
STATUTORY INSTRUMENTS

2011 No. 1329

**The Magistrates' Courts (Enforcement or
Variation of Orders Made in Family Proceedings
and Miscellaneous Provisions) Rules 2011**

PART 3

PROCEEDINGS UNDER THE 1950 ACT

CHAPTER 1

INTERPRETATION OF THIS PART

Interpretation

20.—(1) In this Part—

“appropriate officer of the High Court” means the District Judge of the Principal Registry of the Family Division of the High Court or the district judge of the relevant district registry;

“certified copy” means a copy order certified by the designated officer of the court to be a true copy of the order or of the official record of the order; and

“maintenance order” has the meaning assigned in section 16(2) of the 1950 Act⁽¹⁾.

(2) References in Chapter 3 of this Part to the clerk of the court by which the order was made are to be construed, in relation to a maintenance order made by a county court in Northern Ireland, as references to the Chief Clerk for the appropriate county in Northern Ireland.

(1) Section 16 was amended by section 95(1) of and paragraph 34 of Schedule 8 of the Social Work (Scotland) Act 1968 (c.49), sections 14 and 15(3) of and paragraph 4 of Schedule 5 to the Guardianship Act 1973 (c.29), section 54 of and paragraph 3 of Schedule 2 to the Matrimonial Causes Act 1973 (c.18), section 12 of and paragraph 1 of Schedule 1 to the Divorce (Scotland) Act 1976 (c.39), section 35(2) of and paragraph 13 of Schedule 7 to the Supplementary Benefits Act 1976 (c.71), section 3 of and Schedule 3 to the Administration of Justice Act 1977 (c.38), section 89(a) of and paragraph 13 of Schedule 2 to the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22), section 48(5) of and Schedule 4 to the Social Security and Housing Benefit Act 1982 (c.24), section 54 of and Schedule 14 to the Civil Jurisdiction and Judgments Act 1982 (c.27), section 46 of and paragraph 1 of Schedule 1 to the Matrimonial and Family Proceedings Act 1984 (c.42), section 28(1) of and Part 5 of Schedule 15 to the Family Law (Scotland) Act 1985 (c.37), section 86 of and paragraph 39 of Part 2 to Schedule 10 of the Social Security Act 1986 (c.50), section 33 of and Schedules 2, 3 and 4 to the Family Law Reform Act 1987 (c.42), section 116 of and paragraph 35 of Schedule 16 to the Courts and Legal Services Act 1990, section 4 of and paragraph 3(1) of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), section 66(1) of and paragraph 3(b) of Schedule 8 to the Family Law Act 1996, section 261(1) of and paragraph 18 of Schedule 27 to the Civil Partnership Act 2004 (c.33) and section 166 of and Part 5 of Schedule 15 to the Health and Social Care Act 2008 (c.14) and by S.I. 1977/2158, 1980/564, 1989/678, 1995/756.

CHAPTER 2

MAINTENANCE ORDERS MADE BY A MAGISTRATES' COURT IN ENGLAND AND WALES

Procedure under Part 2 of the 1950 Act in relation to a maintenance order made by a magistrates' court in England and Wales

21.—(1) An application under Part 2 of the 1950 Act for the registration in a court in Scotland or Northern Ireland of a maintenance order made by a magistrates' court in England and Wales—

- (a) may be made either orally or in writing; and
- (b) must be made to a justice or justices acting in the same place as the court which made the order.

(2) Unless the applicant appears in person, the applicant must file with the court a document verified by a statement of truth signed by the applicant or the applicant's legal representative which states—

- (a) the address of the person liable to make payments under the order;
- (b) the reason why it is convenient that the order should be enforced in Scotland or Northern Ireland, as the case may be;
- (c) unless a certificate of arrears is lodged under section 20 of the 1950 Act, the amount of any arrears due under the order;
- (d) that the order is not already registered under Part 2 of the 1950 Act.

(3) If it appears to the justice that the person liable to make payments under the order resides in Scotland or Northern Ireland and that it is convenient that the order should be enforceable there, the designated officer for the court which made the order will send to the sheriff-clerk of the sheriff court in Scotland or to the clerk of the court of summary jurisdiction in Northern Ireland (as the case may be) having jurisdiction in the place in which the person liable to make payments under the order appears to be—

- (a) a certified copy of the order;
- (b) the certificate of arrears or the document referred to in paragraph (2) (if there is any such document);
- (c) if no document referred to in paragraph (2) has been lodged, written notice of the address of the person liable to make payments under the order.

