



# Maintenance Orders (Reciprocal Enforcement) Act 1972

## 1972 CHAPTER 18

### PART III

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Supplemental provisions*

#### **[<sup>F1</sup>43A Eligibility for Legal Aid in Scotland.**

- (1) In connection with proceedings under Part I of this Act in relation to a maintenance order made by a court in a reciprocating country, where there is produced a certificate from the responsible authority in that country to the effect that the payee would, in that country, be financially eligible for complete or partial—
  - (i) legal aid; or
  - (ii) exemption from costs or expenses, in proceedings there in relation to that maintenance order, [<sup>F2</sup>section 2(1) and (6)(c), 3 and 4 of the <sup>M1</sup>Legal Aid (Scotland) Act 1967][<sup>F2</sup>sections 15 and 17 of the Legal Aid (Scotland) Act 1986] shall not apply in respect of the payee and, subject to the other provisions of that Act, legal aid shall under that Act be available to the payee without inquiry into the payee's resources.
- (2) In connection with proceedings under Part II of this Act—
  - (a) arising out of an application received from a convention country for the recovery of maintenance; or
  - (b) relating to an order made in respect of such an application,where there is produced a certificate from the appropriate authority in that county to the effect that the applicant would, in that country, be financially eligible for complete or partial—
  - (i) legal aid; or

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 43A. (See end of Document for details)*

- (ii) exemption from costs or expenses, in proceedings there for the recovery of maintenance, [<sup>F3</sup>sections 2(1) and (6)(c), 3 and 4 of the said Act of 1967][<sup>F3</sup>sections 15 and 17 of the said Act of 1986] shall not apply in respect of the applicant and, subject to the other provisions of that Act, legal aid shall under that Act be available to the applicant without inquiry into the applicant's resources.
- (3) Where, in connection with proceedings under Part I or II of this Act, a person has received legal aid by virtue of subsection (1) or (2) above, [<sup>F4</sup>legal advice and assistance under the <sup>M2</sup>Legal Advice and Assistance Act 1972 shall, notwithstanding—
- (i) any financial conditions imposed by, or by virtue of sections 1 and 4(2), (3) and (4); and
- (ii) in relation to the effect of subsections (1) to (4) and (7) of section 4 of the said Act of 1967, the provisions of section 6(1)(b), of the said Act of 1972 (but subject otherwise to the provisions of the said Act of 1972)][<sup>F4</sup>advice and assistance under the said Act of 1986, shall, notwithstanding any financial conditions or requirements to make contributions imposed by sections 8 and 11 of that Act,], be available in Scotland for that person, without inquiry into his resources, in connection with any matter incidental to, or arising out of, those proceedings.
- (4) In subsection (1) above “maintenance order”, “reciprocating country”, “responsible authority” and “payee” have the same meanings respectively as in Part I of this Act; and in subsection (2) above “convention country” means a country or territory specified in an Order in Council under section 25(1) of this Act, “maintenance” has the same meaning as in Part II of this Act, and “appropriate authority” means the authority from which the Secretary of State received the application.]

#### Textual Amendments

- F1** S. 43A inserted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), ss. 61, 89
- F2** Words substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 45, 46(4), **Sch. 3 para. 2(2)**
- F3** Words substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 45, 46(4), **Sch. 3 para. 2(3)**
- F4** Words substituted (S.) by Legal Aid (Scotland) Act 1986 (c. 47, SIF 77:2), ss. 45, 46(4), **Sch. 3 para. 2(4)**

#### Marginal Citations

- M1** 1967 c. 43.
- M2** 1972 c. 50

**Changes to legislation:**

There are currently no known outstanding effects for the Maintenance Orders (Reciprocal Enforcement) Act 1972, Section 43A.