

2019 No. 238

MAGISTRATES' COURTS

**The Magistrates' Courts (Miscellaneous Amendments) Rules
(Northern Ireland) 2019**

Made - - - - 16th December 2019

Coming into operation in accordance with rule 1

The Magistrates' Courts Rules Committee makes and the Department of Justice, after consultation with the Lord Chief Justice, allows the following Rules in exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a), Article 165 of the Children (Northern Ireland) Order 1995(b) and section 48 of the Civil Jurisdiction and Judgments Act 1982(c).

PART 1

Introduction

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Miscellaneous Amendments) Rules (Northern Ireland) 2019 and shall come into operation on exit day 2019.

(2) In these Rules, a reference to a rule—

- (a) in Part 2 of the Rules is a reference to the rule so numbered in the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986(d); and
- (b) in Part 3 of these Rules is a reference to the rule so numbered in the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996(e).

(a) S.I. 1981/1675 (N.I. 26); Article 13 was amended by paragraph 65 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 133 of Schedule 18 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976) and paragraph 4 of the Schedule to the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13).

(b) S.I. 1995/755 (N.I. 2).

(c) 1982 c.27. Section 48 was amended by section 3 of, and paragraph 23 of Schedule 2 to, the Civil Jurisdiction and Judgments Act 1991 (c.12) and Article 4 and paragraph 17 of Schedule 2 to the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929) and regulation 5 of the Civil Jurisdiction and Judgments (Maintenance) (Rules of Court) Regulations 2011 (S.I. 2011/1215). Regulation 7 of the 2011 Regulations applies section 48 to authentic instruments and court settlements.

(d) S.R. 1986 No. 359, to which the most recent relevant amendment was made by S.R. 2011 No. 225 and S.R. 2012 No. 414.

(e) S.R. 1996 No. 323, to which the most recent relevant amendments were made by S.R. 2011 No. 61.

PART 2

Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986

Amendments to the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986

2. The Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 are amended as follows.

3. In Rule 2—

- (a) omit the words from “the 1968 Convention to “1982 Act” in both places where they occur;
- (b) omit the definition of “the 1988 Convention”;
- (c) in the definition of “references to a maintenance order”, omit head (i);
- (d) omit the definition of the Maintenance Regulation;
- (e) omit the definition of Regulation State.

4. In Rule 3, omit “, the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011”.

5. In Rule 3A—

- (a) in the heading, omit “Article 30 of the Maintenance Regulation or”;
- (b) omit “under Article 30 of the Maintenance Regulation for a declaration of enforceability of a maintenance order or”.

6. In Rule 4—

- (a) omit paragraphs (1) and (1A);
- (b) in paragraph (1B), omit “other than a Member State of the European Union”;
- (c) in paragraph (2), for “(1) or (1A)” substitute “1(B)”;
- (d) in paragraph (5), omit from “Article 31 of the 1968 Convention” to “Maintenance Regulation or”;
- (e) in paragraphs (6) and (7), omit “(1), (1A) or”.

7. In Rule 5—

- (a) in paragraph (1), omit from “under Article 36 or” to “Maintenance Regulation or”;
- (b) omit paragraph (2).

8. In Rule 7—

- (a) omit “a Contracting State, or a Regulation State or”;
- (b) omit “other than a Member State of the European Union”.

9. In Rules 8(1) and 9, omit “Articles 46 and 47 of the 1968 Convention, under Articles 28 or 29 of the Maintenance Regulation or”.

10. Omit Rules 10 and 11.

11. In Rule 12—

- (a) in paragraph (1)—
 - (i) omit “Without prejudice to the provisions of Rules 10(6), 10(7), 11(5) and 11(6) of these Rules,”;
 - (ii) for “to which paragraph (1A) applies” substitute “bound by the 2007 Hague Convention”;
- (b) omit paragraph (1A);

- (c) in paragraph (1B), omit sub-paragraph (a);
- (d) in paragraph (5), for “to which paragraph (1A) applies” substitute “bound by the 2007 Hague Convention”.

12. In Rule 13—

- (a) in paragraph (1), in each place it occurs, for “to which paragraph 12(1A)” substitute “bound by the 2007 Hague Convention”;
- (b) in paragraph (1)(c), omit “the 1982 Act, the Maintenance Regulation or”;
- (c) in the words after paragraph (1)(d), omit “the 1982 Act, the Maintenance Regulation or”;
- (d) in paragraph (8)—
 - (i) omit “Contracting State or another Regulation”;
 - (ii) after “State” insert “bound by the 2007 Hague Convention”;
 - (iii) omit “the 1982 Act, the Maintenance Regulation or”.

13. In Rule 14—

- (a) in paragraph (1)—
 - (i) omit “or in a Contracting State or in a Member State of the European Union other than the United Kingdom”;
 - (ii) omit “(other than a Member State of the European Union)”;
- (b) in paragraph (1)(a)—
 - (i) omit “or Contracting State or Member State of the European Union”;
 - (ii) omit “(other than a Member State of the European Union)”.

14. In Rule 16—

- (a) in paragraph (1), omit sub-paragraphs (a) to (d);
- (b) in paragraph (2), for “instruments referred to in paragraph (1)” substitute “2007 Hague Convention”.

15. In Rule 17—

- (a) in the heading, for “Member State of the European Union” insert “State”;
- (b) in paragraph (1), for “Member State of the European Union” insert “State”;
- (c) omit paragraph (3).

16. Omit Rule 18.

17. In Rule 20—

- (a) in paragraph (1), omit “Article 58 of the Maintenance Regulation or”;
- (b) in paragraph (2) omit “Article 56 of the Maintenance Regulation or”.

