

SCHEDULE 3

PART I OF THE ACT AS MODIFIED BY SCHEDULE 2

Evidence

Admissibility of evidence given in Hague Convention country.

13.—(1) A statement contained in—

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a court in a Hague Convention country; or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in that country for the purpose of proceedings in a court in the United Kingdom under this Part of this Act, whether in response to a request made by such a court or otherwise; or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in that country or to be a copy of a document so received; or
- (d) a document purporting to be signed by a judicial officer, official or other competent person in a Hague Convention country which establishes that certain documents were served on a person,

shall in any proceedings in a court in the United Kingdom relating to a maintenance order to which this Part of this Act applies be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in subsection (1)(a) above, or taken as mentioned in subsection (1)(b) above, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judicial officer or other person before whom the evidence was given, or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as mentioned in subsection (1)(c) above, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge or officer of the court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

Obtaining of evidence needed for purpose of certain proceedings.

14.—(1) Where for the purpose of any proceedings in a court in a Hague Convention country relating to a maintenance order to which this Part of this Act applies a request is made by or on behalf of that court for the taking in the United Kingdom of the evidence of a person residing therein relating to matters specified in the request, such court in the United Kingdom as may be prescribed shall have power to take that evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit, shall take the evidence in such manner as may be prescribed.

Evidence taken in compliance with such a request shall be sent by the prescribed officer of the court—

- (a) in England and Wales or Northern Ireland, to the Lord Chancellor, or
- (b) in Scotland, to the Secretary of State,

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for transmission to the appropriate authority in the Hague Convention country.

(2) Where any person, not being the payer or the payee under the maintenance order to which the proceedings in question relate, is required by virtue of this section to give evidence before a court in the United Kingdom, the court may order that there shall be paid out of moneys provided by Parliament such sums as appear to the court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

(3) Section 97(1), (3) and (4) of the Magistrates' Courts Act 1980⁽¹⁾(which provide for compelling the attendance of witnesses, etc.) shall apply in relation to a magistrates' court having power under subsection (1) above to take the evidence of any person as if the proceedings in the court in a Hague Convention country for the purpose of which a request for the taking of the evidence has been made were proceedings in the magistrates' court and had been begun by complaint.

(4) Paragraphs 71 and 73 of Schedule 1 to the Sheriff Courts (Scotland) Act 1907⁽²⁾(which provide for the citation of witnesses, etc.) shall apply in relation to a sheriff having power under subsection (1) above to take the evidence of any person as if the proceedings in the court in a Hague Convention country for the purpose of which a request for the taking of the evidence has been made were proceedings in the sheriff court.

(5) A court in—

- (a) England and Wales or Northern Ireland may for the purpose of any proceedings in that court under this Part of this Act relating to a maintenance order to which this Part of this Act applies send to the Lord Chancellor, or
- (b) Scotland may for the purpose of such proceedings in that court relating to such an action, send to the Secretary of State,

for transmission to the appropriate authority in a Hague Convention country a request for a court in a Hague Convention country to take or provide evidence relating to such matters as may be specified in the request.

(6) In the application of this section to Northern Ireland, in subsection (3), for the reference to section 97(1), (3) and (4) of the Magistrates' Courts Act 1980⁽³⁾ there shall be substituted a reference to Articles 118(1), (3) and (4), 119 and 120 of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁴⁾.

Order, etc. made in Hague Convention country need not be proved.

15. For the purposes of this Part of this Act, unless the contrary is shown—

- (a) any order made by a court in a Hague Convention country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person;
- (b) the person by whom the order was signed shall be deemed without further proof to have been a judge or officer, as the case may be, of that court when he signed it and, in the case of an officer, to have been authorised to sign it; and
- (c) a document purporting to be a certified copy of an order made by a court in a Hague Convention country shall be deemed without further proof to be such a copy.

(1) 1980 c. 43; section 97 was amended by the Contempt of Court Act 1981 (c. 49), Schedule 2; by S.I.1984/447; and by the Criminal Justice (International Co-operation) Act 1990 (c. 5), Schedule 4.

(2) 1907 c. 51.

(3) 1980 c. 43.

(4) S.I. 1981/1685 (N.I. 26).

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