
 STATUTORY INSTRUMENTS

1986 No. 1498 (L. 13)

MAGISTRATES' COURTS

PROCEDURE

**The Magistrates' Courts (Matrimonial Proceedings)
(Amendment) Rules 1986**

<i>Made</i>	- - -	28th August 1986
<i>Laid before Parliament</i>		9th September 1986
<i>Coming into Operation</i>		1st October 1986

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(a), as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Matrimonial Proceedings) (Amendment) Rules 1986 and shall come into operation on 1st October 1986.

2.— (1) Subject to paragraph (2), the Magistrates' Courts (Matrimonial Proceedings) Rules 1980(b) ("the 1980 Rules") shall have effect subject to the amendments set out in Rules 3 and 4 of and the Schedule to these Rules.

(2) Nothing in these Rules shall affect the validity of proceedings under section 6 of the Domestic Proceedings and Magistrates Courts Act 1978(c) begun before 1st October 1986 and any such proceedings may be disposed of as if the amendments made by these Rules had not been made.

3. In Rule 4 of the 1980 Rules—

- (a) in paragraph (1), for the words "applied for" there shall be substituted the words "agreed to be made";
- (b) for paragraphs (3) and (4) there shall be substituted the following paragraphs:—

“(3) For the purposes of subsection (9)(a) and (b) of the said

(a) 1980 c.43.

(b) S.I. 1980/1582.

(c) 1978 c.22 (section 6 was amended by section 10 of the Matrimonial and Family Proceedings Act 1984 (c.42)).

section 6 evidence of the consent of the respondent to the making of the order and of the financial resources of the respondent shall be by way of a written statement in Form 5 signed by the respondent in the presence of one person from the persons described in paragraph (5)(a) to (d) below, according to where the statement is signed.

(4) For the purposes of subsection (9)(c) of the said section 6 evidence of the financial resources of the child shall be by way of a written statement in Form 5A signed by the respondent, or, in an appropriate case, the child, in the presence of one person from the persons described in paragraph (5)(a) to (d) below, according to where the statement is signed.

(5) A written statement under paragraph (3) or (4) above shall be signed by the respondent or, as the case may be, the child, in the presence of one of the following persons:—

- (a) in England and Wales—
any justice of the peace, justices' clerk, or solicitor;
- (b) in Scotland—
any justice of the peace, sheriff, or solicitor;
- (c) in Northern Ireland—
any justice of the peace or solicitor;
- (d) outside the United Kingdom—
 - (i) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;
 - (ii) a British Consular Officer;
 - (iii) a notary public; or
 - (iv) if the person executing the document is serving in any of the regular armed forces of the Crown, an Officer holding a commission in any of those forces.

(6) For the purposes of the said subsection (9), a written statement purporting to be signed and witnessed in accordance with paragraph (3) or (4) above shall be admissible as evidence without further proof of the signature of the respondent, or, in the case of a statement in Form 5A which the child has signed, the child, and shall be deemed to have been so signed and witnessed on the date and at the place specified in the document, unless the contrary is proved.”.

4. The Schedule to the 1980 Rules shall be amended so that for the forms numbered 3, 4 and 5 there shall be substituted the forms numbered 3, 4 and 5 in the Schedule to these Rules, and so that after the said form numbered 5 there shall be inserted the form numbered 5A in the Schedule to these Rules.

28th August 1986.

Hailsham of St Marylebone, C.

SCHEDULE

Rules 2(1) and 4

FORMS TO BE SUBSTITUTED IN THE SCHEDULE TO THE MAGISTRATES COURTS
(MATRIMONIAL PROCEEDINGS) RULES 1980.

FORM 3

Rule 4(1)

Complaint for order under section 6 (D.P.M.C. Act 1978 ss. 6, 30(2))
..... Magistrates Court (Code)

Date:

Respondent:

Address:

The application of:

Address:

Telephone No.

who applies for an order for financial provision under section 6 of the Domestic Proceedings and Magistrates Courts Act 1978 on the ground that s/he/ the respondent has agreed to—

[the making of periodical payments to the applicant/respondent to the amount of £ per for a term of beginning on]

[the payment of a lump sum to the applicant/respondent to the amount of £]

[the making of periodical payments to (being a child of the family)/the applicant/the respondent for the benefit of (being a child of the family) to the amount of £ per for a term of beginning on]

[the payment of a lump sum to (being a child of the family)/the applicant/the respondent for the benefit of (being a child of the family) to the amount of £]

Taken before me

Justice of the Peace
Justices' Clerk.

FORM 4

Rule 4(2)

Summons on complaint for order under section 6 (M.C. Act 1980 s.51: D.P.M.C. Act 1978, s.6)
 Magistrates' Court (Code)

Date:

To the respondent:

Address:

You are hereby summoned to appear on (date) at (time)
 before the Magistrates' Courts at to answer to the following complaint:

Date of application:

The applicant is:

Address:

who has applied for an order for financial provision under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground that s/he/has/you have agreed to—

[the making of periodical payments to you/the applicant to the amount of £ per
 for a term of beginning on]

[the payment of a lump sum to you/the applicant to the amount of £]

[the making of periodical payments to (being a child of the
 family)/you/the applicant for the benefit of (being a child of the
 family) to the amount of £ per for a term of beginning
 on]

[the payment of a lump sum to (being a child of the family)/you/the
 applicant for the benefit of (being a child of the family) to the
 amount of £]

Justice of the Peace
 Justices' Clerk.

