The Ministry of Finance for Northern Ireland, in so far as its approval is necessary under sub-section (2) of Section seven of the Act, hereby approves the foregoing Regulations.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this eleventh day of December, 1951, in the presence of

(L.S.) *G. N. Cox,*
Assistant Secretary.

MAINTENANCE ORDERS

RULES, DATED 9TH JULY, 1951, MADE BY THE LORD CHIEF JUSTICE OF NORTHERN IRELAND UNDER SECTION 13, SUBSECTIONS (2) AND (3) OF SECTION 25 AND SUBSECTION (1) OF SECTION 28 OF THE MAINTENANCE ORDERS ACT, 1950.

1951. No. 126

I, THE RIGHT HONOURABLE JOHN CLARKE, BARON MACDERMOTT, Lord Chief Justice of Northern Ireland, in exercise of the powers conferred upon me by section 13, subsections (2) and (3) of section 25 and subsection (1) of section 28 of the Maintenance Orders Act, 1950, and of all other powers enabling me in this behalf, do hereby make the following Rules :—

PART I

Transfer of Wife Maintenance Proceedings

1.—(1) Where proceedings under section 3 or section 4 of the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland), 1945, are begun against a defendant residing in England or Scotland in a court having jurisdiction by virtue of subsection (1) of section 10 of the Maintenance Orders Act, 1950, then, upon an application in that behalf made by the defendant in accordance with paragraph (2) of this Rule, a resident magistrate acting for the same petty sessions district as that court may, if it appears that the case could be more conveniently heard in a court of summary jurisdiction having jurisdiction in the place where the parties last ordinarily resided together as man and wife, determine that the proceedings shall be removed into the last-mentioned court.

(2) An application under the foregoing paragraph shall be made in writing by or on behalf of the defendant and unless the defendant applies in person there shall be lodged with the clerk of petty sessions of the court in which the proceedings under the said section 3 or section 4 have been begun a statutory declaration by the defendant which shall

state the grounds upon which the application is made and the address of the defendant to which notices may be sent.

(3) The resident magistrate adjudicating on an application made under paragraph (1) of this Rule shall, unless he determines that the application shall be refused forthwith, afford to the complainant an opportunity of making representations, either orally or in writing, thereon.

(4) Where a resident magistrate determines under paragraph (1) of this Rule that the proceedings under the said section 4 shall be removed into another court of summary jurisdiction, he shall cause the clerk of petty sessions of the court in which the said proceedings have been begun to send to the clerk of that other court the complaint, a copy of the summons and any other relevant documents; and, on receipt thereof in that other court, the complaint shall be deemed to have been made in, and the summons to have been issued by, that other court, and any resident magistrate acting for the same place as that other court may appoint a time and place for the hearing of the proceedings which, upon notice thereof being sent by registered post to the complainant and defendant, shall be deemed to have been the time and place appointed in the summons.

PART II

Procedure under Part II of the Act in relation to Maintenance Orders made by Courts of Summary Jurisdiction in Northern Ireland

2.—(1) An application for the registration in a court in England or Scotland under Part II of the Act of a maintenance order made by a court of summary jurisdiction in Northern Ireland shall be made, in writing by or on behalf of the person entitled to the payments thereunder, 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 be lodged with the clerk of petty sessions of the court which made the order a statutory declaration by the applicant which shall contain the particulars specified in paragraph (2) of this Rule.

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

(*a*) the address of the person liable to make the payments 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 Act, the amount of any arrears due under the order;

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

(3) If it appears to the resident magistrate dealing with an application made as aforesaid that the person liable to make the payments under the order resides in England or Scotland, and that it is convenient that the order should be enforceable there, he shall cause the clerk of petty sessions of the court which made the order to send to the clerk of the court of summary jurisdiction in England, or, as the case may be, to the sheriff-clerk of the sheriff court in Scotland, having jurisdiction in the place in which the person liable to make the payments under the order appears to be :—

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

(*b*) the certificate of arrears or statutory declaration (if any) ;

(*c*) if no statutory declaration has been lodged, written notice of the address of the person liable to make the payments under the order.

(4) A record of any proceedings taken under the foregoing provisions of this Rule for the registration of a maintenance order in a court in England or Scotland shall be entered in the order-book kept pursuant to section 21 of the Act of 1851 ; and on the receipt by the clerk of petty sessions of the court which made the order (who shall be the prescribed officer of that court for the purposes of subsection (4) of section 17 of the Act) of notice under the said subsection (4) of the registration of the order he shall cause particulars of the notice to be registered in his court by means of an entry made and signed by him in the order-book kept pursuant to the said section 21.

3.—(1) An application to a court of summary jurisdiction in Northern Ireland under subsection (5) of section 22 of the 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 the last foregoing paragraph shall cause a transcript or summary of any evidence taken therein to be sent to the clerk of the court in which the order is registered.

