

1986 No. 359

MAGISTRATES' COURTS

**The Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982)
Rules (Northern Ireland) 1986**

Made 8th December 1986

Coming into operation 1st January 1987

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a), section 11A(1) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(b), sections 2(3), 8(5) and 33(4) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(c), and sections 12 and 48 of the Civil Jurisdiction and Judgments Act 1982(d), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 and shall come into operation on 1st January 1987.

Interpretation

2. In these Rules—

“The 1982 Act” means the Civil Jurisdiction and Judgments Act 1982;

“the Order Book” means the Order Book kept under Rule 19 of the Magistrates' Courts Rules (Northern Ireland) 1984(e);

“the 1968 Convention” and “Contracting State” have the same meaning as in the 1982 Act.

The prescribed officer

3. The prescribed officer of a court of summary jurisdiction for the purposes of the 1982 Act shall be the clerk of petty sessions.

Registration of maintenance orders

4.—(1) Where the clerk of petty sessions receives an application under Article 31 of the 1968 Convention for enforcement of a maintenance order made in a Contracting State other than the United Kingdom he shall, subject to Articles 27 and 28 of that Convention and to paragraphs (3) and (4) of this Rule, cause the order to be registered in his court by means of a minute or memorandum entered and signed by him in the Order Book.

(a) S.I. 1981/1675 (N.I. 26)

(b) 1966 c. 35 (N.I.) section 11A was inserted by Schedule 11 to the Civil Jurisdiction and Judgments Act 1982

(c) 1972 c. 18; section 8(5) was amended by Schedule 11 to the Civil Jurisdiction and Judgments Act 1982

(d) 1982 c. 27

(e) S.R. 1984 No. 225

(2) Before registering an order under paragraph (1) of this Rule the clerk of petty sessions shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order to which the application relates is residing within the jurisdiction of the court, and shall consider any information he possesses (whether provided by the applicant or otherwise) as to the nature and location of the payer's assets.

(3) If, after taking such steps and considering such information as are mentioned in paragraph (2) above, the clerk of petty sessions is satisfied that the payer under the order is not residing within the jurisdiction of the court he shall, subject to paragraph (4) of this Rule, refuse the application and return the documents relating thereto to the Lord Chancellor with a statement giving such information as he possesses as to the whereabouts of the payer and the nature and location of his assets.

(4) If, after taking such steps and considering such information as are mentioned in paragraph (2) above, the clerk of petty sessions is satisfied that the payer is not residing within the jurisdiction of the court but that there are assets against which after registration in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 the order could be effectively enforced, he shall cause the order to be registered in accordance with paragraph (1) of this Rule.

Provided that where the clerk of petty sessions is of the opinion that the payer is residing within the jurisdiction of another court of summary jurisdiction in Northern Ireland he may, if he thinks fit, and notwithstanding the provisions of this paragraph, refuse the application and return the documents relating thereto to the Lord Chancellor in accordance with paragraph (3) above.

(5) If the clerk of petty sessions refuses an application under Article 31 of the 1968 Convention, on one or more of the grounds specified in Articles 27 and 28 of that Convention, he shall cause notice of his decision to be sent to the applicant by ordinary post at the address provided by the applicant.

(6) Where an order has been registered under paragraph (1) of this Rule the clerk of petty sessions who was responsible for its registration shall cause a written notice stating that it has been duly registered in his court to be sent by ordinary post to:

- (a) the Lord Chancellor;
- (b) the payer under the order to which the registration relates;
- (c) the applicant, at the address provided by the applicant.

(7) Where an order has been registered under paragraph (1) of this Rule and the clerk of petty sessions who was responsible for its registration is of the opinion that the order, or a part thereof, is one which would be appropriate for enforcement in the High Court he shall notify the applicant accordingly and shall notify the applicant also of the possibility of an application by the applicant for registration of the whole or part of the order in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966.

Appeals from decisions as to registration

5.—(1) An appeal under Article 36 or Article 40 of the 1968 Convention shall be by way of a request in writing to the court of summary jurisdiction in which the order is registered, or in which the application for its registration has been refused, as the case may be.

