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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 34**

**RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS**

**CHAPTER 3**

**ENFORCEMENT OF MAINTENANCE ORDERS UNDER THE  
CIVIL JURISDICTION AND JUDGMENTS ACT 1982, THE  
JUDGMENTS REGULATION AND THE LUGANO CONVENTION**

**SECTION 2**

*Reciprocal enforcement in a Contracting State or  
Regulation State of Orders of a court in England and Wales*

**Application in a magistrates' court for a maintenance order, or revocation of a maintenance order, to which the 1982 Act, the Judgments Regulations or the Lugano Convention applies**

**34.37.**—(1) This rule applies where a person applies to a magistrates' court for a maintenance order, or for the revocation of a maintenance order, in relation to which the court has jurisdiction by virtue of the 1982 Act, the Judgments Regulation or the Lugano Convention, and the respondent is outside the United Kingdom.

(2) On the making of the application the court officer shall send the following documents to the Lord Chancellor—

- (a) notice of the proceedings, including a statement of the grounds of the application;
- (b) a statement signed by the court officer giving such information as he has regarding the whereabouts of, and information to assist in identifying, the respondent; and
- (c) where available, a photograph of the respondent.

(3) In considering whether or not to make a maintenance order pursuant to an application to which paragraph (1) applies, where the respondent does not appear and is not represented at the hearing the court shall take into account any written representations made and any evidence given by the respondent under these rules.

(Part 27 makes provision relating to attendance at hearings and directions appointments.)

(Part 9 makes provision for applications relating to financial remedies including those under Schedule 1 to the 1989 Act, Part 1 of the 1978 Act, and Schedule 6 to the 2004 Act.)

(Rules made under section 144 of the Magistrates' Courts Act 1980 make provision for applications to vary maintenance orders made in magistrates' courts.)



**Admissibility of Documents**

**34.38.**—(1) This rule applies to a document, referred to in paragraph (2) and authenticated in accordance with paragraph (3), which comprises, records or summarises evidence given in, or information relating to, proceedings in a court in another part of the UK, another Contracting State to the 1968 Convention or the 1988 Convention, Regulation State or State bound by the Lugano Convention, and any reference in this rule to “the court”, without more, is a reference to that court.

(2) The documents referred to at paragraph (1) are documents which purport to—

- (a) set out or summarise evidence given in the court;
- (b) have been received in evidence the court;
- (c) set out or summarise evidence taken in the court for the purpose of proceedings in a court in England and Wales to which the 1982 Act applies; or
- (d) record information relating to payments made under an order of the court.

(3) A document to which paragraph (1) applies shall, in any proceedings in a magistrates’ court in England and Wales relating to a maintenance order to which the 1982 Act applies, be admissible as evidence of any fact stated in it to the same extent as oral evidence of that fact is admissible in those proceedings.

(4) A document to which paragraph (1) applies shall be deemed to be authenticated—

- (a) in relation to the documents listed at paragraph 2(a) or (c), if the document purports to be—
  - (i) certified by the judge or official before whom the evidence was given or taken; or
  - (ii) the original document recording or summarising the evidence, or a true copy of that document;
- (b) in relation to a document listed at paragraph (2)(b), if the document purports to be certified by a judge or official of the court to be, or to be a true copy of, the document received in evidence; and
- (c) in relation to the document listed at paragraph (2)(d), if the document purports to be certified by a judge or official of the court as a true record of the payments made under the order.

(5) It shall not be necessary in any proceedings in which evidence is to be received under this rule to prove the signature or official position of the person appearing to have given the certificate referred to in paragraph (4).

(6) Nothing in this rule shall prejudice the admission in evidence of any document which is admissible in evidence apart from this rule.

(7) Any request by a magistrates’ court in England and Wales for the taking or providing of evidence by a court in another part of the United Kingdom or in another Contracting State to the 1968 Convention or the 1988 Convention or the Lugano Convention (other than a Member State of the European Union) for the purpose of proceedings to which the 1982 Act applies shall be communicated in writing to the court in question.

(Chapter 2 of Part 24 makes provision for taking of evidence by a court in another Regulation State).

**Enforcement of orders of a magistrates’ court**

**34.39.**—(1) This rule applies to applications to a magistrates’ court under—

- (a) section 12 of the 1982 Act<sup>(1)</sup>;
- (b) article 54 of the Judgments Regulation; or

(1) Section 12 was amended by section 3 of and paragraph 7 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c.12).



(c) article 54 of the Lugano Convention.

(2) A person who wishes to enforce in a Contracting State to the 1968 Convention, a Contracting State to the 1988 Convention (other than a Member State of the European Union), a Regulation State or a State bound by the Lugano Convention (other than a Member State of the European Union) a maintenance order obtained in a magistrates' court must apply for a certified copy of the order.

(3) An application under this rule must be made in writing to the court officer and must specify—

- (a) the names of the parties to the proceedings;
- (b) the date, or approximate date, of the proceedings in which the maintenance order was made and the nature of those proceedings;
- (c) the Contracting State or Regulation State in which the application for recognition or enforcement has been made or is to be made; and
- (d) the postal address of the applicant.

(4) The court officer must, on receipt of the application, send a copy of the order to the applicant certified in accordance with a practice direction.

(5) Paragraph (6) applies where—

- (a) a maintenance order is registered in a magistrates' court in England and Wales; and
- (b) a person wishes to obtain a certificate giving details of any payments made or arrears accrued under the order while it has been registered, for the purposes of an application made or to be made in connection with that order in—
  - (i) another Contracting State to the 1968 Convention;
  - (ii) another Contracting State to the 1988 Convention (other than a Member State of the European Union);
  - (iii) another Regulation State;
  - (iv) another State bound by the Lugano Convention (other than a Member State of the European Union); or
  - (v) another part of the United Kingdom.

(6) The person wishing to obtain the certificate referred to in paragraph (5) may make a written application to the court officer for the registering court.

(7) On receipt of an application under paragraph (6) the court officer must send to the applicant a certificate giving the information requested.

(Rule 74.12 (application for certified copy of a judgment) and 74.13 (evidence in support) of the CPR apply in relation to the application for a certified copy of a judgment obtained in the High Court or a county court.)