulate by act of sederunt the procedure of the sheriff court, the said powers shall include power to prescribe the decrees granted, or other things done, by the sheriff, or an officer of the sheriff court, under this Part of this Act, notice of which is to be given to such persons as the act of sederunt may provide and the manner in which such notice shall be given.

*Transfer, enforcement, variation and revocation of registered orders*

**32 Transfer of orders**

- (1) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, then, unless he is of opinion that the payer has ceased to reside in the United Kingdom, he shall, subject to subsection (2) below, send a certified copy of the order and the related documents to the Secretary of State, and if he is of opinion that the payer has ceased to reside in the United Kingdom he shall send a notice to that effect to the Secretary of State.
- (2) Where the clerk of the registering court, being a magistrates' court, is of opinion that the payer is residing within the jurisdiction of another magistrates' court in that part of the United Kingdom in which the registering court is, he shall transfer the order to that other court by sending a certified copy of the order and the related documents to the clerk of that other court and, subject to subsection (4) below, that clerk shall register the order in the prescribed manner in that court.
- (3) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order is still residing in the United Kingdom, he shall transfer the order to the appropriate court by sending the copy of the order and the related documents to the prescribed officer of the appropriate court and, subject to subsection (4) below, that officer shall register the order in the prescribed manner in that court.
- (4) Before registering an order in pursuance of subsection (2) or (3) above an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the court, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order and the related documents to the officer of the court or the Secretary of State, as the case may be, from whom he received them, together with a statement giving such information as he possesses as to the whereabouts of the payer.
- (5) Where a certified copy of an order is received by the Secretary of State under this section and it appears to him that the payer under the order has ceased to reside in the United Kingdom he shall return the copy of the order and the related documents to the registering court.
- (6) An officer of a court on registering an order in the court in pursuance of subsection (2) or (3) above shall give notice of the registration in the prescribed manner to the prescribed officer of the court in which immediately before its registration under this section the order was registered.
- (7) The officer to whom notice is given under subsection (6) above shall on receiving the notice cancel the registration of the order in that court.
- (8) In this section—
  - " the appropriate court ", in relation to a person residing in England and Wales or in Northern Ireland, means a magistrates' court within the jurisdiction of which that person is residing;
  - " certificate of arrears " and " certified copy " have the same meanings respectively as in Part I of this Act;

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" payer ", in relation to a registered order, means the person liable to make payments under the order; and

" related documents " means—

- (a) the application on which the order was made ;
- (b) a certificate of arrears signed by the prescribed officer of the registering court;
- (c) a statement giving such information as he possesses as to the whereabouts of the payer; and
- (d) any relevant documents in his possession relating to the case.

(9) In the application of this section to Scotland—

- (a) in subsection (1), for the words " within the jurisdiction of that court " there shall be substituted the words " in Scotland ";
- (b) subsection (2) shall be omitted ;
- (c) in subsection (4), for the words " the officer of the court or the Secretary of State, as the case may be, from whom he received them " there shall be substituted the words " the Secretary of State ";
- (d) at the end of subsection (6) there shall be inserted the words " and to the Secretary of State ";
- (e) after subsection (7) there shall be inserted the following subsections:—

“(7A) The Secretary of State on receiving notice under subsection (6) above shall send a copy of the registered order and of the related documents to the secretary of the committee mentioned in section 31(1) of this Act, and the secretary shall thereupon send the copy of the order and of the related documents to a solicitor practising in the registering court, with a view to the solicitor's taking on behalf of the person entitled to the payments for which the order provides such steps as appear to the solicitor appropriate to enforce the order.

(7B) Where an order is registered in the sheriff court by virtue of subsection (3) above, any provision of the order by virtue of which the payments for which the order provides are required to be made through or to any officer or person on behalf of the person entitled thereto shall be of no effect so long as the order is so registered.”;

- (f) " appropriate court", in relation to a person residing in Scotland, means the sheriff court within the jurisdiction of which that person is residing.