(4) A memorandum of any proceedings taken under paragraph (1) must be entered in the register.

(5) The designated officer for the court which made the order must, on receipt of notice under section 17(4)(2) of the 1950 Act of the registration of the order, enter a memorandum of that notice in the register.

(6) The designated officer for the court which made the order is the prescribed officer for the purposes of section 17(4) of the 1950 Act.

Application under section 22 of the 1950 Act to adduce evidence: maintenance order made by a magistrates' court in England and Wales

22.—(1) An application to a magistrates' court in England and Wales under section 22(5) of the 1950 Act to adduce evidence in connection with a maintenance order made by that court and registered in a court in Scotland or Northern Ireland may be made orally.

(2) Section 17 was amended by section 109(1) of and paragraph 87 of Schedule 8 to the Courts Act 2003 and section 59(5) of and paragraph 19(1)(and (2) of Schedule 11 to the Constitutional Reform Act 2005.

(2) The application may be made, and the proceedings heard, without notice to the respondent.

(3) The court in which the application is made must ensure that a transcript or summary of any evidence taken is sent to the clerk of the court in which the order is registered.

(4) The designated officer for the court in England and Wales which made the maintenance order will be the prescribed officer to whom any transcript or summary of evidence adduced in the court in Scotland or Northern Ireland under section 22(5) of the 1950 Act must be sent.

Variation of a maintenance order made by a magistrates' court in England and Wales: section 22(1) of the 1950 Act

23.—(1) Where a maintenance order made by a magistrates' court in England and Wales and registered in a court in Scotland or Northern Ireland is varied under section 22(1) of the 1950 Act (3) by the court in which it is registered—

- (a) the designated officer for the court which made the order will be the prescribed officer to whom, under section 23(1) of the 1950 Act (4), notice of the variation must be given;
- (b) on receipt of a notice under section 23(1) of the 1950 Act, the designated officer must enter a memorandum of that notice in the register.

(2) Where a maintenance order made by a magistrates' court in England and Wales and registered in a court in Scotland or Northern Ireland is discharged or varied by the court which made it, the designated officer for the court which made the order must give notice of the discharge or variation to the clerk of the court in which the order is registered by sending a certified copy of the order discharging or varying the maintenance order.

Cancellation of registration of a maintenance order made by a magistrates' court in England and Wales: section 24 of the 1950 Act

24.—(1) An application under section 24(2) of the 1950 Act (5) for the cancellation of the registration of a maintenance order made by a magistrates' court in England and Wales and registered in a court in Scotland or in Northern Ireland—

- (a) may be made orally or in writing by the person liable to make the payments under the order; and
- (b) must be made to a justice acting in the same place as the court which made the order.

(2) Unless the applicant appears in person, the applicant must file with the court a document verified by a statement of truth signed by the applicant or the applicant's legal representative stating the facts relied upon in support of the application.

(3) If it appears to the justice dealing with the application that the person liable to make payments under the order has ceased to reside in Scotland or Northern Ireland (as the case may be), the designated officer for the court which made the order must send notice to that effect to the clerk of the court in which the order is registered.

(4) On the cancellation of the registration of an order, the designated officer for the court in England and Wales which made the order is the prescribed officer to whom, under section 24(3)(a) of the 1950 Act (6), notice of the cancellation must be given.

(5) On receipt of notice of the cancellation of the registration of an order, the designated officer must enter a memorandum of that notice in the register.

(3) Section 22(1) was amended by section 89(2) of and paragraph 14 of Schedule 2 to the Domestic Proceedings and Magistrates' Courts Act 1978.

(4) Section 23 was substituted by section 3 of and paragraph 8 of Schedule 3 to the Administration of Justice Act 1977.

(5) Section 24(2) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977.

(6) Section 24(3)(a) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977.

CHAPTER 3

MAINTENANCE ORDERS REGISTERED IN A MAGISTRATES' COURT IN ENGLAND AND WALES

Procedure under Part 2 of the 1950 Act in relation to a maintenance order made by a court in Scotland or Northern Ireland

25.—(1) The designated officer for the magistrates' court specified in section 17(3)(b) of the 1950 Act will be the prescribed officer for the purpose of section 17(2) of the 1950 Act.

