
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 388

SHERIFF COURT

**Act of Sederunt (Child Care and
Maintenance Rules) Amendment 2000**

Made - - - - - *3rd November 2000*

Coming into force - - - - - *20th November 2000*

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(1) as read with section 19 of the Maintenance Orders (Reciprocal Enforcement) Act 1972(2) and of all other powers enabling them in that behalf, having approved draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the Sheriff Courts (Scotland) Act 1971, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Child Care and Maintenance Rules) Amendment 2000 and shall come into force on 20th November 2000.

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

Amendment of the Child Care and Maintenance Rules 1997

2.—(1) Chapter 5 (maintenance orders) of the Act of Sederunt (Child Care and Maintenance Rules) 1997(3) shall be amended in accordance with the following paragraphs.

(2) In Part I, in rule 5.1—

(a) after the definition of “Court in a Hague Convention Country” insert the following:—

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

(b) at the end of the definition of “reciprocating country” omit the word “and”; and

(c) after the definition of “the Registrar” insert the following:—

“; and

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

(2) 1972 c. 18; section 19 was amended by S.I. 1995/2709.

(3) S.I. 1997/291.

“specified state” means a state specified in Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (United States of America) Order 1995(4).”.

(3) In Part III, after rule 5.16 insert the following:–

“Application for transmission of order for enforcement in a specified state in the USA

5.16A.—(1) An application for the transmission of a maintenance order to a court in a specified state in the United States of America for registration and enforcement shall be made by letter addressed to the sheriff clerk.

(2) There shall be lodged 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
 - (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.”.

Revocation

3. Part III of the Act of Sederunt (Reciprocal Enforcement of Maintenance Orders) (United States of America) 1995(5) is revoked.

Edinburgh
3rd November 2000

RODGER OF EARLSFERRY
Lord President I.P.D.

(4) S.I. 1995/2709.
(5) S.I. 1995/3345.

EXPLANATORY NOTE

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

This Act of Sederunt amends the Act of Sederunt (Child Care and Maintenance Rules) 1997 to include certain states in the United States of America as territory that is designated as a reciprocating country by inserting—

- (a) two new definitions into rule 5.1 to provide for orders transmitted from the United States of America (article 2(2)); and
- (b) new rule 5.16A into Part III of Chapter 5 to provide for the transmission of orders to the USA (article 2(3)).

Rule 5.16A consolidates rules of the sheriff court relating to proceedings under the Maintenance Orders (Reciprocal Enforcement) Act 1972 as applied by Part III of the Act of Sederunt (Reciprocal Enforcement of Maintenance Orders) (United States of America) 1995 (S.I.1995/3345) (“the 1995 Act of Sederunt”).

This Act of Sederunt also revokes Part III of the 1995 Act of Sederunt (article 3).