
STATUTORY INSTRUMENTS

1980 No. 1896 (L.28)

MAGISTRATES' COURTS

The Magistrates' Courts (Maintenance Orders Act 1958) (Amendment) Rules 1980

<i>Made</i>	- - - -	<i>19th November 1980</i>
<i>Laid before Parliament</i>		<i>10th December 1980</i>
<i>Coming into Operation</i>		<i>1st January 1981</i>

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949⁽¹⁾, 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 (Maintenance Orders Act 1958) (Amendment) Rules 1980 and shall come into operation on 1st January 1981.
2. In these rules “the rules” means the Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959⁽²⁾.
3. After rule 2 of the rules there shall be inserted the following rule:—

“Receipt by magistrates' court of notice of registration in the High Court of order previously registered in magistrates' court

2A. Where a magistrates' court receives from the High Court notice of the registration in the High Court of an order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland and previously registered in that magistrates' court in accordance with section 17(4) of the Act of 1950, the clerk of the court shall cause the particulars of such notice to be entered in the register.”

4. Rule 3 of the rules shall be amended by substituting for paragraphs (a), (b) and (c) the words “to the appropriate officer of the High Court.”
5. After rule 4 of the rules there shall be inserted the following rule:—

(1) section 15 was extended by section 122 of the Magistrates' Courts Act 1952 (c. 55).
(2) , amended by S.I. 1971/809, 1977/1890.

“Registration in magistrates' court of order made in Court of Session or High Court in Northern Ireland

4A. Where a clerk of a magistrates' court, in pursuance of section 2(2)(b) of the Act, receives from the appropriate officer of the original court in Scotland or Northern Ireland a certified copy of an order made by the Court of Session or the High Court in Northern Ireland, he shall cause the order to be registered in his court by means of a memorandum entered and signed by him in the register and shall send written notice to the appropriate officer of the High Court and to the appropriate officer of the original court that the order has been duly registered.”.

6.—(1) Rule 5(1) of the rules shall be amended by inserting after the words “county court order” the words “or an order made by the Court of Session or the High Court in Northern Ireland”.

(2) Rule 5(2) of the rules shall be amended by:—

- (a) inserting after the words “magistrates' court order” the words “or an order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland and registered in a magistrates' court under Part II of the Act of 1950”; and
- (b) substituting for the word “original” in both places where it occurs the word “administering”.

(3) Rule 5(3) of the rules shall be amended by inserting after the words “county court order” the words “or an order made by the Court of Session or the High Court in Northern Ireland”.

7. Rule 7 of the rules shall be amended by inserting after paragraph (3) the following paragraphs:

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“(3A) Where the registration in a magistrates' court of an order made in the Court of Session or the High Court in Northern Ireland is cancelled under section 5(4) of the Act by that magistrates' court, the clerk of that magistrates' court shall give notice of the cancellation to the appropriate officer of the original court and to the appropriate officer of the High Court (where the order is registered by virtue of Part II of the Act of 1950).

(3B) Where the registration in a magistrates' court of an order under Part II of the Act of 1950 is cancelled by that magistrates' court by virtue of section 5(4) of the Act the clerk of the court shall give notice of the cancellation to the appropriate officer of the original court and to the appropriate officer of the High Court (where the order is registered under Part I of the Act).”.

8. Rule 8 of the rules shall be amended by—

- (a) inserting at the beginning the words “Subject to rule 8A below”; and
- (b) by inserting after paragraph (b) the following paragraph:—

“(bb) of the discharge or variation by the Court of Session or High Court in Northern Ireland of an order made by such court and registered in a magistrates' court;”.

9. After rule 8 of the rules there shall be inserted the following rule:—

“Notice of cancellation of registration in High Court under Part I of the Act

8A. Where any notice is received by a court that the registration of an order in the High Court has been cancelled under section 5(4) of the Act, the clerk of the court shall cause the particulars of the notice to be entered in the register.”.

10. For paragraph (4) of rule 25 of the rules there shall be substituted the following paragraph:—

“(4) In these rules—

“the Act” means the Maintenance Orders Act 1958⁽³⁾;

“the Act of 1950” means the Maintenance Orders Act 1950⁽⁴⁾;

“appropriate officer of the High Court” means the Senior Registrar of the Principal Registry of the Family Division of the High Court or such district registrar as may be specified by the applicant;

“appropriate officer of the original court” means—

- (i) the Sheriff-clerk, in the case of a sheriff court in Scotland;
- (ii) the clerk of petty sessions, in the case of a magistrates' court in Northern Ireland;
- (iii) the Deputy Principal Clerk of Session, in the case of the Court of Session;
- (iv) the Chief Registrar of the Queen's Bench Division (Matrimonial), in the case of the High Court of Justice in Northern Ireland.”.

11. The Schedule to the rules shall be amended by substituting for the forms numbered 3, 6, 8, 9 and 10 the forms numbered in like manner in the Schedule to these rules.

Dated 19th November 1980

Hailsham of St. Marylebone, C

⁽³⁾ 1958 c. 39.
⁽⁴⁾ 1950 c. 37.

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SCHEDULE

Rule 11

- FORMS TO BE SUBSTITUTED IN THE SCHEDULE TO THE MAGISTRATES' COURTS (MAINTENANCE ORDERS ACT 1958) RULES 1959
- “3Certificate of clerk of magistrates' court that no process for enforcement remains in force and no proceedings for variation are pending (M.O. Act 1958, s.5(4)(c).)
- 6Declaration that no process for enforcement remains in force and no proceedings for variation are pending (M.O. Act 1958, s.5(4)(c).)
- 8Notice that payments have become payable through the clerk of a magistrates' court (M.O. Act 1958, s.2(6); M.O. Act 1950, s.19(4).)
- 9Notice that payments have ceased to be payable through the clerk of the magistrates' court (M.O. Act 1958, s.2(5); M.O. Act 1950, s.19(4).)
- 10Notice of cancellation of registration (M.O. Act 1958, s.5(5).)
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EXPLANATORY NOTE

These rules amend the Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959 (“the rules of 1959”) in consequence of the amendments made to the Maintenance Orders Act 1950 and the Maintenance Orders Act 1958 by section 3 of, and Schedule 3 to, the Administration of Justice Act 1977 (c.38). The broad effect of those amendments is to enable a maintenance order made by a superior court in Scotland or Northern Ireland to be registered in a magistrates' court and a maintenance order made by an inferior court in Scotland or Northern Ireland to be registered in the High Court.

In particular these rules insert three new rules into the rules of 1959 namely rule 2A (receipt by magistrates' court of notice of registration in the High Court of order previously registered in magistrates' court), rule 4A (registration in magistrates' court of order made in Court of Session or High Court in Northern Ireland) and rule 8A (notice of cancellation of registration in the High Court under Part I of the Act of 1958). Rule 11 and the Schedule to these rules substitute new Forms 3, 6, 8, 9, and 10 in the Schedule to the rules of 1959.