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| **Act of Sederunt (Child Care and Maintenance Rules) 1997**  **Statutory Instrument 1997 No. 291 (S.19)**  **Applications lodged on or after 1 August 2014** | |
| **PART I GENERAL** | |
| **5.1** | [**Interpretation**](#r0501) |
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**Interpretation**

**5.1** In this Chapter, unless the context otherwise requires-

"the 1950 Act" means the Maintenance Orders Act 1950;

"the 1958 Act" means the Maintenance Orders Act 1958;

"the 1972 Act" means the Maintenance Orders (Reciprocal Enforcement) Act 1972;

"the 1982 Act" means the Civil Jurisdiction and Judgments Act 1982;

“2011 Regulations” means the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011(**[[1]](#footnote-1)**);

“2012 Regulations” means the International Recovery of Maintenance (Hague

Convention 2007) (Scotland) Regulations 2012;

"clerk of court" means the clerk to the magistrates' court in England or Northern Ireland and, in relation to a county court in England or Northern Ireland, means the registrar of that court;

"clerk of the magistrates' court" means the clerk to the magistrates' court in England or Northern Ireland as the case may be;

“Contracting State” means a State bound by the Convention other than an EU Member State;

“the Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;

“Convention Maintenance Decision” means a decision, or part of a decision, to which Chapter V of the Convention applies by virtue of Article 19(1) made by—

(a) a court in a Contracting State; or

(b) a sheriff;

"Court in a Hague Convention Country" includes any judicial or administrative authority in a Hague Convention Country;

"Hague Convention Country" means a country or territory specified in Schedule 1 to the Reciprocal Enforcement of Maintenance Orders (Hague Convention Countries) Order 1993(**[[2]](#footnote-2)**);

“Maintenance Decision” has the meaning given to “decision” by Article 2(1) of the Maintenance Regulation;

“Maintenance Regulation” means Council Regulation (EC) No 4/2009(**[[3]](#footnote-3)**) of 18th December 2008 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark(**[[4]](#footnote-4)**);

“Maintenance Regulation State” in the application of any provision in relation to the Maintenance Regulation, refers to any of the Member States;

"order" includes decree;

"reciprocating country" has the meaning assigned to it by section 1 of the 1972 Act;

"the Registrar", in relation to the High Court in England, means the Senior Registrar of the principal Registry of the Family Division of the High Court in England; and

**Application**

**5.2** (1) Part II of this Chapter shall have effect in relation to the registration in other parts of the United Kingdom of orders granted by the sheriff to which the 1950 and 1958 Acts apply and such orders are referred to in this Chapter as "outgoing orders under the 1950 Act".

(2) Part III of this Chapter shall have effect in relation to the registration outwith the United Kingdom of orders to which the 1972 Act, or the 1972 Act as amended by any order in Council made under Part III of the 1972 Act, applies and such orders are referred to as "outgoing orders under the 1972 Act".

(3) Part IV of this Chapter shall have effect in relation to the registration in the sheriff court of orders made by courts in other parts of the United Kingdom to which the 1950 Act applies and such orders are referred to in this Chapter as "incoming orders under the 1950 Act".

(4) Part V of this Chapter shall have effect in relation to the registration in the sheriff court of orders made by courts outwith the United Kingdom to which the 1972 Act, or the 1972 Act as amended by any Order in Council made under Part III of the 1972 Act, applies and such orders are referred to in this Chapter as "incoming orders under the 1972 Act".

(5) Part VI of this Chapter shall have effect in relation to the registration in the sheriff court of orders made by courts outwith the United Kingdom to which the 1982 Act applies and such orders are referred to in this Chapter as "incoming orders under the 1982 Act".

(6) Part VII of this Chapter shall have effect in relation to a Maintenance Decision.

(7) Part VIII of this Chapter shall have effect only in relation to—

(a) a Maintenance Decision made by a court in Denmark; and

(b) a Maintenance Decision to which sections 2 and 3 of Chapter IV of the Maintenance Regulation apply by virtue of Article 75(2)(a) or (b) of that Regulation.

(8) Part IX of this Chapter shall have effect in relation to a Convention Maintenance Decision.

**Prescribed officer**

**5.3** (1) The sheriff clerk shall be-

(a) the prescribed officer for the purposes of the 1950, 1958 and 1972 Acts, the 1972 Act as amended by any Order in Council, the 1982 Act and the 2011 Regulations; and

(b) the proper officer for the purposes of Schedules 6 and 7 to the 1982 Act (enforcement of U.K. judgments).

(2) Unless otherwise provided, all communications which the prescribed officer is required to send to-

(a) an addressee in the United Kingdom shall be sent by first class recorded delivery post; and

(b) an addressee outwith the United Kingdom shall be sent registered letter or the nearest equivalent which the available postal service permits.

**Maintenance Orders Register**

**5.4** (1) The sheriff clerk shall maintain a Register called "the Maintenance Orders Register" for the purpose of the 1950, 1958 and 1972 Acts, the 1972 Act as amended by any Order in Council, the 1982 Act, the Maintenance Regulation and the 2012 Regulations,, Part I of which shall relate to outgoing orders and Part II to incoming orders.

(2) The sheriff clerk shall make appropriate entries in the Maintenance Orders Register in respect of any action taken by him or notified to him in accordance with the relevant provisions, and shall keep in such manner as he considers appropriate any documents sent to him in connection with any such action.

(3) Every entry registering a maintenance order shall specify the relevant provision including and where appropriate any Order in Council under which the maintenance order in question is registered.

(4) When a registered maintenance order is varied, revoked or cancelled, the sheriff clerk shall make an appropriate entry against the entry for the original order.

**Inspection**

**5.5** (1) The sheriff clerk shall, on an application by-

(a) any person entitled to, or liable to make, payments under an order in respect of which any entry has been made in the Maintenance Orders Register; or

(b) a solicitor acting on behalf of any such person,

permit that person or his solicitor, as the case may be, to inspect any such entry and any document in his possession relating to that entry and to take copies of any such entry or document.

(2) On an application by or on behalf of any other person, the sheriff clerk may, on being satisfied of that person's interest, grant that person or his solicitor permission to inspect or take copies of any such entry or document.

1. () S.I. 2011/1484. [↑](#footnote-ref-1)
2. () S.I. 1993/1593. The list of countries in Schedule 1 to that S.I. is amended by paragraph 25 of Schedule 7 to the 2011 Regulations. [↑](#footnote-ref-2)
3. () OJ No. L7, 10.1.2009, p1-79. [↑](#footnote-ref-3)
4. () OJ No. L 299 16.11.2005, p. 62-70. [↑](#footnote-ref-4)