STATUTORY RULES OF NORTHERN IRELAND

2012 No. 414

MAGISTRATES' COURTS

The Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) (Amendment) Rules (Northern Ireland) 2012

Made - - - - 20th November 2012

Coming into operation in accordance with rule 1

The Magistrates' Courts Rules Committee makes the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and section 48 of the Civil Jurisdiction and Judgments Act 1982(**2**) after consultation with the Department of Justice and with the agreement of the Lord Chief Justice.

Citation and Commencement

1. These Rules may be cited as the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) (Amendment) Rules (Northern Ireland) 2012 and shall come into operation on the day on which the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007 comes into force in respect of the European Union, which day will be notified in the London, Edinburgh and Belfast Gazettes.

Amendments to the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986

2. The Magistrates' Courts (Civil Jurisdiction and Judgments Act 1981) Rules (Northern Ireland) 1986(**3**) are amended as follows.

3. In rule 2 —

(1) after the definition of "the 1988 Convention", insert —

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

(**1**) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976); and paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4).

(**2**) 1982 c.27. Section 48 was amended by section 3 of, and paragraph 23 of Schedule 2 to, the Civil Jurisdiction and Judgments Act 1991 (c.12), Article 4 and paragraph 17 of Schedule 2 to the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929), regulation 5 of the Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215) and regulation 5 of the International Recovery of Maintenance (Hague Convention 2007) (Rules of Court) Regulations 2012 (S.I. 2012/1770).

(**3**) S.R. 1986/359 to which the most recent amendments were made by S.R. 2011/225.

(2) for from "references to a maintenance order" to "where that regulation applies", substitute —

"references to a maintenance order include reference to—

(i) a decision, a court settlement or an authentic instrument within the meaning of Article 2 of the Maintenance Regulation where that Regulation applies;

(ii) a maintenance decision to which Chapter V of the 2007 Hague Convention applies by virtue of Article 19(1) of that Convention;

(iii) a maintenance arrangement (as defined in Article 3(e) of the 2007 Hague Convention) which is to be recognised and enforceable in the same way as a maintenance decision by virtue of Article 30 of that Convention;".

4. In rule 3, for "the Civil Jurisdiction and Judgments Order 2001 and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011" substitute "the Civil Jurisdiction and Judgments Order 2001, the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 and the International Recovery of Maintenance (Hague Convention 2007 etc) Regulations (Northern Ireland) 2012(**4**)".

5. After rule 3 insert —

"**Applications under Article 30 of the Maintenance Regulation or Article 23 of the 2007 Hague Convention**

3A. An application under Article 30 of the Maintenance Regulation for a declaration of enforceability of a maintenance order or under Article 23(2) or (3) of the 2007 Hague Convention for registration of a maintenance order shall be determined by the clerk of petty sessions.".

6. In rule 4 —

(1) After paragraph 1A insert —

"(1B) Where the clerk of petty sessions receives an application under Article 23 of the 2007 Hague Convention for registration of a maintenance order made in a State bound by that Convention other than a Member State of the European Union, he shall, subject to Article 22(a) of that Convention and to paragraphs (3) and (4) of this Rule, cause the order to be registered in his court by means of a minute or memorandum entered and signed by him in the Order Book.*"*

(2) in paragraph 5, after "Maintenance Regulation" insert "or Article 23 of the 2007 Hague Convention";

(3) in paragraph (6), for "or (1A)" substitute ", (1A) or (1B)";

(4) in paragraph (7) —

(a) for "or (1A)" substitute ", (1A) or (1B)";

(b) at the end, insert "or that the applicant may request the clerk of petty sessions to apply".

7. In rule 5(1), for **"**or under Article 32 of the Maintenance Regulation" substitute ", under Article 32 of the Maintenance Regulation or under Article 23(5) of the 2007 Hague Convention".

8. In rule 7, for "or a Regulation State" substitute ", or a Regulation State or a State bound by the 2007 Hague Convention other than a Member State of the European Union".

9. In rule 8(1), for "under Articles 28 or 29 of the Maintenance Regulation" substitute ", under Articles 28 or 29 of the Maintenance Regulation or Articles 25 or 30 of the 2007 Hague Convention".

10. In rule 9, for "or under Articles 28 or 29 of the Maintenance Regulation" substitute ", under Articles 28 or 29 of the Maintenance Regulation or Articles 25 or 30 of the 2007 Hague Convention".

(**4**) S.R. 2012 No. 413