

1993 No. 134

## MATRIMONIAL CAUSES

## SUPREME COURT

## COUNTY COURT

**The Matrimonial Causes (Amendment) Rules  
(Northern Ireland) 1993**

*Made* . . . . . 24th March 1993

*Coming into operation* . . . . . 5th April 1993

*To be laid before Parliament*

We, the Matrimonial Causes Rules Committee, in exercise of the powers conferred upon us by Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978(a), hereby, with the concurrence of the Lord Chancellor, make the following Rules:

*Citation, commencement and interpretation*

1.—(1) These Rules may be cited as the Matrimonial Causes (Amendment) Rules (Northern Ireland) 1993 and shall come into operation on 5th April 1993.

(2) In these Rules, a rule, Form or Appendix referred to by number means the rule, Form or Appendix so numbered in the Matrimonial Causes Rules (Northern Ireland) 1981(b).

*Amendment of the Matrimonial Causes Rules (Northern Ireland) 1981*

2. In rule 2(1) after the definition of “the Order of 1989”, there shall be inserted the following definition—

“ “the Order of 1991” means the Child Support (Northern Ireland) Order 1991(c);”.

3.—(1) After sub-paragraph (c) of rule 83(2), there shall be inserted the following sub-paragraph—

“(cc) where the application is for periodical payments or secured periodical payments for a child,

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(a) S.I. 1978/1045 (N.I. 15)

(b) S.R. 1981 No. 184 as amended by S.R. 1989 No. 246

(c) S.I. 1991/2628 (N.I. 23)

- (i) whether the application is
  - for a step-child;
  - in addition to child support maintenance already payable under a Child Support Agency assessment;
  - to meet expenses arising from a child's disability;
  - to meet expenses incurred by a child being educated or trained for work; or
  - made on some other ground (please specify); or
- (ii) when either the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;”.

(2) After sub-paragraph (d) of rule 86(3) there shall be inserted the following sub-paragraph—

“(dd) whether there are or have been any proceedings in the Child Support Agency with reference to the maintenance of each child and if so the details of those proceedings;”.

4. After rule 101 there shall be inserted the following new rules—

“*Applications for relief which are precluded by the Order of 1991*

**101A.**—(1) Where an application is made for an order which in the opinion of the registrar, the court would be prevented from making by Article 10 or 11 of the Order of 1991 the master or chief clerk as the case may be, shall send a notice in Form 31 to the applicant and to the other parties.

(2) In the first instance, the registrar shall consider the matter under paragraph (1), without holding a hearing.

(3) An applicant who has been sent a notice under paragraph (1) may within 14 days of receipt of the notice inform the master or chief clerk, as the case may be, in writing, that he wishes to pursue his application and upon being so informed the master shall act in accordance with paragraph (4) and the chief clerk shall refer the matter to the district judge who shall also act in accordance with paragraph (4).

(4) Where the registrar acts in accordance with this paragraph he shall fix an appointment for the matter to be heard and determined by the court and may direct that the hearing shall be ex parte.

(5) Where an appointment has been fixed in accordance with paragraph (4) the master or chief clerk, as the case may be, shall give the applicant notice of the date and time of the appointment and in relation to the other parties:

- (a) where the hearing is to be ex parte, inform them that the matter is being resolved ex parte and that they will be informed of the result in due course;
- (b) where the hearing is to be inter partes, inform them of the date and time of the appointment.

(6) Where a notice is sent under paragraph (1) and the master or chief clerk, as the case may be, is not informed under paragraph (3) the application shall be treated as having been withdrawn.

(7) Where the matter is heard in accordance with paragraph (4) and the court determines that it would be prevented by Article 10 or 11 of the Order of 1991 from making the order sought it shall dismiss the application.

(8) Where the court dismisses an application under this rule it shall give its reasons in writing, copies of which shall be sent to the parties by the master or chief clerk, as the case may be.

(9) In this rule “the matter” means the question whether the making of an order in the terms sought by the application would be prevented by Article 10 or 11 of the Order of 1991.

