1975 No. 52.

MAGISTRATES' COURTS

Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) (Republic of Ireland) Rules (Northern Ireland) 1975

Made . . . . . 10*th March* 1975

Coming into operation . . . . 1*st 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 2(3) and (4), 3(5)(*b*) and (*c*), (6A) and (6C), 5(2), 6(2) (3) (6) and (9), 8(5) and (6), 9(3), 10(1) to (5) and (7), 14(1), 16(1) and 18 of the Maintenance Orders (Reciprocal Enforcement) Act 1972(**c**) as extended by Article 3 of the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974(**d**), which sections are set out in Schedule 2 to that Order, on the recommendation 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 (Reciprocal Enforcement of Maintenance Orders) (Republic of Ireland) Rules (Northern Ireland) 1975 and shall come into operation on 1st April 1975.

Interpretation

2. In these rules—

"the Act" means the Maintenance Orders (Reciprocal Enforcement) Act 1972 as applied by, and with such exceptions, adaptations and modifications as are specified in the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974;

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

Duties of clerks of petty sessions

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

Applications under section 2 of the Act

4.—(1) An application under section 2 of the Act (transmission of maintenance order made in the United Kingdom for enforcement in the Republic of Ireland) shall, where the court which made the maintenance order to which the application relates is a court of summary jurisdiction, be made in writing by or on behalf of the payee under the order.

(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.I. 1974/2140
(e) S.R. 1974 No. 334

(2) Any application made in pursuance of paragraph (1) above shall—

(*a*) specify the date on which the order was made;

(*b*) contain such particulars as are known to the applicant of the whereabouts of the payer;

(*c*) specify any matters likely to assist in the identification of the payer;

(*d*) where possible, be accompanied by a recent photograph of the payer.

(3) In this rule, "the payer" means the payer under the order to which the application relates.

Authentication of evidence taken by court of summary jurisdiction

5. A document setting out or summarising any evidence, required by section 3(5)(*b*) or 5(2) of the Act to be authenticated, shall be authenticated by a certificate, signed by the resident magistrate before whom that evidence was given, that the document is the original document setting out or, as the case may be, summarising that evidence or a copy of that document.

Notification of date of hearing of proceedings for confirmation of provisional order

6. Where under section 3(6A) of the Act a person is required to be notified of the date fixed for the hearing at which confirmation of a provisional order is to be considered, the clerk of petty sessions shall send by post to that person and to the payer written notice of the date fixed.

Variation or revocation order to be sent to court in Republic of Ireland

7. Any documents required by section 5(4) of the Act to be sent to a court in the Republic of Ireland shall be sent to that court by registered post.

Registration of orders

8.—(1) Where a clerk of petty sessions is required under any provision of Part I of the Act to register an order, he shall cause the order to be registered in his court by means of a minute or memorandum entered in the Order Book.

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

Service of notices in connection with registration

9.—(1) Any notice required under section 6(6) of the Act (registration in United Kingdom court of maintenance order made in the Republic of Ireland) to be served on the payer under a maintenance order shall, where the order is registered in a court of summary jurisdiction, be in Form 1 in the Schedule and the notice to the payee required thereunder shall be sent by registered post.

(2) Where a court of summary jurisdiction to which an appeal is made under section 6(7) of the Act sets aside the registration of a maintenance order, the clerk of petty sessions shall send by registered post, written notice of the court's decision to the payee under the order.

(3) Any notice required under section 6(10) of the Act (notice that maintenance order made in the Republic of Ireland has not been registered in United Kingdom court) to be given to the payee under a maintenance order shall, where the appropriate court is a court of summary jurisdiction, be in Form 2 in the Schedule.

(4) Notice of the date of hearing of an appeal under section 6(7) or section 6(11) shall be given to the parties by the clerk of petty sessions by written notice and sent by registered post to the payee under the order.

Payment of sums under registered orders

10.—(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 of petty sessions to whom payments are made under this rule shall send those payments by post to the payee under the order or, where a public authority has been authorised by the payee to receive the payments, to that public authority.

(2) Where it appears to a clerk of petty sessions to whom payments under any maintenance order are made by virtue of paragraph (1) above that any sums payable under the order are in arrear he shall, if the person for whose benefit the payment should have been made so requests in writing, 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.

(3) Where it appears to such a clerk that any sums payable under the order are in arrear to an amount equal to four times the sum payable weekly under the order he shall, where practicable, give to the person for whose benefit the payment should have been made notice in writing stating the particulars of the arrears.

Taking of evidence at request of court in Republic of Ireland

11.—(1) Subject to paragraph (2) below, where a request is made by or on behalf of a court in the Republic of Ireland for the taking in Northern Ireland of the evidence of a person residing therein, the following courts shall have power under section 14(1) of the Act (obtaining of evidence needed for purpose of certain proceedings) to take that evidence, that is to say:

(*a*) where the maintenance order to which the proceedings in the Republic of Ireland relate was made by a court of summary jurisdiction, the court which made the order;

(*b*) where the maintenance order to which those proceedings relate is registered in a court of summary jurisdiction, the court in which the order is registered;

(*c*) a court of summary jurisdiction which has received such a request from the Secretary of State.

(2) The power conferred by paragraph (1) above may, with the agreement of a court having that power, be exercised by any other court of summary jurisdiction which, because the person whose evidence is to be taken resides within its jurisdiction or for any other reason, the first-mentioned court considers could more conveniently take the evidence; but nothing in this paragraph shall derogate from the power of any court specified in paragraph (1) above.

(3) Subject to paragraph (4), where the evidence of any person is to be taken by a court of summary jurisdiction under the foregoing provisions of this rule—

(*a*) the evidence shall be taken in the same manner as if that person were a witness in proceedings on a complaint;

(*b*) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and

(*c*) the court by which the evidence of any person is so taken shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by it.

(4) Where such a request as is mentioned in paragraph (1) above includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

Notice to Secretary of State of variation or revocation of order

12. Where a court of summary jurisdiction makes an order varying or revoking a maintenance order to which section 5 of the Act (variation and revocation of maintenance order made in the United Kingdom) applies, the clerk of petty sessions shall send by post written notice of the making of the order to the Secretary of State.

Notice of registration, cancellation or transfer of order

13.—(1) Where a clerk of petty sessions registers under section 6(3) of the Act (registration in United Kingdom court of maintenance order made in the Republic of Ireland) an order to which section 6 of the Act applies, he shall send by post written notice to the Secretary of State that the order has been duly registered.

(2) Where a clerk of petty sessions cancels the registration of a maintenance order under section 10(1) of the Act (cancellation of registration and transfer of order), he shall serve written notice of the cancellation upon the payer under the order.

(3) Where a clerk of petty sessions registers a maintenance order under section 10(4) of the Act, he shall send by post to the Secretary of State and serve upon the payer under the order written notice that the order has been duly registered.

Notice of making, etc., of order to be sent by registered post to person against whom it is made

14.—(1) Notwithstanding anything in rule 152 of the Magistrates' Courts Rules (Northern Ireland) 1974 a notice of the making, revocation, variation or discharge of a maintenance order or of the confirmation of an order shall be sent by registered post to the person in the Republic of Ireland against whom the order is made.

(2) Such notice shall be signed by the clerk of petty sessions.