1980 No. 225

MAGISTRATES' COURTS

Magistrates' Courts (Re-registration of Maintenance Orders) Rules (Northern Ireland) 1980

Made	*18th June 1980*
Coming into operation . . .	*4th August 1980*

The Lord Chancellor, in exercise of the powers conferred on him by section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(**a**) and by virtue of the provisions of Part II of the Maintenance Orders Act 1950(**b**) and Part I of the Maintenance Orders Act 1958(**c**) as amended by Schedule 3 to the Administration of Justice Act 1977(**d**) on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

PART I

GENERAL

Citation, commencement, interpretation and revocation

1.—(1) These rules may be cited as the Magistrates' Courts (Re-registration of Maintenance Orders) Rules (Northern Ireland) 1980 and shall come into operation on 4th August 1980.

(2) In these rules—

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

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

"the Order Book" means the Order Book kept under Rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1974(**e**);

"maintenance order" includes decree for payment of aliment;

"England" includes Wales;

"magistrates' court" includes the sheriff court;

"clerk of the magistrates' court" includes the sheriff clerk of the sheriff court in Scotland;

"Senior Registrar" means the Senior Registrar of the principal registry of the Family Division of the High Court in England.

(3) Except as expressly provided in paragraph (2) any expression used in these rules and in the 1950 and 1958 Acts shall, unless the contrary intention appears, have the meaning given to it by those Acts.

(4) Parts II and III of the Maintenance Orders Act 1950 (Summary Jurisdiction) Rules (Northern Ireland) 1951(**f**) are hereby revoked.

(**a**) 1964 c. 21 (N.I.)
(**b**) 1950 c. 37
(**c**) 1958 c. 39
(**d**) 1977 c. 38
(**e**) S.R. 1974 No. 334 (II, p. 1541)
(**f**) S.R. & O. (N.I.) 1951 No. 126 (p. 253)

Application

2.—(1) Part II of these rules shall have effect in relation to the registration in other parts of the United Kingdom of maintenance orders made by a court of summary jurisdiction in Northern Ireland to which the 1950 and 1958 Acts apply and such orders are referred to in these Rules as ''outgoing orders''.

(2) Part III of these rules shall have effect in relation to the registration in a court of summary jurisdiction in Northern Ireland of maintenance orders made by courts in other parts of the United Kingdom to which the 1950 and 1958 Acts apply and such orders are referred to in these Rules as ''incoming orders''.

Prescribed officer

3. The officer of any court, by or in relation to whom anything is to be done in pursuance of any provision of the 1950 Act or the 1958 Act shall, where that Court is a court of summary jurisdiction, be the clerk of petty sessions.

Duties of the clerk of petty sessions

4. The clerk of petty sessions shall make and sign appropriate entries in the Order Book in respect of any action taken by him or notified to him in relation to outgoing and incoming orders in accordance with the provisions of the 1950 Act and the 1958 Act and shall keep in such manner as he considers appropriate any documents sent to him in connection with any such action.

PART II

OUTGOING ORDERS

Commencement of proceedings

5.—(1) Every complaint by which proceedings are initiated in a court of summary jurisdiction under or by virtue of Part I of the 1950 Act against a person residing in another part of the United Kingdom and all relevant documents lodged in any proceedings under or by virtue of the 1950 Act or the 1958 Act shall be headed ''Maintenance Orders Act 1950'' or as the case may be ''Maintenance Orders Act 1958''.

(2) The summons which by virtue of the 1950 Act or the 1958 Act is to be served on a person residing in another part of the United Kingdom shall be in ordinary form and shall proceed upon fourteen days notice to be calculated from the date of service and such summons may be signed by the clerk of petty sessions.

Application for registration

6.—(1) An application for the registration in a magistrates' court in England or Scotland of a maintenance order made by a court of summary jurisdiction in Northern Ireland to which Part II of the 1950 Act applies shall be made in writing, by or on behalf of the payee under the order, to a resident magistrate acting for the same petty sessions district as the court which made the order; and, unless the applicant appears in person, there shall also be lodged with the clerk of petty sessions of the court which made the order—

(*a*) a certified copy of the maintenance order; and

(*b*) a statutory declaration with one copy containing the particulars set out in paragraph (2) of this Rule.

(2) A statutory declaration lodged under paragraph (1) shall state:—

(*a*) the name and address of the payer under the order;

(*b*) the reason why it is convenient that the order should be enforced in England or Scotland, as the case may be;

(*c*) unless a certificate of arrears is lodged under section 20 of the 1950 Act, the amount of any arrears due under the order and the date to which they are calculated; and

(*d*) that the order is not already registered under Part II of the 1950 Act.

Transmission

7.—(1) If it appears to the court that the payer under the order resides in England or Scotland, and that it is convenient that the order should be enforceable there, the clerk of petty sessions of the court which made the order shall send to the clerk of the magistrates' court in England or Scotland having jurisdiction in the place in which the payer under the order appears to be:—

(*a*) a certified copy of the maintenance order;

(*b*) a copy statutory declaration of the applicant and the certificate of arrears (if any); and

(*c*) a letter stating that the application has been granted and requesting registration of the order.

(2) The clerk of petty sessions shall make and sign an entry in the Order Book recording:—

(*a*) particulars of the maintenance order; and

(*b*) details of the steps taken to effect the registration.

(3) On receiving notice from the clerk of the magistrates' court in England or Scotland that the order has been registered, the clerk of petty sessions shall make and sign an entry in the Order Book to that effect.

Application to adduce evidence

8.—(1) An application to a court of summary jurisdiction in Northern Ireland under section 22(5) of the 1950 Act to adduce evidence in connection with a maintenance order made by that court and registered in a court in England or Scotland may be made orally by or on behalf of the applicant and the proceedings may be ex parte.

(2) The court in which application is made under paragraph (1) shall cause a transcript or summary of any evidence taken in pursuance of the application to be signed by the deponent and sent to the clerk of the court in which the order is registered.

Re-registration in the High Court

9.—(1) Where an order has been registered in the magistrates' court in England or Scotland an application for the re-registration of that order in the High Court in England under the 1958 Act shall be made in writing by or on behalf of the payee under the order to a resident magistrate acting for the same petty sessions district as the court which made the order and there shall also be lodged with the clerk of petty sessions of the court which made the order the following documents:—

(*a*) a certified copy of the maintenance order; and

(*b*) a statutory declaration by the applicant with one copy containing the particulars set out in paragraph (2) of this Rule.

(2) A statutory declaration lodged under paragraph (1) shall state:—

(*a*) the name and address of the payer under the order;

(*b*) the reason for the application;

(*c*) the date and place of the original registration;

(*d*) where the order has been re-registered, the date and place of the last registration and whether or not that has been cancelled, or, where any of these facts is not known, a statement to that effect;