(2) An appeal on a point of law under Article 37 or 41 of the 1968 Convention shall be by way of case stated and Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply accordingly.

Payment of sums due under a registered order

6.—(1) Payment of sums due under a registered order shall, while the order is so registered in a court of summary jurisdiction, be made to the clerk of the registering

court during such hours and at such place as that clerk may direct; and the clerk to whom payments are made under this paragraph shall send those payments by ordinary post to the court which made the order or to such other person or authority as that court or the Lord Chancellor may from time to time direct.

(2) Where it appears to a clerk of petty sessions to whom payments by way of periodical payments under any maintenance order are made by virtue of paragraph (1) above that any sums payable under the order are in arrear he may and, if such sums are in arrear to an amount equal to four times the sum payable weekly, he shall, whether the person for whose benefit the payment should have been made requests him to do so or not, proceed in his own name for the recovery of those sums, unless it appears to him that it is unreasonable in the circumstances to do so.

(3) Without prejudice to the foregoing provisions of this Rule, the clerk of petty sessions 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 II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966.

Variation and revocation of registered orders

7. Where a maintenance order which has been registered for enforcement in a court of summary jurisdiction has been varied or revoked by an order made by a competent court in a Contracting State the clerk of petty sessions for the court in which the order is registered shall, on receiving notice of the variation or revocation, register the order of variation or revocation by means of a minute or memorandum entered and signed by him in the Order Book and shall cause notice of the same to be given in writing by ordinary post to the payee and to the payer under the order to which the variation or revocation relates.

Transfer of registered orders

8.—(1) Where the clerk of petty sessions for the court where an order is registered is of opinion that the payer is residing within the jurisdiction of another court of summary jurisdiction in Northern Ireland he shall transfer the order to that other court by sending the information and documents relating to the registration of the order (that is, the information and documents required under Articles 46 and 47 of the 1968 Convention) to the clerk of petty sessions for that other court, and shall cause notice of the same to be given by ordinary post to the payee under the order to which the transfer relates and to the Lord Chancellor.

Provided that where an application is pending in the court where the order is registered for the registration of the whole or part of the order in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966, the clerk of petty sessions shall not transfer the order, or such part of it to which the application relates, under this paragraph.

(2) On the transfer of an order under paragraph (1) above the clerk of petty sessions for the court to which it is transferred shall register the order in the like manner as if an application for registration had been received under Rule 4 of these Rules.

(3) The clerk of petty sessions who is required by the foregoing provisions of this Rule to send to the clerk of petty sessions for another court information and documents relating to the registration of an order shall send with that information and those documents:—

- (a) a certificate of arrears, if applicable, signed by him;
- (b) a statement giving such information as he possesses as to the whereabouts of the payer and the nature and location of his assets; and
- (c) any other relevant documents in his possession relating to the case.

Cancellation of registered orders

9. Subject to Rule 8 of these Rules, where the clerk of petty sessions for the court in which an order is registered is of the opinion that the payer under a registered order is not residing within the jurisdiction of that court and has no assets against which after registration in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 the order could be effectively enforced, he shall cancel the registration of the order and shall cause notice of the same to be given by ordinary post to the payee under the order to which the cancellation relates and shall send the information and documents required under Articles 46 and 47 of the 1968 Convention) to the Lord Chancellor, together with such information and documents as are referred to in Rule 8(3)(a), (b) and (c) of these Rules.

Complaint against a person residing outside the United Kingdom

10.—(1) This Rule applies where a complaint is made to a court of summary jurisdiction by a person who is habitually resident in Northern Ireland against a person residing in a Contracting State other than the United Kingdom, and the complaint is one in respect of which the court has jurisdiction to make a maintenance order by virtue of Article 5(2) of the 1968 Convention.

(2) On the making of a complaint to which paragraph (1) of this Rule applies, the following documents, that is to say:—

- (a) notice of the institution of the proceedings, including a statement of the grounds of the complaint;
- (b) a statement signed by the clerk of petty sessions, giving such information as he possesses as to the whereabouts of the defendant;
- (c) a statement giving such information as the clerk possesses for facilitating the identification of the defendant; and
- (d) where available, a photograph of the defendant;

shall be sent by that clerk to the Lord Chancellor.