(3) The clerk of petty sessions of the court of summary jurisdiction in Northern Ireland by which a maintenance order registered in a court in England or Scotland was made shall be the prescribed officer to whom any transcript or summary of evidence adduced in the court in England or Scotland under the said subsection (5) shall be sent.

4.—(1) Where a maintenance order made by a court of summary jurisdiction in Northern Ireland and registered in a court in England or Scotland is varied under subsection (1) of section 22 of the Act by the court in which it is registered, the clerk of petty sessions of the court which made the order shall be the prescribed officer to whom, under subsection (1) of section 23 of the Act, notice of the variation shall be

given ; and on receipt of such notice he shall cause particulars of the same to be registered in his court by means of an entry made and signed by him in the order-book kept pursuant to section 21 of the Act of 1851.

(2) Where a maintenance order made by a court of summary jurisdiction in Northern Ireland and registered in a court in England or Scotland is discharged or varied by the court which made it, the clerk of petty sessions of that court shall give notice of the discharge or variation to the clerk of the court in which the order is registered by sending to him a certified copy of the order discharging or varying the maintenance order.

5.—(1) An application under subsection (2) of section 24 of the Act for the cancellation of the registration of a maintenance order made by a court of summary jurisdiction in Northern Ireland and registered in a court in England or Scotland may be made, either orally or in writing by or on behalf of the person liable to make the payments thereunder, 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 be lodged with the clerk of petty sessions of the court which made the order a statutory declaration by the applicant stating the facts upon which he relies in support of the application.

(2) If it appears to the resident magistrate dealing with an application made as aforesaid that the person liable to make the payments under the order has ceased to reside in England or Scotland, as the case may be, he shall cause the clerk of petty sessions of the court which made the order to send notice to that effect to the clerk of the court in which the order is registered.

6. On the cancellation under section 24 of the Act of the registration in a court in England or Scotland of a maintenance order made by a court of summary jurisdiction in Northern Ireland, the clerk of petty sessions of the last-mentioned court shall be the prescribed officer to whom, under subsection (3) of the said section 24, notice of the cancellation shall be given ; and on the receipt of such notice he shall cause particulars of the same to be registered in his court by means of an entry made and signed by him in the order-book kept pursuant to section 21 of the Act of 1851.

PART III

Procedure in Court of Summary Jurisdiction in Northern Ireland under Part II of the Act in relation to Maintenance Orders made by Courts in England or Scotland

7. The clerk of petty sessions of the court of summary jurisdiction in Northern Ireland specified in paragraph (*b*) of subsection (3) of section 17 of the Act shall be the prescribed officer for the purpose of subsection (2) of the said section 17, and on receiving, in pursuance of

that section, a certified copy of a maintenance order made by a court in England or Scotland he shall cause the order to be registered in his court by means of an entry made and signed by him in the order-book kept pursuant to section 21 of the Act of 1851, and shall send written notice to the clerk of the court by which the order was made that it has been duly registered.

8. An application for the variation under subsection (1) of section 22 of the Act of the rate of the payments under a maintenance order registered under Part II of the Act in a court of summary jurisdiction in Northern Ireland shall be made by way of complaint in accordance with the Summary Jurisdiction Acts (Northern Ireland), and thereupon a summons may be issued directed to any person whom the justice to whom the complaint is made may consider proper to answer the same.

9.—(1) An application made to a court of summary jurisdiction in Northern Ireland under subsection (5) of section 22 of the Act to adduce evidence in connection with a maintenance order registered therein under Part II of the Act 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 the last foregoing paragraph shall cause a transcript or summary of any evidence taken therein to be sent to the clerk of the court in England or Scotland by which the order was made.

(3) The clerk of petty sessions of the court of summary jurisdiction in Northern Ireland in which a maintenance order is registered under Part II of the Act shall be the prescribed officer to whom any transcript or summary of evidence adduced under the said subsection (5) in the court in England or Scotland by which the order was made shall be sent.

10.—(1) Where a maintenance order registered under Part II of the Act in a court of summary jurisdiction in Northern Ireland is varied under subsection (1) of section 22 of the Act by that court, the clerk of petty sessions of the court shall give notice of the variation to the clerk of the court in England or Scotland, as the case may be, by which the order was made by sending to him a certified copy of the order of variation.

(2) Where a maintenance order registered under Part II of the Act in a court of summary jurisdiction in Northern Ireland is discharged or varied by any other court, the clerk of petty sessions of the court in which it is registered shall be the prescribed officer to whom under subsection (2) of section 23 of the Act notice of the discharge or variation shall be given ; and on receipt of a certified copy of an order discharging or varying the registered order, he shall cause particulars of the same to be registered in his court by means of an entry made and signed by him in the order-book kept pursuant to section 21 of the Act of 1851.