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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART VII**

**ENFORCEMENT OF ORDERS**

*Registration etc of certain orders under the Act of 1958*

**Application and interpretation of rules 7.22 to 7.29**

**7.22** Section 21 of the Act of 1958(1) shall apply to the interpretation of this rule and rules 7.23 to 7.29 as it applies to the interpretation of that Act; and in those rules—

“cause book” includes cause card; and

“the register” means any register kept for the purposes of the Act of 1958.

**Application for registration**

**7.23.**—(1) An application under section 2(1) of the Act of 1958 for the registration in a magistrates' court of a maintenance order shall be made by lodging with the proper officer—

(i) a certified copy of the maintenance order, and

(ii) two copies of the application in Form No. 115 in Appendix A to the Rules of the Supreme Court 1965(2).

(2) The period required to be prescribed by rules of court for the purpose of section 2(2) of the Act of 1958 shall be 14 days.

(3) The proper officer shall cause the certified copy of an order required by the said section 2(2) to be sent to the clerk of a magistrates' court to be endorsed with a note that the application for registration of the order has been granted and to be accompanied by a copy of the application lodged under paragraph (1).

(4) On receipt of notice that a maintenance order has been registered in a magistrates' court in accordance with section 2(5) of the Act of 1958, the proper officer shall enter particulars of the registration in the records of the court.

**Registration in a magistrates' court of an order registered in the High Court**

**7.24** On receipt of notice that a maintenance order registered in the High Court in accordance with section 17(4) of the Act of 1950 has been registered in a magistrates' court in accordance with section 2(5) of the Act of 1958, the proper officer shall cause particulars of the registration to be entered in Part II of the register.

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(1) S.I.1965/1776.

(2) Section 4(7) was amended by the Administration of Justice Act 1970 (c. 31), section 32 and Schedule 5, Part IV.

### **Registration of magistrates' court order**

**7.25** On receipt of a certified copy of a magistrates' court order sent to him pursuant to section 2(4)(c) of the Act of 1958, the proper officer shall cause the order to be registered in the High Court by filing the copy and making an entry in the register or, where the copy order is received in a district registry, in the cause book and shall send notice to the clerk of the magistrates' court that the order has been duly registered.

### **Registration in the High Court of an order registered in a magistrates' court**

**7.26.**—(1) This rule applies where a sheriff court in Scotland or a magistrates' court in Northern Ireland has made an order for the registration in the High Court of an order previously registered in a magistrates' court in England and Wales in accordance with section 17(4) of the Act of 1950, and has sent a certified copy of the maintenance order to the proper officer of the High Court, pursuant to section 2(4)(c) of the Act of 1958.

(2) On receipt of the certified copy, the proper officer shall cause the order to be registered in the High Court by filing the copy and making an entry in the register, and shall send notice of the registration to the clerk of the original court and also to the clerk of the magistrates' court in which the order was registered in accordance with section 17(4) of the Act of 1950.

### **Variation or discharge of registered order**

**7.27.**—(1) Where the court makes an order varying or discharging an order registered in a magistrates' court under Part I of the Act of 1958, the proper officer shall send a certified copy of the first-mentioned order to the clerk of the magistrates' court.

(2) Where a certified copy of an order varying an order registered in a magistrates' court under Part I of the Act of 1958 is received from the clerk of the magistrates' court, the proper officer shall file the copy and enter particulars of the variation on the same documents or in the same records as particulars of registration are required by rule 7.23(4) to be entered.

(3) Where a certified copy of an order varying or discharging an order made by a magistrates' court and registered in the High Court under Part I of the Act of 1958 is received from the clerk of the magistrates' court, the proper officer shall—

- (a) file the copy,
- (b) enter particulars of the variation or discharge in the register or, where the copy order is received in a district registry, in the cause book, and
- (c) send notice of the variation or discharge to any proper officer of a county court—
  - (i) who has given notice to the proper officer of proceedings taken in that court for the enforcement of the registered order, or
  - (ii) to whom any payment is to be made under an attachment of earnings order made by the High Court for the enforcement of the registered order.

### **Appeal from variation etc of order by magistrates' court**

**7.28** An appeal to the High Court under section 4(7) of the Act of 1958<sup>(2)</sup> shall be heard and determined by a Divisional Court of the Family Division, and rule 8.2 shall apply as it applies in relation to an appeal from a magistrates' court under the Domestic Proceedings and Magistrates' Courts Act 1978<sup>(3)</sup>.

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(2) Section 4(7) was amended by the Administration of Justice Act 1970 (c. 31), section 32 and Schedule 5, Part IV.

(3) 1978 c. 22.

### **Cancellation of registration**

**7.29.**—(1) A notice under section 5 of the Act of 1958(4) by a person entitled to receive payments under an order registered in the High Court must be given to the proper officer.

(2) Where the High Court gives notice under the said section 5, the proper officer shall endorse the notice on the certified copy mentioned in rule 7.27(1).

(3) Where notice under the said section 5 is given in respect of an order registered in the High Court, the proper officer on being satisfied by an affidavit by the person entitled to receive payments under the order that no process for the enforcement of the order issued before the giving of the notice remains in force, shall—

- (a) cancel the registration by entering particulars of the notice in the register or cause book, as the case may be, and
- (b) send notice of the cancellation to the clerk of the court by which the order was made and, where applicable, to the clerk of the magistrates' court in which the order was registered in accordance with section 17(4) of the Act of 1950 stating, if such be the case, that the cancellation is in consequence of a notice given under subsection (1) of the said section 5.

(4) On receipt of notice from the clerk of a magistrates' court that the registration in that court under the Act of 1958 of an order made by the High Court or a county court has been cancelled, the proper officer shall enter particulars of the cancellation on the same documents or in the same records as particulars of registration are required by rule 7.23(4) to be entered.

(5) On receipt of notice from the clerk of a magistrates' court that the registration in that court under the Act of 1958 of an order registered in the High Court in accordance with section 17(4) of the Act of 1950 has been cancelled, the proper officer shall note the cancellation in Part II of the register.

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(4) Section 5 was amended by the Administration of Justice Act 1977 (c. 38), Schedule 3, paragraph 4.