(3) The clerk of petty sessions shall give the defendant notice in writing of the date fixed for the hearing by sending the notice by ordinary post addressed to his last known or usual place of abode.

(4) Where the defendant makes any written representations or adduces any documentary evidence in advance of the hearing, a copy of the representations or evidence shall be served by ordinary post on the complainant by the clerk of petty sessions before the hearing.

(5) In considering whether or not to make a maintenance order pursuant to a complaint to which paragraph (1) of this Rule applies, where the defendant does not appear and is not represented at the hearing the court shall take into account any representations made and any evidence adduced by him or on his behalf under paragraph (4) above and, where the defendant does appear or is represented at the hearing, the court may take any such representations or evidence into account in addition to any oral representations made or evidence adduced at the hearing.

(6) Where a maintenance order has been made under this Rule, the clerk of petty sessions shall cause notice thereof to be given to the defendant by sending a copy of the order by ordinary post addressed to his last known or usual place of abode and, on application by the complainant, shall give to the complainant the following documents, that is to say:—

- (a) a certified copy of the order;
- (b) a written statement signed by the clerk of petty sessions as to whether or not the defendant appeared in the proceedings in which the order was made, and, if he did not appear, the original or a certified copy of a document which establishes that the document mentioned in paragraph (2)(a) of this Rule had been served on the defendant;

- (c) a document which establishes that notice of the order was sent to the defendant; and
- (d) a written statement signed by the clerk of petty sessions as to whether or not the complainant received legal aid in the proceedings;

with a view to an application being made by the complainant for registration and enforcement under Articles 31 and 32 of the 1968 Convention.

Complaint for variation and revocation of a maintenance order

11.—(1) This Rule applies where an application is made to a court of summary jurisdiction for the variation or revocation of a maintenance order where the payer under the order is residing in a Contracting State other than the United Kingdom.

(2) Where an application to which this Rule applies is made by the payee, the following documents, that is to say:—

- (a) notice of the institution of the proceedings, including a statement of the grounds of the application;
- (b) a statement signed by the clerk of petty sessions giving such information as he possesses as to the whereabouts of the defendant;
- (c) a statement giving such information as the clerk possesses for facilitating the identification of the defendant; and
- (d) where available, a photograph of the defendant;

shall be sent by that clerk to the Lord Chancellor.

(3) Where an application to which this Rule applies is made by the payee:—

- (a) the clerk of petty sessions shall give the defendant notice in writing of the date fixed for the hearing by sending the notice by ordinary post addressed to his last known or usual place of abode;
- (b) where the defendant makes any written representations or adduces any documentary evidence in advance of the hearing, a copy of the representations or evidence shall be served by ordinary post on the complainant by the clerk of petty sessions before the hearing;
- (c) the court, in considering whether to vary or revoke the order, shall, where the payer does not appear and is not represented at the hearing, take into account any representations made and any evidence adduced by or on his behalf under sub-paragraph (b) above and, where the payer does appear or is represented at the hearing, the court may take any such representations or evidence into account, in addition to any oral representation or evidence adduced at the hearing.

(4) Where an application to which this Rule applies is made by the payer, the clerk of petty sessions shall arrange for the service by ordinary post of the document mentioned in paragraph (2)(a) of this Rule on the payee.

(5) Where upon an application to which this Rule applies the court varies or revokes the order, the clerk of petty sessions shall cause notice thereof to be given to the defendant by sending a copy of the order of variation or revocation by ordinary post addressed to his last known or usual place of abode and, on application by the complainant, shall give to the complainant the following documents, that is to say:—

- (a) a certified copy of the order of variation or revocation;
- (b) a written statement, signed by the clerk of petty sessions as to whether or not the defendant appeared in the proceedings for the variation or revocation of the order and if he did not appear the original or a certified copy of a document which establishes that the notice of the institution of the proceedings had been served on the defendant;

- (c) a document which establishes that notice of the order of variation or revocation was sent to the defendant; and
- (d) a written statement signed by the clerk of petty sessions as to whether or not the complainant or the defendant received legal aid in the proceedings;

with a view to an application being made by the complainant for registration and enforcement of the order of variation or revocation under Articles 31 and 32 of the 1968 Convention.

