# 1989 No. 303

## MAGISTRATES' COURTS

## Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 1989

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|---|---|
| *Made* . . . . . | *26th July 1989* |
| *Coming into operation* . . | *1st September 1989* |

The Lord Chancellor in pursuance of Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**) and Article 8(9) of the Domestic Proceedings (Northern Ireland) Order 1980(**b**) on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice hereby makes the following rules:—

*Citation and commencement*

**1.** These rules may be cited as the Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 1989 and shall come into operation on 1st September 1989.

*Interpretation*

**2.** In these rules "the Principal Rules" means the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1980(**c**) and a Rule or Form referred to by number means the Rule or Form so numbered in the Principal Rules.

*Amendment of the Principal Rules*

**3.**—(1) For Rule 4 there shall be substituted the following new Rule:—

"*Application for order under Article 8 (orders for payments agreed by parties)*

4.—(1) An application by way of complaint to a justice of the peace or clerk of petty sessions for an order under Article 8 may be made orally specifying the type or types of financial provision applied for, and the amount of any payment to be made thereunder.

(2) A summons issued in consequence of such an application shall be in Form 2 and shall be prepared in triplicate and a copy served on the respondent.

(3) For the purposes of Article 8(9)(*a*) and (*b*) evidence of the consent of the respondent to the making of the order and of the financial resources of the respondent shall be proved by way of a written statement in Form 3

(**a**) S.I. 1981/1675 (N.I. 26)
(**b**) S.I. 1980/563 (N.I. 5) as amended by Article 13 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 S.I. 1989/677 (N.I. 4)
(**c**) S.R. 1980 No. 371

signed by the respondent in the presence of one person from the persons described in paragraph (5) below, according to where the statement is signed.

(4) For the purposes of Article 8(9)(*c*) evidence of the financial resources of the child shall be proved by way of a written statement in Form 3A signed by the respondent, or, in an appropriate case, the child, in the presence of one person from the persons described in paragraph (5) below, according to where the statement is signed.

(5) A written statement under paragraph (3) or (4) above shall be signed in the presence of one of the following persons:—

(*a*) in Northern Ireland—

a justice of the peace or clerk of petty sessions;

(*b*) in England and Wales—

a justice of the peace or justice's clerk;

(*c*) in Scotland—

a justice of the peace or sheriff;

(*d*) outside the United Kingdom—

(i) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;

(ii) a British Consular Officer;

(iii) a notary public, or

(iv) if the person executing the document is serving in any of the regular armed Forces of the Crown, an officer holding a commission in any of those Forces.

(6) For the purposes of the said Article 8(9) a written statement purporting to be signed and witnessed in accordance with paragraph (3) or (4) shall be admissible as evidence without further proof of the signature of the respondent or of the witness, or, in the case of a statement in Form 3A which the child has signed, the child or of the witness, and shall be deemed to have been so signed and witnessed on the date and at the place specified in the document, unless the contrary is proved.''.

(2) For Forms 2, 3 and 8 in the Schedule to the Principal Rules there shall be substituted respectively the Forms numbered 2, 3, 3A and 8 in the Schedule to these rules.

Dated 26th July 1989 *Mackay of Clashfern,* C.

FORM 2

DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 8: Rule 4(2))

**Summons to Respondent on application for order for payments agreed by parties**

of
Petty Sessions District of
Applicant
of
County Court Division of
Respondent

Whereas application has been made for an order under Article 8 of the above-mentioned Order on the ground that you have agreed to—

*(*a*) the making of periodical payments to you/the applicant of £ per beginning on the day of 19 ;

*(*b*) the payment of a lump sum to you/the applicant of £ ;

*(*c*) the making of periodical payments to [ (being a child of the family)] [or you/the applicant for the benefit of (being a child of the family)] of £ per beginning on the day of 19 ;

*(*d*) the payment of a lump sum to [ (being a child of the family)] [or you/the applicant for the benefit of (being a child of the family)] of £ .

THIS IS TO COMMAND YOU to appear as respondent on the hearing of the said application at on the day of 19 at m. before a Court of Summary Jurisdiction for the above-mentioned Petty Sessions District.

Dated this day of 19 .

Justice of the Peace
[or Clerk of Petty Sessions]

*Delete whichever is inappropriate.

*Notice to parties to the marriage of Court's powers to make provision with respect to children*

NOTICE is hereby given to parties to proceedings under the above-mentioned Order that at the hearing the court has power to make provision for any of the following purposes as regards any child of the family:—

(*a*) legal custody (which may be awarded to either party or to a third person);

(*b*) access to the child by either or both of the parties (or anybody else who is a parent of the child);

(*c*) the payment of maintenance for the child by either or both of the parties.

In certain exceptional circumstances the court may commit the care of the child to the Department of Health and Social Services or place him under the supervision of

the said Department. The court may exercise these powers whether at the request of the applicant or not and whether any other order is made on the application or the application is dismissed.

The court cannot make its final decision on the application until it has decided whether or not and, if so, how to exercise these powers.

FORM 3

DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Article 8(9): Rule 4(3))

**Respondents' consent to Article 8 order and statement of financial resources**

of

Petty Sessions District of

Applicant

of

County Court Division of

Respondent

I, hereby consent to the making of an order under Article 8 of the above-mentioned Order in the following terms—

*(*a*) the making of periodical payments to me/the applicant of £ per beginning on the day of 19 ;

*(*b*) the payment of a lump sum to me/the applicant of £ ;

*(*c*) the making of periodical payments to [ (being a child of the family)] [or me/the applicant for the benefit of (being a child of the family)] of £ per beginning on the day of 19 ;

*(*d*) the payment of a lump sum to [ (being a child of the family)] [or me/the applicant for the benefit of (being a child of the family)] of £ .

I further declare that my financial resources are as follows:—

*Means*

1. *Employed*

| | | |
|---|---|---|
| Gross pay (including overtime and bonuses) | £ | per week/month/year |
| Net pay (after deduction) | £ | per week/month/year |

2. *Self-employed*

| | | |
|---|---|---|
| Gross profits over last twelve months | £ | |
| Outgoings over last twelve months | £ | |

3. *Unemployed*

| | | |
|---|---|---|
| State benefits | £ | per week |

4. *Any other income*

| | | |
|---|---|---|
| State source | £ | per week/month/year |