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STATUTORY INSTRUMENTS

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**1974 No. 668**

**The Magistrates' Courts (Reciprocal  
Enforcement of Maintenance Orders) Rules 1974**

**10.**—(1) Subject to paragraph (2) below, where a request is made by or on behalf of a court in a reciprocating country for the taking in England and Wales of the evidence of a person residing therein, the following magistrates' courts shall have power under section 14(1) of the Act (obtaining of evidence needed for purpose of certain proceedings) to take that evidence, that is to say:—

- (a) where the maintenance order to which the proceedings in the court in the reciprocating country relate was made by a magistrates' court, the court which made the order;
- (b) where the maintenance order to which those proceedings relate is registered in a magistrates' court, the court in which the order is registered;
- (c) a magistrates' court which has received such a request from the Secretary of State.

(2) The power conferred by paragraph (1) above may, with the agreement of a court having that power, be exercised by any other magistrates' court which, because the person whose evidence is to be taken resides within its jurisdiction or for any other reason, the first-mentioned court considers could more conveniently take the evidence; but nothing in this paragraph shall derogate from the power of any court specified in paragraph (1) above.

(3) Subject to paragraph (4) below, where the evidence of any person is to be taken by a magistrates' court under the foregoing provisions of this rule—

- (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on a complaint;
- (b) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and
- (c) the justices by whom the evidence of any person is so taken shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by them.

(4) Where such a request as is mentioned in paragraph (1) above includes a request that the evidence be taken in a particular manner, the magistrates' court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

(5) Any document such as is mentioned in paragraph (3)(c) above shall be sent—

- (a) where the request for the taking of the evidence was made by or on behalf of a court in a country specified in Schedule 1 to these Rules, to the Secretary of State for transmission to that court;
- (b) in any other case, to the court in the reciprocating country by or on behalf of which the request was made.