1966. No. 291 **[NC]**

MAINTENANCE AND AFFILIATION ORDERS ACT (NORTHERN IRELAND) 1966

Date of Commencement

ORDER, DATED 14TH DECEMBER 1966, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 24(2) OF THE MAINTENANCE AND AFFILIATION ORDERS ACT (NORTHERN IRELAND) 1966.

I, the Right Honourable William Craig, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by section 24(2) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(a) (hereinafter referred to as "the Act") do hereby order as follows:—

1. The provisions of Part II of the Act (Registration, Enforcement and Variation of certain Maintenance Orders) shall come into operation on 2nd January 1967.

2. This Order may be cited as the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (Commencement) Order 1966.

Dated this 14th day of December 1966.

Wm. Craig,
Minister of Home Affairs
for Northern Ireland.

1966. No. 292 **[C]**

MAGISTRATES' COURTS RULES: AFFILIATION AND MAINTENANCE

RULES, DATED 14TH DECEMBER 1966, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 23 OF THE MAGISTRATES' COURTS ACT (NORTHERN IRELAND) 1964 AND PART II OF THE MAINTENANCE AND AFFILIATION ORDERS ACT (NORTHERN IRELAND) 1966.

I, the Right Honourable William Craig, Minister of Home Affairs, in exercise of the powers conferred on me by section 23(4) of the Magistrates' Courts Act (Northern Ireland) 1964(b), Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(a) and all other powers thereunto enabling, do hereby, upon the recommendation of the Magistrates' Courts Rules Committee appointed under section 23(2) of the said Act of 1964 and after consultation with the Lord Chief Justice, make the Rules hereinafter set forth.

Wm. Craig,
Minister of Home Affairs.

Dated the 14th day of December 1966.

(a) 1966, c. 35 (N.I.). (b) 1964, c. 21 (N.I.).

PART I

Proceedings in Courts of Summary Jurisdiction under the jurisdiction extended or conferred by Parts I and III of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966

Forms to be used in affiliation proceedings

1.—(1) The forms in Schedule (A) to the Illegitimate Children (Affiliation Orders) Rules 1925(**a**) numbered 1 to 12, 25 to 29 and 33 shall continue, with any necessary modifications, to apply to the exercise of the jurisdiction extended or conferred by Parts I and III of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (in these Rules referred to as "the Act of 1966").

(2) A complaint to vary or revive or to further vary or revive an affiliation order in accordance with section 5 of the Act of 1966, a summons to so vary or revive or to further vary or revive such order or an order making such variation or revival shall be in the form numbered 1, 2, 3, 4, 5 or 6, as the case may be, in Part I of Schedule 1 to these Rules.

Forms to be used in maintenance proceedings

2.—(1) The forms in Schedule 1 to the Summary Jurisdiction (Separation and Maintenance) Rules (Northern Ireland) 1946(**b**) numbered 1 to 11 and 26 shall continue, with any necessary modifications, to apply to the exercise of the jurisdiction extended or conferred by Parts I and III of the Act of 1966.

(2) A complaint to vary or revive or to further vary or revive an order made under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945(**c**) in accordance with section 6 of the Act of 1966, a summons to so vary or revive or to further vary or revive such order or an order making such variation or revival shall be in the form numbered 1, 2, 3, 4, 5 or 6, as the case may be, in Part II of Schedule 1 to these Rules.

PART II

Proceedings under Part II of the Act of 1966 in Courts of Summary Jurisdiction for the registration, enforcement and variation of Orders

Application for registration under section 11(3) *of the Act of* 1966

3. An application under section 11(3) of the Act of 1966 for the registration in the High Court of a maintenance order made by a court of summary jurisdiction shall be made in the form numbered 1 in Schedule 2 to these Rules to a resident magistrate acting for the same petty sessions district as the court which made the maintenance order.

Manner in which a court of summary jurisdiction is to be satisfied as to various matters

4.—(1) On an application for registration in the High Court of a maintenance order made by a court of summary jurisdiction, the court of summary jurisdiction shall be satisfied in the manner provided by paragraph (4) as to the amount due and unpaid under the order at the time the application was made.