PART 3

Amendments to the Magistrates’ Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996

18. The Magistrates’ Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 are amended as follows.

19. In Rule 1(3)—

- (a) omit the definition of “the Council Regulation”;

- (b) in the definition of “judgment”, omit “in accordance with Article 2(4) of the Council Regulation where it applies and”;
- (c) omit the definition of “Member State”;
- (d) in the definition of “parental responsibility”, omit “, and in relation to proceedings under the Council Regulation, as in Article 2(7) of that Regulation”.

20. In Rule 21A —

- (a) in the heading, omit “under Article 15 of the Council Regulation or”;
- (b) in paragraph (1), omit “Member State or”;
- (c) in paragraph (3)—
 - (i) omit “Member State or”;
 - (ii) omit “the Council Regulation or”;
- (d) in paragraph (5), omit “Member State or”;
- (e) in paragraph (6)—
 - (i) omit “Member State or”;
 - (ii) omit “authorities within the meaning of “court” in Article 2(1) of the Council Regulation and”.

21. In Rule 21B—

- (a) in the heading, omit “Member State or”;
- (b) in paragraph (1), omit “under Article 15(1) of the Council Regulation or”;
- (c) in paragraph (1)(a), omit “Member State or”;
- (d) in paragraph (1)(b), omit “another Member State or”.

22. In Rule 21C —

- (a) in the heading, omit “another Member State or”;
- (b) in paragraph (1)—
 - (i) omit “another Member State or”;
 - (ii) omit “under Article 15(2)(c) of the Council Regulation or”.

23. In Rule 21D(1), omit “Article 15 of the Council Regulation or”.

24. In Rule 21E—

- (a) in the heading, omit “Article 15 of the Council Regulation or”;
- (b) in paragraph (1)—
 - (i) omit “another Member State or”;
 - (ii) omit “under Article 15(2) of the Council Regulation or”.

25. In Rule 21F—

- (a) in the heading, omit “Member State or”;
- (b) in paragraphs (1) and (3), omit “Member State or”.

26. In Rule 21G—

- (a) in the heading, omit “the Council Regulation or”;
- (b) omit “Member State or”.

27. In Rule 21H, omit from “any of Articles 16 to 18” to “Article 19 of the Council Regulation or”.

28. In Rule 21I—

- (a) in paragraph (1), omit sub-paragraph (a) and the “or” preceding sub-paragraph (b);

(b) in paragraphs (2) and (3), omit “Member State or”.

29. In Rule 21J—

- (a) in the heading, omit “Member State or”;
- (b) in paragraph (1), omit “another Member State under Article 56 of the Council Regulation or”;
- (c) in paragraph (2), omit “where the request is made under that Convention”;
- (d) in paragraph (4), omit “Member”.

30. In Rule 21K—

- (a) in paragraph (1), omit from “Except as regards” to “the Council Regulation,”;
- (b) in paragraph (2), omit “In the case of an application under the 1996 Hague Convention,”.

31. Omit Rules 21L and 21M.

32. For Rule 21N(f), substitute—

- “(f) stating—
 - (i) whether the judgment provided for the payment of a sum or sums of money;
 - (ii) whether interest is recoverable on the judgment or part of it in accordance with the law of the Contracting State in which the judgment was given, and if so, the rate of interest, the date from which the interest is recoverable, and the date on which interest ceases to accrue;
 - (g) giving an address within the jurisdiction of the court for service of process on the party making the application and stating, so far as is known to the witness, the name and the usual or last known address or place of business of the person against whom judgment was given.”.

33. In Rule 21P, omit “Member State or”.

34. In Rule 21R(2), omit “under Article 21(3) of the Council Regulation or”.

35. In Rule 21S—

- (a) in paragraph (1), omit “, or for a certificate under Articles 39 or 42 of the Council Regulation,”;
- (b) in paragraph (3), omit “Where the application is made for the purposes of applying for recognition of the order in another Contracting State,”.

36. Omit Rules 21T and U.

37. For Rule 21V(a)(i) substitute—

- “(i) a copy of the application by which the proceedings were begun and a copy of all pleadings filed in the proceedings;”.

38. Omit Rules 21X and 21Y.

PART 4

Saving and transitional provisions

39.—(1) Where in relation to any proceedings, the relevant saving provision applies, the Magistrates’ Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 and the Magistrates’ Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 continue to apply on and after exit day for the purposes of those proceedings as if the amendments made by these Rules had not been made.

(2) In paragraph (1), the “relevant savings provision” means, as applicable—

- (a) regulation 8 of the Jurisdiction and Judgments (Family) (Amendment etc) (EU Exit) Regulations 2019(a); or
- (b) regulation 92 of the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019(b).

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Dated 16th December 2019

In exercise of the powers conferred by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981, the Department of Justice allows these Rules.

Sealed with the Official Seal of the Justice on 20th December 2019



Peter May
A senior officer of the
Department of Justice

(a) S.I. 2019/494.
(b) S.I.2019/479.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 (S.R. 1986 No. 359) and the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 (S.R. 1996 No. 323) in consequence of provisions in statutory instruments made under section 8(1) of the European Union (Withdrawal) Act 2018 (c.16).

These Rules omit provision referring to:

- Regulation (EC) No. 4/2009 (known as “the Maintenance Regulation”) in the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986; and
- Regulation (EC) No. 2201/2003 (referred to as “the Council Regulation” but also known as “Brussels IIa”) in the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996.

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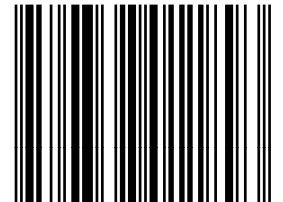
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