### **33 Enforcement of orders**

- (1) Subject to subsection (2) below, a registered order which is registered in a court other than the court by which the order was made may be enforced as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken in accordance with this subsection but not otherwise.
- (2) Subsection (1) above does not apply to an order which is for the time being registered in the High Court under Part I of the Maintenance Orders Act 1958 or to an order which is for the time being registered in the High Court of Justice in Northern Ireland under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966.



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- (3) An order which by virtue of subsection (1) above is enforceable by a magistrates' court shall be enforceable as if it were an affiliation order made by that court; and the provisions of any enactment with respect to the enforcement of affiliation orders (including enactments relating to the accrual of arrears and the remission of sums due) shall apply accordingly.

In this subsection "enactment" includes any order, rule or regulation made in pursuance of any Act.

- (4) A magistrates' court in which an order is registered under this Part of this Act, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.
- (5) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under this Part of this Act a certificate of arrears sent under section 32 of this Act to the prescribed officer of the court shall be evidence of the facts stated therein.
- (6) Part II of the Maintenance Orders Act 1950 (enforcement of certain orders throughout the United Kingdom) shall not apply to a registered order.
- (7) In the application of this section to Scotland—
- (a) subsections (2) to (4) shall be omitted; and
  - (b) in subsection (5), for the word "evidence" there shall be substituted the words "sufficient evidence".

### **34 Variation and revocation of orders**

- (1) Where a registered order is registered in a court other than the court by which the order was made, the registering court shall have the like power to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it; and no court other than the registering court shall have power to vary or revoke a registered order.
- (2) Where the registering court revokes a registered order it shall cancel the registration.
- (3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he shall, if the registering court is a magistrates' court, send the application together with any documents accompanying it to the clerk of that court.
- (4) Where a court in a part of the United Kingdom makes, or refuses to make, an order varying or revoking a registered order made by a court in another part thereof, any person shall have the like right of appeal (if any) against the order or refusal as he would have if the registered order had been made by the first-mentioned court.
- (5) In the application of this section to Scotland, for subsection (3) there shall be substituted the following subsection:—

“(3) Where the Secretary of State receives from the appropriate authority in a convention country an application by a person in that country for the variation of a registered order, he shall, if the registering court is a sheriff court, send the application, together with any documents accompanying it, to the secretary of the committee mentioned in section 31(1) of this Act, and the secretary shall thereupon send the application and any accompanying documents to a solicitor practising in the registering court, with a view to the solicitor's taking

on behalf of the applicant such steps as appear to the solicitor appropriate in respect of the application.”

### **35 Further provisions with respect to variation, etc. of orders by magistrates' courts**

- (1) Notwithstanding anything in section 28(6)(d) or 30(6) of this Act, a magistrates' court shall have jurisdiction to hear an application for the variation or revocation of a registered order registered in that court, being—
- (a) an application made by the person against whom or on whose application the order was made, or
  - (b) an application made by some other person in pursuance of section 30(5) of this Act for the variation of an affiliation order,
- notwithstanding that the person by or against whom the application is made is residing outside England and Wales.
- (2) Where an application by a person in a convention country for the variation of a registered order is received from the Secretary of State by the clerk of a magistrates' court, he shall treat the application as if it were a complaint for the variation of the order to which the application relates, and the court hearing the application shall proceed as if the application were a complaint and the applicant were before the court.
- (3) Without prejudice to subsection (2) above, an application to a magistrates' court for the variation or revocation of a registered order shall be made by complaint.
- (4) Where the defendant to a complaint for the variation or revocation of a registered order, being an order registered in a magistrates' court, does not appear at the time and place appointed for the hearing of the complaint, but the court is satisfied—
- (a) that the defendant is residing outside England and Wales; and
  - (b) that such notice of the making of the complaint and of the time and place aforesaid as may be prescribed has been given to the defendant in the prescribed manner,
- the court may proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.
- (5) This section shall have effect in Northern Ireland with the substitution of references to Northern Ireland for references to England and Wales.

