

1975 No. 475 (S. 64)**COURT OF SESSION, SCOTLAND****SHERIFF COURT, SCOTLAND****Act of Sederunt (Reciprocal Enforcement of Maintenance Orders
(Republic of Ireland) Order 1974 Rules) 1975***Made - - - - - 19th March 1975**Coming into Operation 2nd April 1975*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 16 of the Administration of Justice (Scotland) Act 1933(a) and section 32 of the Sheriff Courts (Scotland) Act 1971(b) as read with section 19 of the Maintenance Orders (Reciprocal Enforcement) Act 1972(c) as amended by the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974(d) and of all other powers competent to them in that behalf do hereby enact and declare as follows:—

PART I**GENERAL**

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974 Rules) 1975 and shall come into operation on the 2nd day of April 1975.

(2) In this Act of Sederunt the following expressions shall, unless the context otherwise requires, have the meanings hereby respectively assigned to them—‘the Act’ means the Maintenance Orders (Reciprocal Enforcement) Act 1972 as amended by the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974; ‘Deputy Principal Clerk’ means the Deputy Principal Clerk of the Court of Session; ‘the Maintenance Orders (Reciprocal Enforcement) Act 1972 Register’ means the Register referred to in Rule 13(1) of the Act of Sederunt (Maintenance Orders (Reciprocal Enforcement) Act 1972 Rules) 1974; ‘Sheriff Clerk’ includes Sheriff Clerk Depute.

(3) Other expressions used in this Act of Sederunt to which meanings have been assigned by the Act shall, unless the context otherwise requires, have the same meanings in this Act of Sederunt as in the Act.

(4) The Interpretation Act 1889(e) shall apply for the interpretation of this Act of Sederunt as it applies for the interpretation of an Act of Parliament.

(a) 1933 c. 41.

(c) 1972 c. 18.

(e) 1889 c. 63.

(b) 1971 c. 58.

(d) S.I. 1974/2140 (1974 III, p. 8401).

2. The provisions of Part II of this Act of Sederunt shall apply for the purposes of the Act to orders made by the Court of Session and the provisions of Part III of this Act of Sederunt shall apply for the purposes of the Act to orders made by or registered in the Sheriff Court.

3.—(1) For the purpose of this Act of Sederunt and of Part I of the Act the Deputy Principal Clerk shall be the “prescribed officer” for the Court of Session and the Sheriff Clerk shall be the “prescribed officer” for the Sheriff Court.

(2) All communications which the prescribed officer is required by the Act to send in a prescribed manner to:

- (a) an addressee in the United Kingdom or the Republic of Ireland shall be sent by recorded delivery post and
- (b) an addressee outwith the United Kingdom and the Republic of Ireland shall be sent by Air Mail post.

PART II

COURT OF SESSION

Provisions in relation to transmission of Maintenance Orders made by the Court of Session for enforcement in the Republic of Ireland

4.—(1) All applications to the Court of Session for the transmission of any maintenance order for enforcement in the Republic of Ireland shall be made by letter addressed to the Deputy Principal Clerk and the following documents shall be lodged with the application—

- (a) a certified copy of the relevant order;
- (b) a statement signed by the applicant or his solicitor of any arrears outstanding in respect of the order;
- (c) a statement signed by the applicant or his solicitor giving such information as to the whereabouts of the payer as he possesses;
- (d) a statement signed by the applicant or his solicitor giving such information as the applicant possesses for facilitating the identification of the payer;
- (e) where available, a photograph of the payer;
- (f) a document signed by the applicant or his solicitor which establishes that notice of the order was sent to the payer;
- (g) if the payee received legal aid in the proceedings a document to that effect; and
- (h) if the payer did not appear in the proceedings in which the maintenance order was made the original or a certified true copy of a document which establishes that notice of the institution of the proceedings was served on the payer;

(2) On receipt of such application and documents the Deputy Principal Clerk shall send to the Secretary of State for Scotland the documents specified in section 2(4) of the Act.

