
STATUTORY INSTRUMENTS

1959 No. 3

The Magistrates' Courts (Maintenance
Orders Act, 1958) Rules 1959

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Administering court to be informed of proceedings in foreign court

21. Where any decision is reached, or warrant of distress or commitment is issued, in pursuance of a complaint or application relating to a maintenance order or the enforcement of a maintenance order (including an application under section twelve of the Act, which relates to the determination whether payments are earnings), being a complaint or application heard by a magistrates' court other than the administering court—

- (a) the clerk of the first-mentioned court shall forthwith send by post to the clerk of the administering court an extract from the register containing a minute or memorandum of the decision or of the issue of the warrant as the case may be;
- (b) on receipt of the extract the last-mentioned clerk shall enter the minute or memorandum in his register.

Review of committals, etc

22.—(1) Where for the purpose of enforcing a maintenance order a magistrates' court has exercised its power under subsection (2) of section sixty-five of the Magistrates' Courts Act, 1952, or subsection (3) or (5) of section eighteen of the Act to postpone the issue of a warrant of commitment and under the terms of the postponement the warrant falls to be issued, the clerk of the court shall give notice to the defendant in the form numbered 15 in the Schedule to these Rules and shall attach to the said notice a copy of the form numbered 16 in the said Schedule.

(2) An application under subsection (1) of the said section eighteen requesting that the warrant shall not be issued shall be in the form numbered 16 in the Schedule to these Rules and shall be delivered to the clerk of the court or sent to him by post.

(3) For the purposes of subsection (2) of the said section eighteen the period for the receipt by the clerk of an application under subsection (1) of the said section shall be the period of eight days beginning with the day on which the clerk sends to the defendant the notice referred to in paragraph (1) of this Rule.

(4) An application under subsection (4) of the said section eighteen requesting that a warrant of commitment which has been executed shall be cancelled shall be in the form numbered 17 in the Schedule to these Rules.

(5) Where an application by a defendant under subsection (1) or (4) of the said section eighteen is considered by the court the clerk of the court shall give notice of the decision of the court, if the person in question is not present—

- (a) to the person in whose favour the maintenance order in question was made; and

(b) except where an application under subsection (1) of the said section eighteen is dismissed, to the defendant.

(6) Where on considering an application by a defendant under subsection (4) of the said section eighteen the court—

(a) makes an order under paragraph (b) of subsection (5) of the said section for the cancellation of the warrant of commitment; or

(b) remits under subsection (6) of the said section the whole or any part of the sum in respect of which the warrant was issued;

the clerk of the court shall forthwith give written notice of the decision to the person in charge of the prison or other place in which the defendant is detained.

Warrants of commitment

23.—(1) A warrant of commitment for the enforcement of a maintenance order, being an affiliation order or an order enforceable as an affiliation order, issued in pursuance of a complaint under section seventy-four of the Magistrates' Courts Act, 1952, as amended by section sixteen of the Act, shall be in the form numbered 18 in the Schedule to these Rules:

Provided that where the issue of the warrant has been postponed under section sixty-five of the Magistrates' Courts Act, 1952, or under section eighteen of the Act the warrant shall be in the form numbered 19 in the Schedule to these Rules.

(2) A warrant of commitment for the enforcement of a maintenance order, not being an affiliation order or an order enforceable as an affiliation order, the issue of which has been postponed under section sixty-five of the Magistrates' Courts Act, 1952, or under section eighteen of the Act, shall be in the form numbered 20 in the Schedule to these Rules.

Revocations

24.—(1) The forms of warrants of commitment numbered 20 and 21 in the Schedule to the Bastardy (Forms) Order, 1915, shall be omitted therefrom and the form numbered 88 in the Schedule to the Magistrates' Courts (Forms) Rules, 1952, shall cease to apply to a warrant of commitment the issue of which has been postponed under section sixty-five of the Magistrates' Courts Act, 1952, or under section eighteen of the Act, being a warrant of commitment for the enforcement of a maintenance order.

(2) The forms numbered 23, 24 and 25 in the Schedule to the Bastardy (Forms) Order, 1915 (which relate to the attachment of pension or income), shall be omitted therefrom.

(3) The following provisions of the Magistrates' Courts Rules, 1952, are hereby revoked, that is to say:—

(a) paragraph (8) of Rule 34 (which relates to the giving of information as respects certain proceedings in a foreign court); and

(b) Rule 36 (which relates to the attachment of income or pension).

Interpretation

25.—(1) Subsection (3) of section one of the Act shall apply to the interpretation of Part I of these Rules as it applies to the interpretation of Part I of the Act.

(2) Section twenty-one of the Act shall apply to the interpretation of these Rules as it applies to the interpretation of the Act.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

- (4) Any reference in these Rules to the Act is a reference to the Maintenance Orders Act, 1958.
- (5) Any reference in these Rules to the administering court in relation to a maintenance order or a related attachment of earnings order is a reference to the magistrates' court—
- (a) which made the maintenance order;
 - (b) in which the maintenance order is registered under the Act, under Part II of the Maintenance Orders Act, 1950, or under the Maintenance Orders (Facilities for Enforcement) Act, 1920; or
 - (c) by which the maintenance order was confirmed under the Maintenance Orders (Facilities for Enforcement) Act, 1920.
- (6) Any reference in these Rules to the register is a reference to the register kept in accordance with Rule 54 of the Magistrates' Courts Rules, 1952.
- (7) Any reference in these Rules to a form in the Schedule to these Rules shall include a reference to a form to the like effect with such variations as the circumstances may require.

Citation and commencement

26. These Rules may be cited as the Magistrates' Courts (Maintenance Orders Act, 1958) Rules, 1959, and shall come into operation on the sixteenth day of February, 1959.