
STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 5

MAINTENANCE ORDERS

PART VI

INCOMING ORDERS UNDER THE 1982 ACT

Applications under section 5 of the 1982 Act

5.38.—(1) An application under section 5 of the 1982 Act shall be in writing addressed to the Secretary of State, signed by the applicant, or a solicitor or professional person qualified to act in such matters in the Contracting State of origin on his behalf, and shall specify—

- (a) an address within Scotland for service on the applicant;
- (b) the usual and last known address of the person against whom judgement was granted;
- (c) the place where the applicant seeks to enforce the judgement;
- (d) whether at the date of the application the judgement has been satisfied in whole or in part;
- (e) whether interest is recoverable under the judgement in accordance with the law of the country in which it was granted and, if so, the rate of interest and the date from which interest became due; and
- (f) whether the time for bringing an appeal against the judgement has expired without an appeal having been brought or whether an appeal has been brought against the judgement and is pending or has been finally disposed of.

(2) An application under paragraph (1) shall be accompanied by—

- (a) a copy of the judgement authenticated by the court which made the order;
- (b) documents which establish that, according to the law of the country in which the judgement has been given, the judgement is enforceable and has been served;
- (c) in the case of a judgement given in default, documents which establish that the party in default was served with the documents instituting the proceedings;
- (d) where appropriate, a document showing that the applicant is in receipt of legal aid in the country in which the judgement was given; and
- (e) where the judgement or any of the documents specified in sub-paragraphs (b) to (d) are in a language other than English, a translation into English certified by a person qualified to do so in one of the Contracting States.

(3) Where the applicant does not produce a document required under paragraph (2)(c) or (d), the sheriff clerk may—

- (a) fix a time within which the document is to be produced;
- (b) accept an equivalent document; or

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(c) dispense with production of the document.