Note: if you agree to an order being made in these terms, you may give your consent either at the hearing or by completing the form prescribed for the purpose and returning it to the court.

FORM 5

Rule 4(3)

Consent to order under section 6 (D.P.M.C. Act 1978, s.6(9) (a) and (b)).

Concerning the application made by (applicants' name) to be heard on (date)

* I, (full name) , hereby consent to the making of an order for financial provision under section 6 of the Domestic Proceedings and Magistrates Courts Act 1978 in the terms set out in the summons dated which I have received.

OR (if you are completing this form before a summons is issued)

* I, (full name) , hereby consent to the making of an order for financial provision under section 6 of the Domestic Proceedings and Magistrates Courts Act 1978 in the following terms:—

[the making of periodical payments to me/the applicant to the amount of £ per for a term of beginning on]

[the payment of a lump sum to me/the applicant to the amount of £ (specify conditions of payment)]

[the making of periodical payments to (being a child of the family)/me/the applicant for the benefit of (being a child of the family) to the amount of £ per for a term of beginning on]

[the payment of a lump sum to (being a child of the family)/me/the applicant for the benefit of (being a child of the family) to the amount of £ (specify conditions of payment)]

*Delete whichever is inappropriate.

I, (full name) , declare that my financial resources are as follows:—

MEANS

1. (if you work for an employer)

Usual pay (including overtime and bonuses)		
Gross (before deductions)	£	per week/month/year
Net (after deductions)	£	per week/month/year
2. (if you are self employed)

Gross profits over last twelve months	£	
Outgoings from the business in the last twelve months	£	
Income tax demand for last year	£	
3. Amount received in State benefits

	£	per week
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4. Any other income (state source and whether gross or net)

	£	per week/month/year
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5. If you have a bank balance, savings or any other capital, state total value

	£	
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EXPENSES

- | | | |
|---|---|----------------|
| 6. Rent and Rates/Mortgage and rates | £ | per week/month |
| 7. Hire Purchase, bank loans | £ | per week/month |
| 8. Travelling expenses to and from work | £ | per week/month |
| 9. Other payments (give details) | £ | per week/month |
10. If you wish to say anything else about your financial position, use this space

Signed

Address

This Form was signed by the above mentioned person
before me on the day of 19 .

Signature

Full Name

Description*

The following persons may witness this form:

in England and Wales—

a justice of the peace, justices' clerk or solicitor

in Scotland—

a justice of the peace, sheriff or solicitor

in Northern Ireland—

a justice of the peace or solicitor

outside the United Kingdom—

any person for the time being authorised by law in
the place where the document is executed to
administer an oath for any judicial or other legal
purpose;

a British consular officer;

a notary public;

if the person executing the document is serving in
any of the regular armed forces of the Crown, an
officer holding a commission in any of those forces.

FORM 5A

Rule 4(4)

Declaration of financial resources of child under section 6 (D.P.M.C. Act 1978, s.6(9)(c)).

* I, (full name) _____, declare that to the best of my knowledge and belief [(full name of child) has no financial resources] [the financial resources of (full name of child) are as follows:—]

OR (if the child is completing this form)

* I, (full name) _____, declare that [I have no financial resources] [my financial resources are as follows:—]

MEANS

1. (if working for an employer)

Usual pay (including overtime and bonuses)

Gross (before deductions) £ per week/month/year

Net (after deductions) £ per week/month/year

2. (if self employed)

Gross profits over last twelve months £

Outgoings from the business in the last twelve months £

Income tax demand for last year £

3. Amount received in State benefits £ per week

4. Any other income (state source and whether gross or net) £ per week/month/year

5. Total value of any bank balance, savings or any other capital £

EXPENSES

6. Rent and Rates/Mortgage and rates £ per week/month

7. Hire Purchase, bank loans £ per week/month

8. Travelling expenses to and from work £ per week/month

9. Other payments (give details) £ per week/month

10. If you wish to say anything else about the child's financial position, use this space on next page—

Signed

Address

This Form was signed by the above mentioned person
before me on the day of 19

Signature

Full Name

Description**

** The following persons may witness this form:

in England and Wales—
a justice of the peace, justices' clerk or solicitor

in Scotland—
a justice of the peace, sheriff or solicitor

in Northern Ireland—
a justice of the peace or solicitor

Outside the United Kingdom—

any person for the time being authorised by law
in the place where the document is executed to
administer an oath for any judicial or other legal
purpose.

—a British consular officer

—a notary public

—if the person executing the document is serving
in any of the regular armed forces of the Crown,
an officer holding a commission in any of those
forces.

*Delete whichever is inapplicable.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Magistrates' Courts (Matrimonial Proceedings) Rules 1980 consequent upon the coming into operation of the amendment to section 6 of the Domestic Proceedings and Magistrates Courts Act 1978 effected by section 10 of the Matrimonial and Family Proceedings Act 1984. Section 10 of the 1984 Act comes into force on 1st October 1986 (see S.I. 1986/1049). Under section 6 of the 1978 Act as amended by section 10 of the 1984 Act consent orders for financial provision can be made by magistrates courts on the application of the payer under the proposed order as well as the application of the payee, for which section 6 as originally enacted provided. These rules amend the 1980 Rules so as to make provision for applications made by either the prospective payer or the prospective payee, and for evidence of the financial resources of a child, in an appropriate case, to be given in a new form contained in the Schedule to these Rules.

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