(**a**) S.R. & O. (N.I.) 1925, No. 25.
(**b**) S.R. & O. (N.I.) 1946, No. 161.
(**c**) 1945, c. 14.

(2) Where such an application as aforesaid is granted, the court shall be satisfied in the manner provided by paragraph (4) that no process for the enforcement of the order issued before the grant of the application remains in force.

(3) Where the court receives a notice given under section 14 of the Act of 1966 (which relates to cancellation of registration) the court shall be satisfied in the manner provided by paragraph (4) of this Rule that no process for the enforcement of the order issued before the giving of the notice remains in force and that no proceedings for the variation of the order are pending in a court of summary jurisdiction.

(4) For the purpose of satisfying the court as to the matters referred to in this Rule—

(*a*) if the person through or to whom payments are ordered to be made is the Clerk of Petty Sessions, there shall be produced a certificate in that behalf purporting to be signed by the Clerk in the form numbered 2, 3 or 4, as the case may be, in Schedule 2 to these Rules.

(*b*) In any other case, there shall be produced a document purporting to be a statutory declaration in that behalf in the form numbered 5, 6 or 7, as the case may be, in Schedule 2 to these Rules.

Copy of order of court of summary jurisdiction sent to the High Court for registration

5.—(1) Where an application for the registration in the High Court of a maintenance order made by a court of summary jurisdiction is granted and the court of summary jurisdiction to which the application is made is satisfied that no process issued for the enforcement of the order before the grant of the application remains in force, the court shall, in accordance with paragraph (*c*) of section 11(4) of the Act of 1966 cause the Clerk of Petty Sessions to send a copy of the order, and if the order has been varied the order as varied or last varied, certified to be a true copy thereof in the form numbered 8 in Schedule 2 to these Rules, to the registrar of the Supreme Court.

(2) Notwithstanding Rule 7 of and Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965(a) no stamp shall be required upon the said copy.

Registration of High Court order in a court of summary jurisdiction

6. Where a Clerk of Petty Sessions in accordance with paragraph (*b*) of section 11(2) of the Act of 1966 receives from an officer of the High Court a certified copy of a maintenance order made by the High Court he shall cause the order to be registered in the Order Book by means of a memorandum signed by him and shall send written notice to that officer that the order has been duly registered.

Notices as respects payments through a collecting officer, etc.

7.—(1) A notice under subsection (4) of section 15 of the Act of 1966 that the payments under a maintenance order made by the High Court have, on its registration in a court of summary jurisdiction, ceased to be payable to an officer or person on behalf of the person entitled thereto, shall be in the form numbered 9 in Schedule 2 to these Rules.

(2) A notice under subsection (4) of section 15 of the Act of 1966 that the payments under a maintenance order made by the High Court have, on its

(a) S.R. & O. (N.I.) 1965, No. 206.

registration in a court of summary jurisdiction, become payable through a collecting officer shall be given by the Clerk of Petty Sessions of the court of registration in the form numbered 10 in Schedule 2 to these Rules.

(3) A notice under subsection (4) of section 15 of the Act of 1966 that the payments under a maintenance order made by a court of summary jurisdiction have, on its registration in the High Court, ceased to be payable through a collecting officer shall be given by the Clerk of Petty Sessions of the original court and shall be in the form numbered 11 in Schedule 2 to these Rules and, where payments have been payable through the collecting officer for a court other than the original court, he shall send a copy of the said notice to the last-mentioned collecting officer.

(4) A notice under subsection (6) of section 15 of the Act of 1966 that the registration in a court of summary jurisdiction of a maintenance order made by the High Court has been cancelled and that the payments thereunder have ceased to be payable through a collecting officer shall be given by the Clerk of Petty Sessions of the court of registration and shall be in the form numbered 12 in Schedule 2 to these Rules and, where payments have been payable through a collecting officer other than for the court of registration, he shall send a copy of the said notice to that other collecting officer.

(5) A notice given under this Rule shall be delivered to the person liable to make the payments under the order to which the notice relates by a summons server for the Petty Sessions District in which the notice is required to be served or sent by registered post or by the recorded delivery service addressed to that person at his last known address.

