1993 No. 134

MATRIMONIAL CAUSES

SUPREME COURT

COUNTY COURT

The Matrimonial Causes (Amendment) Rules (Northern Ireland) 1993

Made	*24th March 1993*
Coming into operation	*5th April 1993*
To be laid before Parliament	

We, the Matrimonial Causes Rules Committee, in exercise of the powers conferred upon us by Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978(**a**), hereby, with the concurrence of the Lord Chancellor, make the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Matrimonial Causes (Amendment) Rules (Northern Ireland) 1993 and shall come into operation on 5th April 1993.

(2) In these Rules, a rule, Form or Appendix referred to by number means the rule, Form or Appendix so numbered in the Matrimonial Causes Rules (Northern Ireland) 1981(**b**).

Amendment of the Matrimonial Causes Rules (Northern Ireland) 1981

2. In rule 2(1) after the definition of "the Order of 1989", there shall be inserted the following definition—

" "the Order of 1991" means the Child Support (Northern Ireland) Order 1991(**c**);".

3.—(1) After sub-paragraph (*c*) of rule 83(2), there shall be inserted the following sub-paragraph—

"(*cc*) where the application is for periodical payments or secured periodical payments for a child,

(**a**) S.I. 1978/1045 (N.I. 15)
(**b**) S.R. 1981 No. 184 as amended by S.R. 1989 No. 246
(**c**) S.I. 1991/2628 (N.I. 23)

(i) whether the application is

— for a step-child;

— in addition to child support maintenance already payable under a Child Support Agency assessment;

— to meet expenses arising from a child's disability;

— to meet expenses incurred by a child being educated or trained for work; or

— made on some other ground (please specify); or

(ii) when either the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;''.

(2) After sub-paragraph (*d*) of rule 86(3) there shall be inserted the following sub-paragraph—

''(*dd*) whether there are or have been any proceedings in the Child Support Agency with reference to the maintenance of each child and if so the details of those proceedings;''.

4. After rule 101 there shall be inserted the following new rules—

''*Applications for relief which are precluded by the Order of 1991*

101A.—(1) Where an application is made for an order which in the opinion of the registrar, the court would be prevented from making by Article 10 or 11 of the Order of 1991 the master or chief clerk as the case may be, shall send a notice in Form 31 to the applicant and to the other parties.

(2) In the first instance, the registrar shall consider the matter under paragraph (1), without holding a hearing.

(3) An applicant who has been sent a notice under paragraph (1) may within 14 days of receipt of the notice inform the master or chief clerk, as the case may be, in writing, that he wishes to pursue his application and upon being so informed the master shall act in accordance with paragraph (4) and the chief clerk shall refer the matter to the district judge who shall also act in accordance with paragraph (4).

(4) Where the registrar acts in accordance with this paragraph he shall fix an appointment for the matter to be heard and determined by the court and may direct that the hearing shall be ex parte.

(5) Where an appointment has been fixed in accordance with paragraph (4) the master or chief clerk, as the case may be, shall give the applicant notice of the date and time of the appointment and in relation to the other parties:

(*a*) where the hearing is to be ex parte, inform them that the matter is being resolved ex parte and that they will be informed of the result in due course;

(*b*) where the hearing is to be inter partes, inform them of the date and time of the appointment.

(6) Where a notice is sent under paragraph (1) and the master or chief clerk, as the case may be, is not informed under paragraph (3) the application shall be treated as having been withdrawn.

(7) Where the matter is heard in accordance with paragraph (4) and the court determines that it would be prevented by Article 10 or 11 of the Order of 1991 from making the order sought it shall dismiss the application.

(8) Where the court dismisses an application under this rule it shall give its reasons in writing, copies of which shall be sent to the parties by the master or chief clerk, as the case may be.

(9) In this rule "the matter" means the question whether the making of an order in the terms sought by the application would be prevented by Article 10 or 11 of the Order of 1991.

Additional requirement where application for child maintenance is combined with application for other relief

101B. Where a notice is sent under rule 101A(1) in respect of an application which is contained in a petition or other document ("the document") which contains material extrinsic to the application—

(*a*) the document shall, until the contrary is directed under sub-paragraph (*c*), be treated as if it did not contain the application in respect of which the notice was sent;

(*b*) the master or chief clerk shall, when he sends a copy of the notice under rule 101A(1) to the parties, also send a notice informing them of the effect of sub-paragraph (*a*); and

(*c*) where it is determined under rule 101A that the court would not be prevented by Article 10 or 11 of the Order of 1991 from making the order sought by the application, the court shall direct that the document shall be treated as if it contained the application, and it may give such directions as it considers appropriate for the conduct of the proceedings in consequence of that direction.".

Disclosure of information

5. After rule 135 there shall be inserted the following new rule—

"*Disclosure of information under the Order of 1991*

135A. Where the Department requires a person mentioned in regulation 2(2) or (3) of the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(**a**) to furnish information or evidence for a purpose mentioned in regulation 3(1) of those Regulations, nothing in rule 135 (inspection of documents retained in court) shall prevent that person from furnishing the information or evidence sought or require him to seek the leave of the court before doing so.".

(**a**) S.R. 1992 No. 339

Forms

6. Appendix 1 shall be amended as follows—

(*a*) for Forms 4, 13 and 15 there shall be substituted the new forms set out in the Schedule;

(*b*) after Form 30 there shall be inserted the new Form 31 set out in the Schedule.

Contents of petition

7. Appendix 2 shall be amended as follows—

(*a*) after paragraph (*h*) there shall be inserted the following new paragraph—

"(*hh*) where an application is being made for periodical payments or secured periodical payments for a child of the family,

(i) whether the application is—

— for a step-child,

— in addition to child support maintenance already payable under a Child Support Agency assessment;

— to meet expenses arising from a child's disability;

— to meet expenses incurred by a child being educated or trained for work; or

— made on some other ground (please specify); or

(ii) whether the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;".

(*b*) after paragraph 1(i) there shall be inserted the following new sub-paragraph—

"(ii) whether or not there have been any applications under the Order of 1991 for a maintenance assessment in respect of any child of the family, and if so—

(i) the date of any such application and,

(ii) if available, details of the assessment made.".

Dated 15th March 1993

I concur

Brian Hutton
Raymond T. Kerr
George A. Palmer
Barry Malcolm
R. T. Millar
Mary Connolly
Kathleen Finlay

Dated 24th March 1993 *Mackay of Clashfern*, C.