5.—(1) If a Maintenance Order such as is referred to in the preceding paragraph is varied or revoked by a subsequent order of the Court of Session it shall be the duty of the applicant to inform the Deputy Principal Clerk of any such variation or revocation and to provide the Deputy Principal Clerk with a certified copy of the new order, together with a copy of the extended Notes of Evidence certified by the Lord Ordinary before whom the evidence was given, if such order was varied after Proof, or a copy of the Judgment containing the reasons for any such variation in all other cases.

(2) On receipt of such information and documents, the Deputy Principal Clerk shall send the certified copy of the said order and said Notes of Evidence or extended Notes to the said Secretary of State.

6. Where any request is made to the Court of Session by or on behalf of a Court in the Republic of Ireland for the evidence of a person to be taken in terms of section 14 of the Act, such evidence shall be taken before the Sheriff of the Sherifffdom in which the witness resides. The prescribed officer shall on receipt of such request forward it to the sheriff clerk of the Sheriff Court District in which the witness resides.

PART III

SHERIFF COURT

Provisions in relation to transmission of maintenance orders made by the Sheriff Court for enforcement in the Republic of Ireland

7.—(1) All applications to the Sheriff Court for the transmission of any maintenance orders for enforcement in the Republic of Ireland shall be made by letter addressed to the Sheriff Clerk and the following documents shall be lodged with the application—

- (a) a certified copy of the relevant order;
- (b) a statement signed by the applicant or his solicitor of any arrears outstanding in respect of the order;
- (c) a statement signed by the applicant or his solicitor giving such information as to the whereabouts of the payer as he possesses;
- (d) a statement signed by the applicant or his solicitor giving such information as the applicant possesses for facilitating the identification of the payer;
- (e) where available, a photograph of the payer;
- (f) a document signed by the applicant or his solicitor which establishes that notice of the order was sent to the payer;
- (g) if the payee received legal aid in the proceedings a document to that effect; and
- (h) if the payer did not appear in the proceedings in which the maintenance order was made the original or a certified true copy of a document which establishes that notice of the institution of the proceedings was served on the payer;

(2) On receipt of such application and documents the Sheriff Clerk shall send to the Secretary of State the documents specified in section 2(4) of the Act.

Provision in relation to registration of orders

8.—(1) The Sheriff Clerk shall register in “the Maintenance Orders (Reciprocal Enforcement) Act 1972 Register” such orders as the Act directs the prescribed officer to register. Every entry registering an order shall specify the section of the Act under which the order in question is registered. When a registered order is varied, revoked or cancelled the Sheriff Clerk shall make an appropriate entry against the entry registering the order.

(2) Where the payer wishes to make application to the court under section 6(7) of the Act he shall do so by lodging a minute in which is set out the grounds of his application.

(3) When a Minute under paragraph (2) hereof or an application under section 6(11) of the Act is lodged the cause shall be enrolled before the court.

Provision in relation to revocation of registered order

9. Where a registered order is revoked in the circumstances set out in section 10(1) of the Act the payee or solicitor shall provide the Sheriff Clerk so far as is possible with the certificate and statements referred to in section 10(7) of the Act.

Evidence

10. Where any request is made by or on behalf of a court in the Republic of Ireland in terms of section 14 of the Act such evidence shall be taken before the Sheriff of the Sheriffdom in which the witness resides and shall be taken down by the Sheriff or by the Sheriff Clerk or shorthand writer nominated by the Sheriff to whom the oath *de fidei administratione* shall be administered and evidence may be recorded in narrative form or by question and answer as the Sheriff shall direct, and the extended notes of evidence certified by such Sheriff Clerk or shorthand writer shall be the notes of the oral evidence taken.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

G.C. Emslie
I.P.D.

Edinburgh
19th March 1975.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt makes provisions for rules in the Court of Session and Sheriff Court consequent upon the coming into operation of the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974.

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