



Maintenance Orders (Reciprocal Enforcement) Act 1972

1972 CHAPTER 18

PART II

RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF MAINTENANCE

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,

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 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.