
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART VII

ENFORCEMENT OF ORDERS

Proceedings under Part II of Act of 1950

Interpretation of rules 7.18 to 7.21

7.18 In this rule and rules 7.19 to 7.21

“the clerk of the Court of Session” means the deputy principal clerk in charge of the petition department of the Court of Session;

“maintenance order” means a maintenance order to which section 16 of the Act of 1950(1) applies; “Northern Irish order” means a maintenance order made by the Supreme Court of Northern Ireland;

“register” means the register kept for the purposes of the Act of 1950;

“the registrar in Northern Ireland” means the chief registrar of the Queen’s Bench Division (Matrimonial) of the High Court of Justice in Northern Ireland;

“registration” means registration under Part 11 of the Act of 1950 and “registered” shall be construed accordingly;

“Scottish order” means a maintenance order made by the Court of Session.

Registration etc of English order

7.19.—(1) An application for the registration of an English maintenance order may be made by lodging with the proper officer a certified copy of the order, together with an affidavit by the applicant (and a copy thereof) stating—

- (a) the address in the United Kingdom, and the occupation, of the person liable to make payments under the order;
- (b) the date of service of the order on the person liable to make payments thereunder or, if the order has not been served, the reason why service has not been effected;
- (c) the reason why it is convenient that the order should be enforceable in Scotland or Northern Ireland, as the case may be;
- (d) the amount of any arrears due to the applicant under the order; and
- (e) that the order is not already registered.

(1) Section 16 was amended by the Matrimonial Causes Act 1973 (c. 18), Schedule 2, paragraph 3(1)(a), the Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22), Schedule 13, paragraph 13, the Child Care Act 1980 (c. 5), Schedule 5, paragraph 3, the Matrimonial and Family Proceedings Act 1984 (c. 42), Schedule 1, paragraph 1(a) and the Family Law Reform Act 1987 (c. 42), Schedule 2, paragraph 12(b), Schedule 3, paragraph 1 and Schedule 4. Subsection 2(a)(iii) and (v) have been prospectively amended by paragraph 35 of Schedule 16 to the Courts and Legal Services Act 1990 (c. 41), Schedule 16, paragraph 35.

(2) If it appears to the district judge 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 proper officer shall (subject to paragraph (6) below) send a certified copy of the order and the applicant's affidavit to the clerk of the Court of Session or to the registrar in Northern Ireland, as the case may be.

(3) On receipt of notice of the registration of an English maintenance order in the Court of Session or the Supreme Court of Northern Ireland, the proper officer shall—

- (a) cause particulars of the notice to be entered in the register;
- (b) note the fact of registration in the records of the court; and
- (c) send particulars of the notice to the principal registry.

(4) Where an English order registered in the Court of Session or the Supreme Court of Northern Ireland is discharged or varied the proper officer of the court ordering the discharge or variation shall give notice thereof to the clerk of the Court of Session or to the registrar in Northern Ireland, as the case may be, by sending him a certified copy of the order discharging or varying the maintenance order.

(5) Where the registration of an English maintenance order registered in the Court of Session or the Supreme Court of Northern Ireland is cancelled under section 24(1) of the Act of 1950(2), notice of the cancellation shall be sent (as required by section 24(3)(a) of that Act) to the proper officer; and on receipt of such notice he shall cause particulars of it to be entered in Part I of the register.

(6) Where the order sought to be registered was made in a county court, this rule shall apply as though references to the Court of Session, the clerk of the Court of Session, the Supreme Court of Northern Ireland and the registrar of Northern Ireland were references to the sheriff court, the sheriff-clerk of the sheriff court, the court of summary jurisdiction and the clerk of the court of summary jurisdiction respectively.

Registration etc of Scottish and Northern Irish orders

7.20.—(1) In relation to a Scottish or Northern Irish order the prescribed officer for the purposes of section 17(2) of the Act of 1950 shall be the proper officer of the principal registry.

(2) On receipt of a certified copy of a Scottish or Northern Irish order for registration, the proper officer shall—

- (a) cause the order to be registered in Part II of the register and notify the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be, that this has been done; and
- (b) file the certified copy and any statutory declaration or affidavit as to the amount of any arrears due under the order.

(3) An application under section 2(2) of the Act of 1950 by a person liable to make payments under a Scottish order registered in the High Court to adduce before that court such evidence as is mentioned in that section shall be made by lodging a request for an appointment before a district judge of the principal registry; and notice of the date, time and place fixed for the hearing shall be sent by post to the applicant and to the person entitled to payments under the order.

(4) The prescribed officer to whom notice of the discharge or variation of a Scottish or Northern Irish order registered in the High Court is to be given under section 23(1)(a) of the Act of 1950(3) shall be the proper officer, and on receipt of the notice he shall cause particulars of it to be registered in Part II of the register.

(2) Section 24(1) was amended by the Administration of Justice Act 1977 (c. 38), Schedule 3, paragraph 9 and the Civil Jurisdiction and Judgments Act 1982 (c. 27), Schedule 12, Part III, paragraph 1(1)(4).

(3) Section 23(1)(a) was substituted by the Administration of Justice Act 1977 (c. 38), Schedule 3, paragraph 8.

(5) An application under section 24(1) of the Act of 1950 for the cancellation of the registration of a Scottish or Northern Irish order shall be made ex parte by affidavit to district judge of the principal registry who, if he cancels the registration, shall note the cancellation in Part 11 of the register, whereupon the proper officer shall send notice of the cancellation to the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be, and also to the clerk of any magistrates' court in which the order has been registered in accordance with section 2(5) of the Act of 1958(4).

(6) A person entitled to payments under a Scottish or Northern Irish order registered in the High Court who wishes to take proceedings for or with respect to the enforcement of the order in a district registry may apply by letter to the senior district judge of the principal registry who may, if satisfied that the order ought to be enforceable in the district registry, make an order accordingly on such terms, if any, as may be just.

Inspection of register

7.21 Any person who satisfies a district judge of the principal registry that he is entitled to or liable to make payments under a maintenance order of a superior court or a solicitor acting on behalf of any such person or, with the leave of the district judge, any other person may inspect the register and bespeak copies of any such order which is registered in the High Court under Part 11 of the Act of 1950 and of any statutory declaration or affidavit filed therewith.

(4) Section 2(5) was amended by the Administration of Justice Act 1970 (c. 31), section 54(3) and Schedule 11, the Guardianship of Minors Act 1971 (c. 3), section 18(1) and Schedule 1, the Magistrates' Courts Act 1980 (c. 43), Schedule 7, paragraph 24 and the Family Law Reform Act 1987 (c. 42), section 33(4) and Schedule 4.