

SCHEDULE

AMENDMENTS

PART I

Rules

The Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959(1)

1. For Rule 2 of the Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959 there shall be substituted the following Rule—

“Manner in which magistrates' court is to be satisfied as to various matters

2.—(1) An applicant wishing to show, in accordance with section 2A(1) of the Act, that the order to which the application relates, though deemed to have been made by a magistrates' court in England, was in fact made in another part of the United Kingdom or a country or territory outside the United Kingdom and that by the law of that part or of that country or territory interest is recoverable under the order may do so by producing the original court order or an authenticated copy thereof showing the date or time from which and the rate at which interest is so recoverable.

(2) For the purposes of paragraph (1) of this Rule, a copy shall be deemed to be authenticated if it purports to be certified by a judge or official of the court which made the original order to be a true copy of the original order, but it shall not be necessary to prove the signature or official position of the person appearing to have given such a certificate.

(3) Where an application for the registration in the High Court of a magistrates' court order is granted, the court shall be satisfied in the manner provided by paragraph (5) of this Rule that no process for the enforcement of the order issued before the grant of the application remains in force.

(4) Where the court receives notice given under section 5 of the Act (which relates to the cancellation of registration), the court shall be satisfied in the manner provided by paragraph (5) of this Rule that no process for the enforcement of the order issued before the giving of the notice remains in force and that no proceedings for the variation of the order are pending in a magistrates' court.

(5) For the purpose of satisfying the court as to the matters referred to in paragraphs (3) and (4) of this Rule—

- (a) if the person through or to whom payments are ordered to be made is the clerk of a magistrates' court, there shall be produced a certificate in that behalf purporting to be signed by the clerk in the form numbered 1, 2 or 3, as the case may be, in the Schedule to these Rules;
- (b) in any other case, there shall be produced a document purporting to be a statutory declaration in that behalf in the form numbered 5 or 6, as the case may be, in the Schedule to these Rules.”

2. In Rule 3 of the said Rules of 1959 after the words “the appropriate officer of the High Court” there shall be added the following paragraph:

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“(2) Where the court is satisfied in accordance with Rule 1A above that interest is recoverable under the order in respect of which the application has been granted the court shall, in accordance with section 2A(1) of the Act, cause the clerk to send, together with the certified copy of the order mentioned in paragraph (1) of this rule, a certificate in respect of the interest so recoverable in the form numbered 4 in the Schedule to these Rules to the appropriate officer of the High Court.”.

3. In the Schedule to the said Rules of 1959, for Forms 4, 5 and 6 there shall be substituted the forms numbered in the like manner in Part II of this Schedule.

The Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules 1974(2)

4. In Rule 4(2)(b) of the Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules 1974, after “the whereabouts of the payer” there shall be inserted “and the nature and location of his assets”.

5. In Rule 9(2) of the said Rules of 1974, after “to whom payments” there shall be inserted “by way of periodical payments”.

6. After Rule 9 of the said Rules of 1974 there shall be inserted the following Rule—

“9A. Without prejudice to Rule 9 above, the justices' clerk of the registering court shall take reasonable steps to notify the person to whom payments are due under a registered order of the means of enforcement available in respect of it, including, in an appropriate case, the possibility of registration of the whole or a part of the order in the High Court under Part I of the Maintenance Orders Act 1958.”.

The Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) (Hague Convention Countries) Rules 1980

7. In Rule 4(2)(b) of the Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) (Hague Convention Countries) Rules 1980, after “the whereabouts of the payer” there shall be inserted “and the nature and location of his assets”.

8. In Rule 8(2) of the said Rules of 1980, after “to whom payments” there shall be inserted “by way of periodical payments”.

9. After Rule 8 of the said Rules of 1980 there shall be inserted the following Rule—

“8A. Without prejudice to Rule 8 above, the justices' clerk of the registering court shall take reasonable steps to notify the person to whom payments are due under a registered order of the means of enforcement available in respect of it, including, in an appropriate case, the possibility of registration of the whole or part of the order in the High Court under Part I of the Maintenance Orders Act 1958.”.