

1980 No. 1896 (L.28)

## MAGISTRATES' COURTS

The Magistrates' Courts (Maintenance Orders  
Act 1958) (Amendment) Rules 1980

Made - - - -	19th November 1980
Laid before Parliament	10th December 1980
Coming into Operation	1st January 1981

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949(a), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following rules:—

1. These rules may be cited as the Magistrates' Courts (Maintenance Orders Act 1958) (Amendment) Rules 1980 and shall come into operation on 1st January 1981.

2. In these rules "the rules" means the Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959(b).

3. After rule 2 of the rules there shall be inserted the following rule:—

*"Receipt by magistrates' court of notice of registration in the High Court of order previously registered in magistrates' court"*

2A. Where a magistrates' court receives from the High Court notice of the registration in the High Court of an order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland and previously registered in that magistrates' court in accordance with section 17(4) of the Act of 1950, the clerk of the court shall cause the particulars of such notice to be entered in the register."

4. Rule 3 of the rules shall be amended by substituting for paragraphs (a), (b) and (c) the words "to the appropriate officer of the High Court."

5. After rule 4 of the rules there shall be inserted the following rule:—

*"Registration in magistrates' court of order made in Court of Session or High Court in Northern Ireland"*

4A. Where a clerk of a magistrates' court, in pursuance of section 2(2)(b) of the Act, receives from the appropriate officer of the original court in Scotland or Northern Ireland a certified copy of an order made by the Court of Session or the High Court in Northern Ireland, he shall cause the order to be registered in his court by means of a memorandum entered and signed by him in the register and shall send written notice to the appropriate officer of the High Court and to the appropriate officer of the original court that the order has been duly registered."

(a) 1949 c. 101; section 15 was extended by section 122 of the Magistrates' Courts Act 1952 (c. 55).

(b) S.I. 1959/3, amended by S.I. 1971/809, 1977/1890.

6.—(1) Rule 5(1) of the rules shall be amended by inserting after the words “county court order” the words “or an order made by the Court of Session or the High Court in Northern Ireland”.

(2) Rule 5(2) of the rules shall be amended by:—

(a) inserting after the words “magistrates’ court order” the words “or an order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland and registered in a magistrates’ court under Part II of the Act of 1950”; and

(b) substituting for the word “original” in both places where it occurs the word “administering”.

(3) Rule 5(3) of the rules shall be amended by inserting after the words “county court order” the words “or an order made by the Court of Session or the High Court in Northern Ireland”.

7. Rule 7 of the rules shall be amended by inserting after paragraph (3) the following paragraphs:—

“(3A) Where the registration in a magistrates’ court of an order made in the Court of Session or the High Court in Northern Ireland is cancelled under section 5(4) of the Act by that magistrates’ court, the clerk of that magistrates’ court shall give notice of the cancellation to the appropriate officer of the original court and to the appropriate officer of the High Court (where the order is registered by virtue of Part II of the Act of 1950).

(3B) Where the registration in a magistrates’ court of an order under Part II of the Act of 1950 is cancelled by that magistrates’ court by virtue of section 5(4) of the Act the clerk of the court shall give notice of the cancellation to the appropriate officer of the original court and to the appropriate officer of the High Court (where the order is registered under Part I of the Act).”.

8. Rule 8 of the rules shall be amended by—

(a) inserting at the beginning the words “Subject to rule 8A below”; and

(b) by inserting after paragraph (b) the following paragraph:—

“(bb) of the discharge or variation by the Court of Session or High Court in Northern Ireland of an order made by such court and registered in a magistrates’ court;”.

9. After rule 8 of the rules there shall be inserted the following rule:—

*“Notice of cancellation of registration in High Court under Part I of the Act*

8A. Where any notice is received by a court that the registration of an order in the High Court has been cancelled under section 5(4) of the Act, the clerk of the court shall cause the particulars of the notice to be entered in the register.”.

10. For paragraph (4) of rule 25 of the rules there shall be substituted the following paragraph:—

“(4) In these rules—

“the Act” means the Maintenance Orders Act 1958(a);

“the Act of 1950” means the Maintenance Orders Act 1950(b);

---

(a) 1958 c. 39.

(b) 1950 c. 37.

“appropriate officer of the High Court” means the Senior Registrar of the Principal Registry of the Family Division of the High Court or such district registrar as may be specified by the applicant;

“appropriate officer of the original court” means---

- (i) the Sheriff-clerk, in the case of a sheriff court in Scotland;
- (ii) the clerk of petty sessions, in the case of a magistrates' court in Northern Ireland;
- (iii) the Deputy Principal Clerk of Session, in the case of the Court of Session;
- (iv) the Chief Registrar of the Queen's Bench Division (Matrimonial), in the case of the High Court of Justice in Northern Ireland.”.

11. The Schedule to the rules shall be amended by substituting for the forms numbered 3, 6, 8, 9 and 10 the forms numbered in like manner in the Schedule to these rules.

Dated 19th November 1980.

