

1990 No. 421

MAGISTRATES' COURTS

Magistrates' Courts (Social Security (Northern Ireland) Order 1986) (Transfer of Orders to Maintain and Enforcement of Maintenance Orders) Rules (Northern Ireland) 1990

Made 29th November 1990

Coming into operation 1st January 1991

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a) and all other powers enabling him in that behalf, on the advice 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 (Social Security (Northern Ireland) Order 1986) (Transfer of Orders to Maintain and Enforcement of Maintenance Orders) Rules (Northern Ireland) 1990 and shall come into operation on 1st January 1991.

Interpretation

2. In these rules a reference to an Article by number is a reference to that Article as numbered in the Social Security (Northern Ireland) Order 1986(b) and expressions which are used in that Order have the same meaning in these rules as they have in that Order.

Transfer of Orders

3.—(1) Where under Article 25A the Department gives notice in writing to a magistrates' court which has made an order under Article 25(4), transferring to a dependant parent (under paragraph (3)) or transferring back from a dependant parent to the Department (under paragraph (7)) the right to receive payments under the order (exclusive of any personal allowance element), the clerk of petty sessions shall note the transfer or transfer back, as the case may be, on the order.

(2) Where in accordance with paragraph (1) a clerk of petty sessions notes a transfer or transfer back on the order made under Article 25(4) he shall—

(a) S.I. 1981/1675 (N.I. 26)

(b) S.I. 1986/1888 (N.I. 18) as amended by S.I. 1990/1511 (N.I. 15)

- (a) make a written record of the fact that, and the date on which, he has done so, and shall keep the written record, together with the notice given by the Department under Article 25A, with the Order Book kept under rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984(a); and
- (b) send a copy of the order, bearing the note made in accordance with paragraph (1), to the Department, the liable parent and the dependant parent.

Notice of application under Article 25B(5)

4. Where an application within paragraph (a) or (b) of Article 25B(5) is made to a magistrates' court, the clerk of petty sessions shall, after giving notice to the Department of any such application, notify the parties to the application that he has done so and that the Department is entitled to appear and be heard on the application.

Dated 29th November 1990

Mackay of Clashfern, C.

EXPLANATORY NOTE

(This note is not part of the rules.)

These rules are made in consequence of Article 10 of the Social Security (Northern Ireland) Order 1990 which amends the Social Security (Northern Ireland) Order 1986 so as to:

- allow in certain circumstances for the transfer (and transfer back) between the Department of Health and Social Services and a dependant parent, of the rights under an order obtained by the Department under Article 25(4) of the 1986 Order;
- allow the Department to take the same proceedings to enforce a maintenance order as could be taken by or on behalf of the recipient under the order.

Rule 3(1) imposes a duty on the clerk of petty sessions of a magistrates' court which has made an order under Article 25(4) of the 1986 Order, where the right to receive the payments has been transferred from the Department to the dependant parent or transferred back from the dependant parent to the Department, to note the transfer (or transfer back) on the order.

Rule 3(2) provides that where a clerk of petty sessions notes the transfer (or transfer back) on the order in accordance with paragraph (1) he is to keep a written record of the fact that he has done so with the Order Book. He is also to send a copy of the order duly noted as to the transfer (or transfer back), to the Department, the dependant parent and the liable parent.

Rule 4 provides that where the clerk of petty sessions has given the Department notice of any application to vary, remit etc. a maintenance order under Article 25B(5)(a) or (b) he is to notify the parties to the application that he has done so and that the Department is entitled to be heard on the application.