### *Supplemental*

### **36 Admissibility of evidence given in convention country**

- (1) A statement contained in—
- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a court in a convention country ; or
  - (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a court in the United Kingdom under this Part of this Act, whether in response to a request made on behalf of such a court or otherwise; or
  - (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in such a country, or to be a copy of a document so received,

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shall, in any proceedings in a magistrates' court or sheriff court arising out of an application received by the Secretary of State as mentioned in section 27(1) or 31(1) of this Act or out of an application made by any person for the variation or revocation of a registered order or in proceedings on appeal from any such proceedings, be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

- (2) A document purporting to set out or summarise evidence given as mentioned in subsection (1)(a) above, or taken as mentioned in subsection (1)(b) above, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.
- (3) A document purporting to have been received in evidence as mentioned in subsection (1)(c) above, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the court in question to have been, or to be a true copy of a document which has been, so received.
- (4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.
- (5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

### **37 Obtaining of evidence for purpose of proceedings in United Kingdom court**

- (1) A court in the United Kingdom may for the purpose of any proceedings in that court under this Part of this Act arising out of an application received by the Secretary of State from a convention country request the Secretary of State to make to the appropriate authority or court in the convention country a request for the taking in that country of the evidence of a person residing therein relating to matters connected with the application.
- (2) A request made by a court under this section shall—
  - (a) give details of the application in question ;
  - (b) state the name and address of the person whose evidence is to be taken ; and
  - (c) specify the matters relating to which the evidence of that person is required.
- (3) If the Secretary of State is satisfied that a request made to him under this section contains sufficient information to enable the evidence of the person named in the request relating to the matters specified therein to be taken by a court or person in the convention country, he shall transmit the request to the appropriate authority or court in that country.

### **38 Taking of evidence at request of court in convention country**

- (1) Where a request is made to the Secretary of State by or on behalf of a court in a convention country to obtain the evidence of a person residing in the United Kingdom relating to matters connected with an application to which section 26 of this Act applies, the Secretary of State shall request such court, or such officer of a court, as he

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may determine to take the evidence of that person relating to such matters connected with that application as may be specified in the request.

- (2) The court by which or officer by whom a request under subsection (1) above is received from the Secretary of State shall have power to take the evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it or he thinks fit, shall take the evidence of the person named in the request relating to the matters specified therein in such manner as may be prescribed; and the evidence so taken shall be sent in the prescribed manner by the prescribed officer to the court in the convention country by or on behalf of which the request referred to in subsection (1) above was made.
- (3) Where any person, not being the person by whom the application mentioned in subsection (1) above was made, is required by virtue of this section to give evidence before a court in the United Kingdom, the court may order that there shall be paid—
  - (a) if the court is a court in England, Wales or Scotland, out of moneys provided by Parliament; and
  - (b) if the court is a court in Northern Ireland, out of moneys provided by the Parliament of Northern Ireland,
 such sums as appear to the court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in or incidental to his attendance.
- (4) Section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 (which provide for compelling the attendance of witnesses, etc.) shall apply in relation to a magistrates' court to which a request under subsection (1) above is made as if the application to which the request relates were a complaint to be heard by that court.
- (5) Paragraphs 71 and 73 of Schedule 1 to the Sheriff Courts (Scotland) Act 1907 (which provide for the citation of witnesses, etc.) shall apply in relation to a sheriff court to which a request under subsection (1) above is made as if the application to which the request relates were proceedings in that court.
- (6) In the application of this section to Northern Ireland, in subsection (4), for the reference to section 77(1), (3) and (4) of the Magistrates' Courts Act 1952 there shall be substituted a reference to sections 120(1), (3) and (4), 121 and 122 of the Magistrates' Courts Act (Northern Ireland) 1964.

### **39 Interpretation of Part II**

In this Part of this Act—

- " maintenance ", as respects Scotland, means aliment;
- " order ", as respects Scotland, includes any interlocutor, and any decree or provision contained in an interlocutor ;
- " prescribed " has the same meaning as in Part I of this Act;
- " registered order " means an order which is for the time being registered in a court in the United Kingdom under this Part of this Act;
- " registering court ", in relation to a registered order, means the court in which that order is for the time being registered under this Part of this Act.