Copies of, and certificates in connection with, maintenance orders

12.—(1) Without prejudice to the provisions of Rule 10(6) and Rule 11(5) of these Rules, a person wishing to obtain for the purposes of an application for recognition or enforcement in a Contracting State a copy of a maintenance order made by a court of summary jurisdiction in Northern Ireland and a certificate giving particulars relating to the order and the proceedings in which it was made may apply in writing to the clerk of petty sessions for that court.

(2) An application under paragraph (1) above shall specify:—

- (a) the names of the parties to the proceedings in the court of summary jurisdiction;
- (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 in which the application for recognition or enforcement has been made or is to be made;
- (d) the postal address of the applicant.

(3) A clerk of petty sessions who receives an application under paragraph (1) of this Rule shall send by ordinary post to the applicant at the address indicated in the application for the purposes an authenticated copy of the order concerned.

(4) For the purposes of paragraph (3) of this Rule a copy of an order shall be deemed to be authenticated if it is accompanied by a statement signed by the clerk of petty sessions that it is a true copy of the order concerned and giving particulars of the proceedings in which it was made.

(5) A person wishing to obtain for the purposes of an application made or to be made in another Contracting State or in another part of the United Kingdom in connection with a maintenance order which is registered in a court of summary jurisdiction in Northern Ireland a certificate giving particulars of any payments made and any arrears which have accrued under the order while so registered may apply in writing to the clerk of petty sessions for the court in which the order is registered and that clerk shall send by post to the applicant at the address indicated in the application for the purpose a certificate giving the information so requested.

Admissibility of documents

13.—(1) Subject to paragraph (2) of this Rule, a statement contained in—

- (a) a document which purports to set out or summarise evidence given in proceedings in a court in another part of the United Kingdom or another Contracting State;
- (b) a document which purports to have been received in evidence in proceedings in a court in another part of the United Kingdom or another Contracting State;
- (c) a document which purports to set out or summarise evidence taken in another part of the United Kingdom or in another Contracting State for the purpose of proceedings in a court in Northern Ireland under the 1982 Act, whether in response to a request made by such a court or otherwise; or

- (d) a document which purports to record information relating to the payments made under an order of a court in another part of the United Kingdom or another Contracting State

shall, in any proceedings in a court of summary jurisdiction in Northern Ireland relating to a maintenance order to which the 1982 Act applies, be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) Paragraph (1) of this Rule shall not apply unless the document concerned has been made or authenticated by the court in the other part of the United Kingdom or the other Contracting State, as the case may be, or by a judge or official of that court, in accordance with paragraph (3), (4) or (5) of this Rule.

(3) A document purporting to set out or summarise evidence given as mentioned in paragraph (1)(a) above, or taken as mentioned in paragraph (1)(c) above, shall be deemed to be authenticated for the purposes of that paragraph if the document purports to be certified by the judge or official before whom the evidence was given or by whom it was taken, or to be the original document containing or recording or, as the case may be, summarising, the evidence or a true copy of that document.

(4) A document purporting to have been received in evidence as mentioned in paragraph (1)(b) above, or to be a copy of a document so received, shall be deemed to be authenticated for the purposes of that paragraph if the document purports to be certified by a judge or official of the court in question to be, or to be a true copy of, a document which has been so received.

(5) A document purporting to record information as mentioned in paragraph (1)(d) above shall be deemed to be authenticated for the purposes of that paragraph if the document purports to be certified by a judge or official of the court in question to be a true record of the payments made under the order concerned.

(6) 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 such a certificate.

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

(8) Any request by a court of summary jurisdiction in Northern Ireland for the taking or providing of evidence by a court in another part of the United Kingdom or another Contracting State for the purpose of proceedings under the 1982 Act shall be communicated in writing to the court in question.

