1974. No. 68

MAGISTRATES' COURTS

Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules (Northern Ireland) 1974

Made . . . . . 16*th April* 1974

Coming into operation . . . 8*th May* 1974

To be laid before Parliament

RULES, DATED 16TH APRIL 1974, MADE BY THE SECRETARY OF STATE UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 AS EXTENDED.

In pursuance of section 23 of the Magistrates' Courts Act (Northern Ireland) 1964(**a**) as extended by sections 2(3) and (4), 3(5)(*b*) and (*c*), 5(4) and (9)(*a*), 6(2) and (3), 7(2) and (5), 8(5) and (6), 9(5) and (10), 10(1) to (5) and (7), 11(1)(*b*), 14(1), 16(1), 18 and 23(3) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(**b**), on the recommendation of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, I hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules (Northern Ireland) 1974 and shall come into operation on 8th May 1974.

Interpretation

2. In these Rules—

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

"the Order Book" means the Order Book kept under Rule 18 of the Magistrates' Courts Rules (Northern Ireland) 1965(**c**).

Duties of Clerk 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 reciprocating country) 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**) 1964. c. 21 (N.I.).
(**b**) 1972. c. 18.
(**c**) S.R. & O. (N.I.) 1965, No. 206.

(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*), 5(4) or 9(5) of the Act (provisional orders) 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 true copy of that document.

Documents sent to court in reciprocating country

6.—(1) Subject to paragraph (2) below, any documents required by section 5(4) or 9(5) of the Act to be sent to a court in a reciprocating country shall be sent to that court by post.

(2) Where the court to which the documents are to be sent is in a country specified in Schedule 1 to these Rules, such documents shall be sent to the Secretary of State for transmission to that court.

Revocation of provisional orders sent to reciprocating country

7.—(1) For the purposes of compliance with section 5(9) of the Act (revocation by United Kingdom court of provisional order) there shall be served on the person on whose application the order was made a notice which shall—

(*a*) set out the evidence received or taken, as the case may be, in pursuance of that subsection;

(*b*) inform that person that it appears to the court that the maintenance order ought not to have been made and that if he wishes to make representations with respect to that evidence he may do so orally or in writing and that if he wishes to adduce further evidence he should notify the clerk of petty sessions.

(2) Where the clerk of petty sessions receives notification that the person on whose application the maintenance order was made wishes to adduce further evidence, he shall fix a date for the hearing of such evidence and shall send that person notice in writing of the date fixed.

Registration of orders

8.—(1) Where a certified copy of an order, not being a provisional order, is received by the clerk of petty sessions and he is required under any provision of Part I of the Act to register the 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) Where a court of summary jurisdiction makes or confirms an order which is required under section 7(5) or 9(10) of the Act to be registered, the clerk of petty sessions shall enter a minute or memorandum thereof in the Order Book.

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

Payment of sums under registered orders

9.—(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, subject to paragraph (2), send those payments by post to the court which made the order or to such other person or authority as that court or the Secretary of State may from time to time direct.

(2) If the court which made the order is in a country or territory specified in Schedule 2 to these Rules, the clerk shall send any such sums to the Crown Agents for Overseas Governments and Administrations for transmission to the person to whom they are due.

(3) Where it appears to the clerk 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 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 benefit 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.

Taking of evidence at request of court in reciprocating country

10.—(1) Subject to paragraph (2) below, where a request is made by or on behalf of a court in a reciprocating country for the taking in Northern Ireland of the evidence of a person residing therein, the following courts of summary jurisdiction 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 order to which the proceedings in the court in the reciprocating country relate was made by a court of summary jurisdiction, the court which made the order;

(*b*) where the 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) below, 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;