*Additional requirement where application for child maintenance is combined with application for other relief*

101B. Where a notice is sent under rule 101A(1) in respect of an application which is contained in a petition or other document (“the document”) which contains material extrinsic to the application—

- (a) the document shall, until the contrary is directed under sub-paragraph (c), be treated as if it did not contain the application in respect of which the notice was sent;
- (b) the master or chief clerk shall, when he sends a copy of the notice under rule 101A(1) to the parties, also send a notice informing them of the effect of sub-paragraph (a); and
- (c) where it is determined under rule 101A that the court would not be prevented by Article 10 or 11 of the Order of 1991 from making the order sought by the application, the court shall direct that the document shall be treated as if it contained the application, and it may give such directions as it considers appropriate for the conduct of the proceedings in consequence of that direction.”.

*Disclosure of information*

5. After rule 135 there shall be inserted the following new rule—

*“Disclosure of information under the Order of 1991*

135A. Where the Department requires a person mentioned in regulation 2(2) or (3) of the Child Support (Information, Evidence and Disclosure) Regulations (Northern Ireland) 1992(a) to furnish information or evidence for a purpose mentioned in regulation 3(1) of those Regulations, nothing in rule 135 (inspection of documents retained in court) shall prevent that person from furnishing the information or evidence sought or require him to seek the leave of the court before doing so.”.

*Forms*

6. Appendix 1 shall be amended as follows—

- (a) for Forms 4, 13 and 15 there shall be substituted the new forms set out in the Schedule;
- (b) after Form 30 there shall be inserted the new Form 31 set out in the Schedule.

*Contents of petition*

7. Appendix 2 shall be amended as follows—

- (a) after paragraph (h) there shall be inserted the following new paragraph—

“(hh) where an application is being made for periodical payments or secured periodical payments for a child of the family,

- (i) whether the application is—

- for a step-child,
- in addition to child support maintenance already payable under a Child Support Agency assessment;
- to meet expenses arising from a child’s disability;
- to meet expenses incurred by a child being educated or trained for work; or
- made on some other ground (please specify); or

- (ii) whether the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;”.

- (b) after paragraph 1(i) there shall be inserted the following new sub-paragraph—

“(ii) whether or not there have been any applications under the Order of 1991 for a maintenance assessment in respect of any child of the family, and if so—

- (i) the date of any such application and,
- (ii) if available, details of the assessment made.”.

Dated 15th March 1993

I concur

*Brian Hutton  
Raymond T. Kerr  
George A. Palmer  
Barry Malcolm  
R. T. Millar  
Mary Connolly  
Kathleen Finlay*

Dated 24th March 1993

*Mackay of Clashfern, C.*

FORMS

FORM 4

Rule 7(2)

**Statement as to arrangements for children**

*[Heading as in Form 3]*

The proposed arrangements for the children of the family under 16 and those over 16 but under 18 who are receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation are as follows:—

[State in respect of each child]—

- (i) residence [state where the child is to live with particulars of the accommodation, what other persons (naming them) live there and who will look after the child; and, if it is proposed that the child should be in the immediate care of a person other than the petitioner, state whether or not that person has agreed to this arrangement];
- (ii) education, etc. [state the school or other educational establishment which the child will attend or, if he is working, his place of employment, the nature of his work and details of any training he will receive];
- (iii) financial provision [state who is at present supporting the child or contributing to his support and the extent thereof and whether payment is being made under a court order or maintenance agreement or following an assessment by the Child Support Agency and whether it is proposed to make any application to the Court for the financial support of the child and if so what support is to be applied for or whether an application is to be made to the Child Support Agency for an assessment];
- (iv) access [state any arrangements which have been agreed for access and the extent to which access is to be given].

The said child[ren] is [are] [not] suffering from serious disability or chronic illness or from the effects of such illness [, namely, [state in respect of each child so suffering, the nature of the disability or illness and attach a copy of any up-to-date medical report which is available]].

The said child[ren] is [are] [not] under the care or supervision of an officer, or officer appointed by the Department of Health and Social Services, or other person or organisation [namely, [give details, and state the date of any order for care or supervision and the circumstances which give rise to its being made]].