(2) On receipt, further to section 17 of the 1950 Act, of a certified copy of a maintenance order made by a court in Scotland or Northern Ireland, the designated officer must—

- (a) enter a memorandum of that order in the register; and
- (b) send written notice that the order has been so registered to the clerk of the court by which the order was made.

Payments in respect of a maintenance order registered in a magistrates' court in England and Wales

26.—(1) This rule applies where in exercise of—

- (a) the duty imposed by section 19(2) of the 1950 Act; or
- (b) the powers conferred by section 18(2ZA)(7) or 22(1A) or (1E)(8) of the 1950 Act,

a magistrates' court in England and Wales orders that payments under a maintenance order registered in that court are to be made by a particular means.

(2) The justices' clerk must record on a copy of the order the means of payment which the court has ordered.

(3) As soon as practicable, the designated officer must notify in writing the person liable to make payments under the order of how payments are to be made.

(4) Where the court orders payment to the designated officer for the court, or to the designated officer for any other magistrates' court, by a method of payment falling within section 59(6) of the 1980 Act (standing order etc.), the designated officer to whom payments are to be made must notify the person liable to make the payments under the order of sufficient details of the account into which the payments should be made to enable payments to be made into that account.

(5) Where, under section 60(4) of the 1980 Act(9) as modified by section 22(1E) of the 1950 Act, the court receives an application from an interested party for the method of payment to be varied—

- (a) the designated officer must, as soon as practicable, notify in writing that interested party and, where practicable, any other interested party, of the result of the application, including any decision to refer the matter to the court; and
- (b) where the justices' clerk grants the application, the justices' clerk must record the variation on a copy of the order.

(7) Section 18(2ZA) was inserted by section 10 of and paragraph 3 of Schedule 1 to the Maintenance Enforcement Act 1991 (c.17) and amended by section 108(1) of and paragraph 88(1) and (2) of Schedule 8 to the Courts Act 2003.

(8) Section 22(1A) and(1E) were inserted by section 10 of and paragraph 5 of Schedule 1 to the Maintenance Enforcement Act 1991 and amended by section 106 of and Part 5 of Schedule 15 to the Access to Justice Act 1999 (c.22) and section 109(1) of and Schedule 8, paragraph 89(1) and (2) of the Courts Act 2003.

(9) Section 60(4) was amended by section 109(1) and (3) of and paragraphs 211(1) and (2) of Schedule 10 to the Courts Act 2003.

Application under section 21(2) of the 1950 Act to adduce evidence: maintenance order made by the Court of Session and registered in a magistrates' court in England and Wales

27.—(1) An application to a magistrates' court under section 21(2) of the 1950 Act to adduce evidence in connection with a maintenance order made by the Court of Session and registered in the magistrates' court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act⁽¹⁰⁾ may be made orally.

(2) The complaint may be made, and the proceedings heard, without notice to the respondent.

(3) The court in which the application is made must ensure that a transcript or summary of any evidence taken is sent to the Deputy Principal Clerk of Session.

Variation of a maintenance order registered in a magistrates' court in England and Wales: section 22(1) of the 1950 Act

28.—(1) An application under section 22(1) of the 1950 Act for the variation of the rate of the payments under a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales must be made by way of complaint in accordance with the 1980 Act.

(2) When the complaint is made, a summons may be issued directed to any person to whom the justice to whom the complaint is made may consider proper to answer it.

(3) Where the maintenance order is varied, the designated officer must—

- (a) give notice of the variation to the clerk of the court in Scotland or Northern Ireland by which the order was made; and
- (b) if the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, give notice of the variation to the appropriate officer of the High Court,

by sending to the clerk of the court and, where necessary, the appropriate officer of the High Court, a certified copy of the order of variation.

(4) Where a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court is discharged or varied by any other court, the designated officer for the court in which it is registered will be the prescribed officer to whom, under section 23(1)(a) of the 1950 Act, notice of the discharge or variation must be given.

(5) On receipt of a certified copy of an order discharging or varying the registered order, the designated officer must enter a memorandum of that order in the register.

Application under section 22(5) of the 1950 Act to adduce evidence: maintenance order registered in England and Wales

29.—(1) An application to a magistrates' court in England and Wales under section 22(5) of the 1950 Act to adduce evidence in connection with a maintenance order registered in that court may be made orally.

(2) The application may be made, and the proceedings heard, without notice to the respondent.

(3) The court in which the application is made must ensure that a transcript or summary of any evidence taken is sent to the clerk of the court in Scotland or Northern Ireland by which the order was made.