Evidence for the purposes of proceedings outside Northern Ireland

14.—(1) Subject to paragraph (2) below, where for the purposes of any proceedings in a court in another part of the United Kingdom or in a Contracting State other than the United Kingdom relating to a maintenance order a request is made by or on behalf of that court for the taking in Northern Ireland of evidence of a person residing therein relating to matters specified in the request, the following courts of summary jurisdiction shall have power to take that evidence, that is to say:—

- (a) where the maintenance order to which the proceedings in the court in the other part of the United Kingdom or Contracting State relate was made by a court of summary jurisdiction, the court which made the order;
- (b) where the maintenance order to which those proceedings relate is registered in a court of summary jurisdiction, the court in which the order is registered;
- (c) a court of summary jurisdiction which has received such a request from the Lord Chancellor.

(2) The power conferred by paragraph (1) above may, with the agreement of a court having that power, be exercised by any other court of summary jurisdiction which, because the person whose evidence is to be taken resides within its jurisdiction

or for any other reason, the first mentioned court considers could more conveniently take the evidence; but nothing in this paragraph shall derogate from the power of any court specified in paragraph (1) above.

(3) Before taking the evidence of a person under paragraph (1) or (2) above, a court of summary jurisdiction shall give notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit.

(4) Subject to paragraph (5) below, where the evidence of a person is to be taken by a court of summary jurisdiction under the foregoing provisions of this Rule—

- (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on a complaint;
- (b) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and
- (c) the court by whom the evidence of any person is so taken shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or a document received in evidence, as the case may be, by them.

(5) Where such a request as is mentioned in paragraph (1) above includes a request that the evidence be taken in a particular manner, the court of summary jurisdiction by which the evidence is taken shall, so far as circumstances permit, comply with that request.

(6) Any document such as is mentioned in paragraph (4)(c) above shall be sent by ordinary post to the court in the Contracting State by or on behalf of which the request was made.

Amendments

15. The enactments and instruments mentioned in the Schedule to this Order shall have effect with the amendments there specified.

Dated 8th December 1986.

Hailsham of St. Marylebone, C.

SCHEDULE

Rule 15

Amendments

PART I

Rules

**The Magistrates' Courts (Maintenance and Affiliation) Rules
(Northern Ireland) 1966(a)**

1. For Rule 4 of the Magistrates' Courts (Maintenance and Affiliation) Rules (Northern Ireland) 1966 there shall be substituted the following Rule—

"Manner in which a court of summary jurisdiction is to be satisfied as to various matters

4.—(1) An applicant wishing to show, in accordance with section 11A(1) of the Act of 1966, that the order to which the application relates, though deemed to have been made by a court of summary jurisdiction in Northern Ireland, 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) On an application for registration in the High Court of a maintenance order made by a court of summary jurisdiction, the court of summary jurisdiction shall be satisfied in the manner provided by paragraph (6) as to the amount due and unpaid under the order at the time the application was made.

(4) Where such an application as aforesaid is granted, the court shall be satisfied in the manner provided by paragraph (6) that no process for the enforcement of the order issued before the grant of the application remains in force.

(5) Where the court receives a notice given under section 14 of the Act of 1966 (which relates to cancellation of registration) the court shall be satisfied in the manner provided by paragraph (6) 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 court of summary jurisdiction.

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

(a) if the person through or to whom payments are ordered to be made is the clerk of petty sessions, there shall be produced a certificate in that behalf purporting to be signed by the clerk in the form numbered 2, 3 or 4, as the case may be, in Schedule 2 to these Rules;

(b) in other case, there shall be produced a document purporting to be a statutory declaration in that behalf in the form numbered 5, 6 or 7, as the case may be, in Schedule 2 to these Rules."

2. In rule 5 of the said Rules of 1966 after the words "shall be required upon the said copy" there shall be added the following paragraph:

"(3) Where the court is satisfied in accordance with Rule 4(1) above that interest is recoverable under the order in respect of which the application has been granted the court shall, in accordance with section 11A(1) of the Act of 1966, cause the clerk of petty sessions 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 2A in Schedule 2 to these Rules to the proper officer of the Supreme Court."

3. In Schedule 2 to the said Rules of 1966 for Forms 3 and 4 there shall be substituted Forms numbered in the like manner in Part II of this Schedule and there shall be inserted after Form 2, the new Form 2A set out in Part II of this Schedule.