*Hailsham of St. Marylebone, C.*

#### SCHEDULE

*Rule 11*

#### FORMS TO BE SUBSTITUTED IN THE SCHEDULE TO THE MAGISTRATES' COURTS (MAINTENANCE ORDERS ACT 1958) RULES 1959

3

*Certificate of clerk of magistrates' court that no process for enforcement remains in force and no proceedings for variation are pending (M.O. Act 1958, s.5(4)(c).)*

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 Magistrates' Court for the variation of (*insert particulars of maintenance order*) made on the      day of      , 19      , by the [High Court] [      County Court] [Court of Session] [High Court in Northern Ireland] the payments whereunder are at present required to be made through me.

Dated the      day of      19      .

Clerk of the Magistrates' Court  
sitting at      .

6

*Declaration that no process for enforcement remains in force and no proceedings for variation are pending (M.O. Act 1958, s.5(4)(c).)*

I, GH, of \_\_\_\_\_, do solemnly and sincerely declare that at the date of this declaration no process remains in force for the enforcement and no proceedings are pending in a Magistrates' Court for the variation of (*insert particulars of maintenance order*) made on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, by the [High Court] [\_\_\_\_ County Court] [Court of Session] [High Court in Northern Ireland] whereunder I am entitled to receive payments.

And I make this solemn declaration, conscientiously believing the same to be true, by virtue of the provisions of the Statutory Declarations Act, 1835.

GH

Declared at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
before me,

JP

Justice of the Peace for the [county] of \_\_\_\_\_  
(*or other description*)

8

*Notice that payments have become payable through the clerk of a magistrates' court (M.O. Act 1958, s.2(6); M.O. Act 1950, s.19(4).)*

.....Magistrates' Court (*Code*)

Date:

To:

Address:

You are hereby given notice that the sums payable by you under (*insert particulars of maintenance order*) made on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, by the [High Court] [\_\_\_\_ County Court] [Court of Session] [High Court in Northern Ireland] and registered in this Court under Part I of the Maintenance Orders Act 1958, have under an order of this Court dated the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, become payable through [me] [the clerk of the Magistrates' Court sitting at \_\_\_\_\_].

Payments under the order (including payments in respect of any sums due at the date of the receipt by you of this notice) should henceforth be sent to the clerk of the Magistrates' Court at (*state address*).

Justices' Clerk

## 9

*Notice that payments have ceased to be payable through the clerk of the magistrates' court (M.O. Act 1958 s.2(5); M.O. Act 1950, s.19(4).)*

.....Magistrates' Court (Code)

Date:

To:

Address:

You are hereby given notice that the sums payable by you under (*insert particulars of maintenance order*) made on the day of 19 , by [this Court] [*state court in Scotland or Northern Ireland which made the order*] and registered in this Court under Part II of the Maintenance Orders Act 1950] have by reason of the registration of the said order in the High Court ceased to be payable to (*state clerk of Magistrates' Court to whom payments have hitherto been required to be made*).

Payments under the order (including payments in respect of any sums due at the date of the receipt by you of this notice) should henceforth be paid to (*state name and address of the person entitled to payments under the order*).

Justices' Clerk

## 10

*Notice of cancellation of registration (M.O. Act 1958, s.5(5).)*

.....Magistrates' Court (Code)

Date:

To:

Address:

You are hereby given notice that the registration in this Court under Part I of the Maintenance Orders Act 1958, of (*insert particulars of maintenance order*) made on the day of 19 , by the [High Court] [ County Court] [Court of Session] [High Court in Northern Ireland] has been cancelled.

Sums payable by you under the said order have by reason of the cancellation of the registration of the said order ceased to be payable through (*state clerk of Magistrates' Court through whom payments have hitherto been required to be made*).

Payments under the order (including payments in respect of any sums due on the date of the receipt by you of this notice) should henceforth be paid to (*state name and address of person entitled to payments under the order*).

Justices' Clerk

## EXPLANATORY NOTE

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

These rules amend the Magistrates' Courts (Maintenance Orders Act 1958) Rules 1959 ("the rules of 1959") in consequence of the amendments made to the Maintenance Orders Act 1950 and the Maintenance Orders Act 1958 by section 3 of, and Schedule 3 to, the Administration of Justice Act 1977 (c.38). The broad effect of those amendments is to enable a maintenance order made by a superior court in Scotland or Northern Ireland to be registered in a magistrates' court and a maintenance order made by an inferior court in Scotland or Northern Ireland to be registered in the High Court.

In particular these rules insert three new rules into the rules of 1959 namely rule 2A (receipt by magistrates' court of notice of registration in the High Court of order previously registered in magistrates' court), rule 4A (registration in magistrates' court of order made in Court of Session or High Court in Northern Ireland) and rule 8A (notice of cancellation of registration in the High Court under Part I of the Act of 1958). Rule 11 and the Schedule to these rules substitute new Forms 3, 6, 8, 9, and 10 in the Schedule to the rules of 1959.

SI 1980/1896  
ISBN 0-11-007896-9



780110 078960