1975 No. 58

MAGISTRATES' COURTS

Magistrates' Courts (Recovery Abroad of Maintenance) Rules (Northern Ireland) 1975

Made . . . . . 11*th March* 1975

Coming into operation . . . 12*th April* 1975

To be laid before Parliament

The Secretary of State(a) in pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(b) as extended by sections 27(8) to (11), 32(1) to (3), (6) and (7), 33(4) and (5), 35(4) and 38(2) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(c), on the recommendation of the Magistrates' Courts Rules Committee 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 (Recovery Abroad of Maintenance) Rules (Northern Ireland) 1975 and shall come into operation on 12th April 1975.

General interpretation

2. In these rules—

"the Act" means the Maintenance Orders (Reciprocal Enforcement) Act 1972;

"the Order Book" means the Order Book kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1974(d),

and, without prejudice to section 31 of the Interpretation Act 1889(e) any expression used in these rules shall, unless the contrary intention appears, have the same meaning as in Part II of the Act.

Duties of clerks of petty sessions

3.—(1) The officer of any court, by or in relation to whom anything is to be done in pursuance of any provision of Part II of the Act, shall, where that court is a court of summary jurisdiction, be the clerk of petty sessions.

(2) The clerk of petty sessions shall, upon receipt of the application and any accompanying documents under section 27 or 34(3) of the Act, communicate with the Incorporated Law Society of Northern Ireland with a view to ascertaining whether legal aid is to be granted to the complainant and whether or not the Secretary of State has received a request for such aid.

Dismissal of complaint by court of summary jurisdiction to be notified

4. Where a court of summary jurisdiction dismisses a complaint under Part II of the Act, the clerk of petty sessions shall send written notice of the court's decision to the Secretary of State and any such notice shall include a statement of the court's reasons for its decision.

(a) Formerly the Minister of Home Affairs for Northern Ireland; *see* S.I. 1973/2163
(b) 1964 c. 21 (N.I.)
(c) 1972 c. 18
(d) S.R. 1974 No. 334
(e) 1889 c. 63.

Registration of orders in favour of complainant

5.—(1) Where a court makes an order which is required under section 27(8) of the Act to be registered, the clerk of petty sessions shall enter a minute or memorandum of the order in the Order Book.

(2) Where the clerk of petty sessions, in pursuance of section 32(2) or (3) of the Act (transfer of orders), receives a certified copy of an order, he shall, subject to section 32(4), 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.

(3) Every minute or memorandum entered in pursuance of paragraph (1) or (2) above shall specify the section and subsection of the Act under which the order in question is registered.

Notification of registration

6.—(1) Where the clerk of petty sessions registers an order in pursuance of section 27(8) or 32(2) or (3) of the Act, he shall send written notice to the Secretary of State that the order has been duly registered.

(2) Where the clerk of petty sessions is required by section 32(6) of the Act to give notice of the registration of an order he shall do so by sending written notice to the officer specified in that subsection that the order has been duly registered.

Functions of clerks as to payments

7.—(1) Payment of sums due under a registered order shall, while the order is registered in a court of summary jurisdiction, be made to the clerk of the registering court during such hours and at such place as that clerk may direct; and a clerk to whom payments are made under this Rule shall send those payments by post to such person or authority as the Secretary of State may from time to time direct.

(2) Where it appears to a clerk to whom payments under a registered order are made by virtue of paragraph (1) above that any sums payable under the order are in arrear he may and, if such sums are in arrear to an amount equal to four times the sum payable weekly under the order, he shall, whether the person for whose benefits the payment should have been made requests him to do so or not, proceed in his own name for the recovery of those sums, unless it appears to him that it is unreasonable in the circumstances to do so.

Notice to defendant to complaint to vary where residing outside Northern Ireland

8.—(1) Notice under section 35(4) of the Act (variation of orders by courts of summary jurisdiction) of the making of a complaint for the variation or revocation of a registered order and of the time and place appointed for the hearing of the complaint shall be in the form specified in the Schedule to these rules and shall be sent by post by the clerk of the court to which the complaint was made to the Secretary of State for onward transmission to the appropriate authority in the convention country in which the defendant is residing.

(2) The time appointed for the hearing of the said complaint shall be not less than six weeks later than the date on which the said notice is sent to the Secretary of State.