



Domestic Proceedings and Magistrates' Courts Act 1978

1978 CHAPTER 22

PART III

AMENDMENTS OF OTHER ENACTMENTS RELATING TO DOMESTIC PROCEEDINGS

Amendments of Maintenance Orders (Reciprocal Enforcement) Act 1972

61 Eligibility for Legal Aid in Scotland for proceedings under Maintenance Orders (Reciprocal Enforcement) Act 1972

After section 43 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 there shall be inserted the following section—

“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, sections 2(1) and (6) (c), 3 and 4 of the Legal Aid (Scotland) Act 1967 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

Status: This is the original version (as it was originally enacted).

(b) relating to an order made in respect of such an application, where there is produced a certificate from the appropriate authority in that country to the effect that the applicant would, in that country, be financially eligible for complete or partial—

(i) legal aid; or

(ii) exemption from costs or expenses,

in proceedings there for the recovery of maintenance, sections 2(1) and (6)(c), 3 and 4 of the said Act of 1967 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, legal advice and assistance under the 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), 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.”.