



# Maintenance Orders (Reciprocal Enforcement) Act 1972

## 1972 CHAPTER 18

### PART I

#### RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN UNITED KINGDOM OR RECIPROCATING COUNTRY

##### *Orders made by courts in the United Kingdom*

- 4 Power of sheriff to make provisional maintenance order against person residing in reciprocating country**
- (1) The sheriff shall have jurisdiction in any action to which this section applies if—
- the pursuer resides within the jurisdiction of the sheriff ; and
  - the sheriff is satisfied that, to the best of the information or belief of the pursuer, the defender is residing in a reciprocating country; and
  - the sheriff would not, apart from this subsection, have jurisdiction in that action ;
- but a maintenance order granted by the sheriff in an action in which he has jurisdiction by virtue of this subsection shall be a provisional order.
- (2) This section applies to any action for the payment of aliment which is competent in the sheriff court, and includes an action of affiliation and aliment, but does not include an action of separation and aliment or adherence and aliment, or any action containing a crave for the custody of a child.
- (3) Where in any action in which the payment of aliment in respect of a child is claimed, being an action in which the sheriff has jurisdiction by virtue of subsection (1) above, the sheriff is satisfied—
- that there are grounds on which a maintenance order containing a provision requiring the payment of aliment in respect of that child may be made in that action, but

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*Status: This is the original version (as it was originally enacted).*

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- (b) that he has no power to make that order unless he also makes an order providing for the custody of the child,  
then, for the purpose of enabling the sheriff to make the maintenance order, the pursuer shall be deemed to be a person to whom the custody of the child has been committed by a decree of the sheriff which is for the time being in force.
- (4) In any action in which the sheriff has jurisdiction by virtue of subsection (1) above—
- (a) it shall not be necessary for the pursuer to obtain a warrant for the citation of any person, and the action may commence and proceed without such citation;
  - (b) no decree shall be granted in favour of the pursuer unless the grounds of action have been substantiated by sufficient evidence, and section 36(3) of the Sheriff Courts (Scotland) Act 1971 shall not apply in relation to any such action which is a summary cause.
- (5) No enactment empowering the sheriff to remit an action to the Court of Session shall apply in relation to proceedings in which the sheriff has jurisdiction by virtue of subsection (1) above.
- (6) Section 3(5) and (6) of this Act shall apply for the purposes of this section as they apply for the purposes of that section, with the substitution, for references to a magistrates' court, of references to the sheriff.