Remission to the original court of application for variation of registered maintenance order

8. An order under section 13(5) of the Act of 1966 remitting an application for the variation of a maintenance order made in the High Court and registered in a court of summary jurisdiction to the original court shall be in the form numbered 13 in Schedule 2 to these Rules.

Notice of variation, remission, discharge or cancellation of registration by a court of summary jurisdiction of a registered order

9.—(1) Where a maintenance order made by the High Court registered in a court of summary jurisdiction is, under section 13(2) of the Act of 1966, varied by a court of summary jurisdiction, the Clerk of Petty Sessions of the last-mentioned court shall give notice of the variation to the officer of the High Court from whom he received a copy of the order in the first instance.

(2) Where an application for the variation of a maintenance order made in the High Court registered in a court of summary jurisdiction is, under section 13(5) of the Act of 1966, remitted to the High Court by a court of summary jurisdiction, the Clerk of Petty Sessions of the last-mentioned court shall give notice of the remission to the said officer of the High Court.

(3) Where the registration of a maintenance order made by the High Court in a court of summary jurisdiction is, under section 14(4) of the Act of 1966, cancelled by the court of registration, the Clerk of Petty Sessions of the last-mentioned court shall give notice of cancellation to the said officer of the High Court stating, if such be the case, that the cancellation is in consequence of a notice given under section 14(1) of that Act.

(4) Where a maintenance order made by a court of summary jurisdiction registered in the High Court is varied or discharged by a court of summary

jurisdiction, the Clerk of Petty Sessions of the last-mentioned court shall give notice of the variation or discharge, as the case may be, to the registrar of the Supreme Court.

(5) Notice under the preceding provisions of this Rule shall be given by sending to the registrar of the Supreme Court or, where appropriate, to the officer of the High Court from whom the Clerk of Petty Sessions received a copy of the order in the first instance, a copy of the order of variation, remission, cancellation or discharge, as the case may be, certified to be a true copy thereof in the form numbered 14 in Schedule 2 to these Rules by the Clerk of Petty Sessions and marked with title or cause number, if any, and notwithstanding Rule 7 of and Schedule 2 to the Magistrates' Courts Rules (Northern Ireland) 1965 no stamp shall be required on the said copy.

(6) Where a maintenance order made by a court of summary jurisdiction registered in the High Court is discharged by a court of summary jurisdiction and it appears to the last-mentioned court that no arrears remain to be recovered, notice under section 14(3) of the Act shall be given by an endorsement in the form numbered 15 in Schedule 2 to these Rules on the certified copy of the order of discharge referred to in paragraph (5) of this Rule.

Notices received from the High Court or from a person entitled to payments

10. Where any notice is received—

(*a*) of the registration in the High Court of a maintenance order made by a court of summary jurisdiction;

(*b*) of the discharge or variation by the High Court of a maintenance order made in the High Court registered in a court of summary jurisdiction;

(*c*) under subsection (1) or (2) of section 14 of the Act of 1966 (which relates to the cancellation of registration);

the Clerk of Petty Sessions shall cause particulars of the notice to be registered in his court by means of a memorandum entered and signed by him in the Order Book and, in the case of a notice under subsections (1) and (2) of section 14 of the Act of 1966, shall cause the person in possession of any warrant of commitment, issued but not executed, for the enforcement of the order to be informed of the giving of the notice.

Forms to be used for the enforcement of orders registered in courts of summary jurisdiction under Part II of the Act of 1966

11. The forms in Schedule 1 to the Magistrates' Courts Rules (Northern Ireland) 1965 numbered 92 and 94 to 108 shall, with any necessary modifications, apply to the enforcement of orders registered in courts of summary jurisdiction under Part II of the Act of 1966.

PART III

General

Forms

12. References in these Rules to forms include references to forms adapted in consequence of any enactment or otherwise to the like effect.

Citation and commencement

13. These Rules may be cited as the Magistrates' Courts (Maintenance and Affiliation) Rules (Northern Ireland) 1966 and shall come into force on the 2nd day of January 1967.