
STATUTORY INSTRUMENTS

1995 No. 3345 (S.247)

**COURT OF SESSION, SCOTLAND
SHERIFF COURT, SCOTLAND**

**Act of Sederunt (Reciprocal Enforcement of
Maintenance Orders) (United States of America) 1995**

Made - - - - 15th December 1995

Coming into force - - 8th January 1996

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 5 of the Court of Session Act 1988(1) and section 32 of the Sheriff Courts (Scotland) Act 1971(2) as read with section 19 of the Maintenance Orders (Reciprocal Enforcement) Act 1972(3) as amended by the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 1995(4) and of all other powers enabling them in that behalf, after consultation with the Sheriff Court Rules Council do hereby enact and declare—

**PART I
GENERAL**

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Reciprocal Enforcement of Maintenance Orders) (United States of America) 1995 and shall come into force on 8th January 1996.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Interpretation

2. In this Act of Sederunt unless the context otherwise requires:—

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- (1) 1988 c. 36; section 5 was amended by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(3).
(2) 1971 c. 58; section 32 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 12, by the Civil Evidence (Scotland) Act 1988 (c. 32), section 2(4), and by the Children (Scotland) Act 1995 (c. 36), Schedule 4, paragraph 18(2).
(3) 1972 c. 18.
(4) S.I.1995/2709.

“the Act of 1972” means the Maintenance Orders (Reciprocal Enforcement) Act 1972 as amended by the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 1995;

“court in a specified state” includes any judicial or administrative authority in a specified state;

“Deputy Principal Clerk” means the Deputy Principal Clerk of the Court of Session;

“register” means the register referred to in rule 13(1) of the Act of Sederunt (Maintenance Orders (Reciprocal Enforcement) Act 1972 Rules) 1974(5);

“sheriff clerk” includes the sheriff clerk depute;

“specified state” means a state specified in Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 1995.

Application

3.—(1) The provisions of Part II of this Act of Sederunt shall apply for the purposes of the Act of 1972 to orders made by the Court of Session.

(2) The provisions of Part III of this Act of Sederunt shall apply for the purposes of the Act of 1972 to orders made by or registered in the sheriff court.

Prescribed officer

4.—(1) For the purposes of Part I of the Act of 1972, the prescribed officer shall be—

- (a) in relation to the Court of Session, the Deputy Principal Clerk;
- (b) in relation to the sheriff court, the sheriff clerk.

(2) For the purposes of the Act of 1972, the prescribed manner of communication by the Deputy Principal Clerk and the sheriff clerk shall be—

- (a) to an address within the United Kingdom, by recorded delivery letter;
- (b) to any other address, by air mail letter.

PART II

COURT OF SESSION

Transmission of order to specified state

5.—(1) All applications to the Court of Session for the transmission of a maintenance order, to which this Part applies, to a court in a specified state for registration and enforcement shall be made by a letter to that effect addressed to the Deputy Principal Clerk.

(2) There shall be sent with any such application—

- (a) three certified copies of the maintenance order;
- (b) a certificate of arrears signed by the applicant or his solicitor;
- (c) a sworn statement signed by the payee—
 - (i) giving the address of the payee;
 - (ii) giving such information as is known as to the whereabouts of the payer; and

(5) S.I. 1974/939; to which there are amendments not relevant to this Act of Sederunt.

- (iii) giving a description, so far as is known, of the nature and location of any assets of the payer available for execution; and
- (d) a statement signed by the applicant giving such information as the applicant possesses for facilitating the identification of the payer including a photograph if available.

Transmission of order varying or revoking maintenance order

6. Where a maintenance order transmitted under paragraph 5 is varied or revoked by a subsequent order of the Court of Session, the applicant in respect of the order so transmitted shall inform the Deputy Principal Clerk that such an order of variation or revocation has been made and send him—

- (a) three certified copies of that order;
- (b) where the respondent did not appear in the proceedings, the original or certified copy of a document which establishes that notice of the institution of the proceedings has been served on the respondent.

Request to take evidence

7. Where any request is made to the Court of Session by or on behalf of a court in a specified state for the evidence of a person to be taken under section 14 of the Act of 1972, such evidence shall be taken and recorded by the sheriff of the sheriffdom in which that person resides and the Deputy Principal Clerk shall accordingly send any such request to the sheriff clerk of the sheriff court district in which that person resides and such request shall be treated for the purposes of taking that person's evidence as a request to the sheriff by or on behalf of that court.

PART III

SHERIFF COURT

Transmission of order to specified state

8.—(1) All applications to the sheriff court for the transmission of a maintenance order, to which this Part applies, to a court in a specified state for registration and enforcement shall be made by a letter to that effect addressed to the sheriff clerk.

(2) Paragraph (2) of paragraph 5 shall apply to the application made under this paragraph as it applies to an application made under that paragraph.

Registration of incoming orders

9. The sheriff clerk—

- (a) on receiving a maintenance order made in a court in a specified state for registration in the sheriff court under the Act of 1972;
- (b) on receiving a subsequent order so made varying or revoking or cancelling that order,

shall enter the details relating to that order in the register.

Request to take evidence

10. Where any request is made to a sheriff by or on behalf of a court in a specified state for the evidence of a person residing within the sheriffdom to be taken under section 14 of the Act of 1972, that evidence shall be taken and recorded in such manner as the sheriff may direct.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Edinburgh
15th December 1995

Hope of Craighead
Lord President, IPD

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EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes provision for the procedure to be followed in relation to the transmission of maintenance orders made by the Court of Session or sheriff court to, and registration in the sheriff court of maintenance orders made by, courts in the states of the United States of America specified in Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 1995.