(4) The designated officer for the court in England and Wales in which the maintenance order is registered will be the prescribed officer under section 22(5) of the 1950 Act to whom any transcript or summary of evidence adduced in the court in Scotland or Northern Ireland by which the order was made must be sent.

⁽¹⁰⁾ Section 1(2) was substituted by section 3 of and paragraph 1 of Schedule 3 to the Administration of Justice Act 1977.

Cancellation of registration of a maintenance order registered in a magistrates' court in England and Wales: section 24 of the 1950 Act

30.—(1) An application under section 24(1) of the 1950 Act for the cancellation of the registration of a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales must—

- (a) be made to the designated officer for the court in which the maintenance order is registered;
- (b) be made in writing and state the date of the registration of the order; and
- (c) have attached to it a copy of the order the registration of which it is sought to cancel.

(2) Where the designated officer cancels the registration of the maintenance order, the designated officer must send written notice of the cancellation—

- (a) to the clerk of the court by which the order was made; and
- (b) where the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, to the appropriate officer of the High Court.

(3) Where a maintenance order is registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales, the designated officer for the court in which the order is registered will be the prescribed officer to whom notice must be sent under section 24(2) of the 1950 Act⁽¹¹⁾ that the person liable to make the payments under the order has ceased to reside in England and Wales.

(4) On receipt of a notice referred to in paragraph (3), the designated officer must—

- (a) cancel the registration of the order; and
- (b) send written notice of the cancellation to—
 - (i) the clerk of the court by which the order was made; and
 - (ii) where the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, to the appropriate officer of the High Court.

(5) Where the designated officer for a magistrates' court in which a maintenance order is registered under Part 1 of the 1958 Act receives a notice of cancellation under section 24(3) of the 1950⁽¹²⁾ Act from the appropriate officer of the High Court, the designated officer must—

- (a) ensure that the particulars of the notice are entered in the register;
- (b) cancel the registration under Part 1 of the 1958 Act; and
- (c) give notice of the cancellation to, the appropriate officer of the court in Scotland or Northern Ireland which made the order, being—
 - (i) the Deputy Principal Clerk of Session, in the case of the Court of Session; or
 - (ii) the Chief Registrar of the Queen's Bench Division (Matrimonial), in the case of the High Court of Justice in Northern Ireland.

CHAPTER 4

FORMS

Notices under section 19(4) of the 1950 Act

31.—(1) A notice under section 19(4) of the 1950 Act that the payments under a maintenance order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland have become payable through or to any officer or person will be in the form number 1 in Schedule 1.

⁽¹¹⁾ Section 24(2) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977.

⁽¹²⁾ Section 24(3)(a) and (b) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977. Section 24(3)(b) was amended by sections 15, 23 and 36 of and Part 3 of Schedule 10 to the Civil Jurisdiction and Judgments Act 1982.

(2) The notice referred to in paragraph (1) must be sent by recorded delivery by the designated officer to the person liable to make the payments under the order at that person's last known address.

(3) A notice under section 19(4) of the 1950 Act that the payments under a maintenance order made by a magistrates' court in England and Wales have, on its registration under Part 2 of the 1950 Act in a court in Scotland or Northern Ireland, ceased to be payable through or to any officer or person will be in the form number 2 in Schedule 1.

(4) The notice referred to in paragraph (3) must be sent by recorded delivery by the designated officer for the court in England and Wales to the person liable to make payments under the order at that person's last known address.

Certificates under section 20(1) of the 1950 Act

32. A certificate lodged under section 20(1) of the 1950 Act as to the amount of any arrears due under a maintenance order made by a magistrates' court in England and Wales will be in the form number 3 in Schedule 1.

Notices under section 24 of the 1950 Act

33.—(1) A notice under section 24(5) or (5A) of the 1950 Act **(13)** of the cancellation of the registration under Part 2 of the 1950 Act of a maintenance order in a magistrates' court in England and Wales will be in the form number 4 in Schedule 1.

(2) The notice referred to in paragraph (1) must be sent by recorded delivery by the designated officer for the court which cancelled the registration to the person liable to make the payments under the order at that person's last known address.

(13) Section 24(5A) was inserted by section 10 of and paragraph 6 of Schedule 1 to the Maintenance Enforcement Act 1991(c.17) and amended by section 109(1) of and paragraph 90 of Schedule 8 to the Courts Act 2003.