Dated this            day of            19 .

Signed

Petitioner

**Notice of application for ancillary relief**  
[Heading as in Form 3]

TAKE NOTICE that the petitioner [or respondent] intends to apply to the Court for [here set out the ancillary relief claimed, stating the terms of any agreements as to the order which the Court is to be asked to make and, in the case of an application for a property adjustment order or an avoidance of disposition order, stating briefly the nature of the adjustment proposed or the disposition to be set aside. If the application is to vary periodical payments or secured periodical payments for a child state whether there are or have been any proceedings in the Child Support Agency relating to their maintenance].

[If you are applying for any periodical payments or secured periodical payments for a child please state—

whether you are applying for payment—

- for a step-child;
- in addition to child support maintenance already payable under a Child Support Agency assessment;
- to meet expenses arising from a child's disability;
- to meet expenses incurred by a child being educated or training for work; or
- on some other ground (please specify)

or whether

- the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom.]

Notice will be given to you of the place and time fixed for the hearing of the application [or the application will be heard by the Master or district judge in chambers at            on            day, the            day of            19            , at            o'clock].

[Unless the parties are agreed upon the terms of the proposed order, add in the case of an application for an order for maintenance pending suit or a financial provision order or variation order:

TAKE NOTICE ALSO that you must file in the [Matrimonial Office, Royal Courts of Justice, Chichester Street, Belfast]; [or county court office at            ] within 14 days after you receive this notice, an affidavit giving full particulars of your property and income. You must at the same time send a copy of your affidavit to the [solicitor for] the applicant.

If you wish to allege that the petitioner [or respondent] has property or income, you should say so in your affidavit].

Dated this            day of            19            .

Signed

[Solicitor for the] Respondent  
[or Petitioner]

**Notice of intention to proceed with application for ancillary relief made in  
petition or answer**

*[Heading as in Form 3]*

The petitioner [or respondent] having applied in his [or her] petition [or answer] for [here set out the ancillary relief claimed and intended to be proceeded with, stating the terms of any agreement as to the order which the court is to be asked to make.]

[If you are applying for any periodical payments or secured periodical payments for a child please state—

whether you are applying for payment

- for a step-child;
- in addition to child support maintenance already payable under a Child Support Agency assessment;
- to meet expenses arising from a child's disability;
- to meet expenses incurred by a child being educated or training for work; or
- on some other ground (please specify)

or whether the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom.]

[Add where applicable] TAKE NOTICE that the application will be heard by the Master or district judge in chambers at \_\_\_\_\_ on \_\_\_\_\_ day, the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ o'clock.]

TAKE NOTICE [ALSO] that [continue as in fourth paragraph of Form 13].

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Signed

[Solicitor for the] Petitioner  
[or Respondent]

**Notice under Rule 101A(1)**  
[Heading as in Form 3]

To  
of

These proceedings [include/consist of] an application under the Matrimonial Causes (Northern Ireland) Order 1978 for an order that

TAKE NOTICE that it appears that the court would be prevented from making such an order [in respect of the following children

] because

If you wish to dispute this and to claim that the court should continue to deal with your application you must say so in writing and send it to the court office within 14 days of having received this notice.

If you do this a date for a hearing will be fixed at which you will be able to say why you think the court would be able to make the order sought.

The address of the court office is

Dated this     day of     19     .

[Master]

[Chief Clerk]



*(This note is not part of the Rules.)*

These Rules amend the Matrimonial Causes Rules (Northern Ireland) 1981 in consequence of the Child Support (Northern Ireland) Order 1991 so as to provide—

- (a) a procedure to deal with cases where there is a dispute as to whether a court or the Child Support Agency has jurisdiction to deal with the matter;
- (b) for the disclosure of information about court proceedings to the Department of Health and Social Services; and
- (c) to amend three forms and the information required to be given in the divorce petition and certain affidavits to elicit information about maintenance assessment under the Child Support (Northern Ireland) Order 1991.