The Magistrates' Courts (Reciprocal Enforcement of Maintenance Orders) Rules (Northern Ireland) 1974(a)

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

5. In Rule 9(3) of the said Rules of 1974, after the words "to whom payments" there shall be inserted the words "by way of periodical payments".

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

"9A. Without prejudice to Rule 9 above, the clerk of petty sessions 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 II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966."

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

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

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

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

"8A. Without prejudice to Rule 8 above, the clerk of petty sessions 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 II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966."

PART II

FORMS

Schedule 2, Forms 2A, 3 and 4, Magistrates' Courts (Maintenance and Affiliation) Rules (Northern Ireland) 1966

FORM 2A

Certificate in respect of interest recoverable under a maintenance order

		}	Petty Sessions District of
of	Complainant		
		}	County Court Division of
of	Defendant		

I hereby certify that the rate of interest shown in accordance with sub-section (1) of section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 to be recoverable in respect of (*insert particulars of maintenance order, or, if application relates only to a part of the order relating to a lump sum, insert particulars of that part of the order*)

is recoverable is from the 19 day of and that the date from which it is so recoverable is from the 19 day of to the day of

Clerk of Petty Sessions for the said Petty Sessions District

FORM 3

Certificate by Clerk of Petty Sessions that no process for enforcement remains in force

of	Complainant	} Petty Sessions District of
of	Defendant	} County Court Division of

I hereby certify that at the date of this certificate no process remains in force for the enforcement of (*insert particulars of maintenance order, or, if application relates only to a part of the order relating to a lump sum, insert particulars of that part of the order*) made on the day of 19 , by a court of summary jurisdiction sitting for the Petty Sessions District of in the County Court Division of , the payments whereunder are at present required to be made to me.

Dated the day of 19 .

Clerk of Petty Sessions for the said Petty Sessions District

FORM 4

Certificate by Clerk of Petty Sessions that no process for enforcement remains in force and no proceedings for variation are pending

I hereby certify that at the date of this certificate no process remains in force for the enforcement and no proceedings are pending in a court of summary jurisdiction for the variation of (*insert particulars of maintenance order, or, if application relates only to a part of the order relating to a lump sum, insert particulars of that part of the order*) made on the day of 19 , by the High Court, the payments whereunder are at present required to be made through me.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules provide for the procedure to be followed in courts of summary jurisdiction in Northern Ireland in dealing with certain claims under the Convention on jurisdiction and enforcement of judgments in civil and commercial matters signed at Brussels on 27th September 1968. The United Kingdom acceded to the Convention by the Accession Convention signed at Luxembourg on 9th October 1978. The two Conventions are made part of the law of the United Kingdom by section 2 of the Civil Jurisdiction and Judgments Act 1982, which comes into force on 1st January 1987.

Under the 1968 Convention maintenance orders made by a court in Contracting States other than the United Kingdom are recognised and enforceable in Northern Ireland by means of an application transmitted through the Lord Chancellor to a court of summary jurisdiction. Rules 3 to 9 make provision for the procedure to be followed by clerks of petty sessions and courts of summary jurisdiction in relation to the registration, enforcement, variation and revocation of such orders.

Article 5(2) of the 1968 Convention confers jurisdiction in matters relating to maintenance on the court for the place where the maintenance creditor is domiciled or habitually resident. Rules 10, 11 and 12 prescribe the procedure to be followed in courts of summary jurisdiction in cases where the maintenance creditor is domiciled or habitually resident in Northern Ireland and the maintenance debtor is residing in a Contracting State outside the United Kingdom. Rules 13 and 14 deal with the admissibility in courts of summary jurisdiction in Northern Ireland of evidence taken in another Contracting State and with the taking of evidence in Northern Ireland for the purposes of maintenance proceedings in another Contracting State.

Rule 15 gives effect to the Schedule to the Rules which makes various amendments to existing magistrates' courts rules. These amendments are made in consequence of the amendments made by Schedule 11 to the Civil Jurisdiction and Judgments Act 1982 in relation to enforcement of lump sum orders, recovery of interest on arrears and enforcement of maintenance orders against assets.