
STATUTORY INSTRUMENTS

1975 No. 286 (L.4)

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Reciprocal Enforcement of
Maintenance Orders) (Republic of Ireland) Rules 1975**

Made - - - - 27th February 1975

Laid before Parliament 10th March 1975

Coming into Operation 1st April 1975

The Lord Chancellor, in exercise of the powers conferred on him by section 15 of the Justices of the Peace Act 1949, as extended by section 122 of the Magistrates' Courts Act 1952, and sections 2(3) and (4), 3(5)(b) and (c), (6A) and (6C), 5(2), 6(2), (3), (6), and (9), 8(5) and (6), 9(3), 10(1) to (5) and (7), 14(1), 16(1) and 18(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972, as extended by Article 3 of the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974(1) (which sections are set out in Schedule 2 to that Order) and after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) (Republic of Ireland) Rules 1975 and shall come into operation on 1st April 1975.

2.—(1) In these Rules, unless the context otherwise requires—

“the Act” means the Maintenance Orders (Reciprocal Enforcement) Act 1972 as applied with such exceptions, adaptations and modifications as are specified in the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974; and

“his register”, in relation to a justices' clerk, means the register kept by that clerk in pursuance of rule 54 of the Magistrates' Courts Rules 1968(2)

(2) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

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 magistrates' court, be the justices' clerk.

(1) (1974 III, p. 8401).
(2) (1968 III, p. 5175).

4.—(1) An application under section 2 of the Act (transmission of maintenance order made in United Kingdom for enforcement in Republic of Ireland) may, where the court which made the maintenance order to which the application relates is a magistrates' court, be made in writing by or on behalf of the payee under the order.

(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.

5. A document setting out or summarising any evidence, required by section 3(5)(b) or 5(2) of the Act to be authenticated, shall be authenticated by a certificate, signed by one of the justices before whom that evidence was given, but 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.

6. Where under section 3(6A) of the Act a person is required to be notified of the date fixed for the hearing at which confirmation of a provisional order is to be considered, the clerk of the magistrates' court which made the provisional order shall send that person written notice of the date fixed.

7. Any documents required by section 5(4) of the Act to be sent to a court in the Republic of Ireland shall be sent to that court by post.

8.—(1) Where a justices' clerk is required under any provision of Part I of the Act to register an order, he shall cause the order to be registered in his court by means of a minute or memorandum entered and signed by him in his register.

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

9.—(1) Any notice required under section 6(6) of the Act (notice of registration in United Kingdom court of maintenance order made in Republic of Ireland) to be served on the payer under a maintenance order shall, where the order is registered in a magistrates' court, be in the form in Part I of the Schedule to these Rules, or in a form to the like effect.

(2) Where a magistrates' court to which an appeal is made under section 6(7) of the Act sets aside the registration of a maintenance order, the justices' clerk shall send written notice of the court's decision to the payee under the order.

(3) Any notice required under section 6(10) of the Act (notice that maintenance order made in Republic of Ireland has not been registered in United Kingdom court) to be given to the payee under a maintenance order shall, where the appropriate court is a magistrates' court, be in the form in Part II of the Schedule to these Rules or in a form to the like effect.

10.—(1) Payment of sums due under a registered order shall, while the order is registered in a magistrates' court, be made to the clerk of the registering court during such hours and at such place as that clerk may direct; and a justices' clerk to whom payments are made under this rule shall send those payments by post to the payee under the order or, where a public authority has been authorised by the payee to receive the payments, to that public authority.

(2) Where it appears to a justices' 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 shall, if the person for whose benefit the payment should have been made so requests in writing, 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.

(3) Where it appears to such a justices' clerk that any sums payable under the order are in arrear to an amount equal to four times the sum payable weekly under the order he shall give to the person for whose benefit the payment should have been made notice in writing stating the particulars of the arrears.

11.—(1) Subject to paragraph (2) below, where a request is made by or on behalf of a court in the Republic of Ireland for the taking in England and Wales of the evidence of a person residing therein, the following magistrates' courts 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 maintenance order to which the proceedings in the court in the Republic of Ireland relate was made by a magistrates' court, the court which made the Order;
- (b) where the maintenance order to which those proceedings relate is registered in a magistrates' court, the court in which the order is registered;
- (c) a magistrates' court 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 magistrates' court 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 magistrates' court 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;
- (b) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and
- (c) the justices by whom the evidence of any person is so taken shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by them.

(4) Where such a request as is mentioned in paragraph (1) above includes a request that the evidence be taken in a particular manner, the magistrates' court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

12. Where a magistrates' court makes an order varying or revoking a maintenance order to which section 5 of the Act (variation and revocation of maintenance order made in United Kingdom) applies, the justices' clerk shall send written notice of the making of the order to the Secretary of State.

13.—(1) Where a justices clerk registers under section 6(3) of the Act (registration in United Kingdom court of maintenance order made in Republic of Ireland an order to which section 6 of the Act applies), he shall send written notice to the Secretary of State that the order has been duly registered.

(2) Where a justices' clerk cancels the registration of a maintenance order under section 10(1) of the Act (cancellation of registration and transfer of order), he shall send written notice of the cancellation to the payer under the order.

(3) Where a justices' clerk registers a maintenance order under section 10(4) of the Act, he shall send written notice to the Secretary of State and to the payer under the order that the order has been duly registered.

14.—(1) Where the clerk of a magistrates' court receives from the Secretary of State a notice of the issue of the summons or other originating document in proceedings in the Republic of Ireland in

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relation to the making, variation or revocation of a maintenance order and it appears to that justices' clerk that the person against whom those proceedings have been instituted is residing within the petty sessions area for which the court acts, the justices' clerk shall serve the notice on that person by sending it by post in a registered letter addressed to him at his last known or usual place of abode.

(2) Where it appears to a justices' clerk who has received such a notice from the Secretary of State that the person against whom the proceedings have been instituted is not so residing, the justices' clerk shall send the notice to the Secretary of State.

(3) Where a justices' clerk serves a notice in pursuance of paragraph (1) above he shall send a document which establishes that the notice was so served to the Secretary of State for transmission to the responsible authority in the Republic of Ireland.

Dated 27th February 1975

Elwyn-Jones, C

SCHEDULE

Rule 9(1)

PART I

Notice to payer of registration of maintenance order

Rule 9(3)

PART II

Notice to payee that maintenance order has not been registered

EXPLANATORY NOTE

These Rules make provision, in relation to magistrates' courts, for the various matters which are to be prescribed under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 as set out in Schedule 2 to the Reciprocal Enforcement of Maintenance Orders (Republic of Ireland) Order 1974. These Rules are similar to the Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules 1974 (S.I. 1974/668) made under Part I of the Act of 1972 with modifications consequent on those effected by the 1974 Order.