

2002 No. 194 (L. 1)

**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

**The Magistrates' Courts (Civil Jurisdiction and Judgments
Act 1982) (Amendment) Rules 2002**

<i>Made</i> - - - - -	<i>31st January 2002</i>
<i>Laid before Parliament</i>	<i>5th February 2002</i>
<i>Coming into force</i> - -	<i>1st March 2002</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(a), and section 48 of the Civil Jurisdiction and Judgments Act 1982(b), after consultation with the Rule Committee appointed under section 144 of the Magistrates' Courts Act 1980, makes the following Rules:

Citation, commencement and interpretation

1. These Rules may be cited as the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) (Amendment) Rules 2002 and shall come into force on 1st March 2002.
2. In these Rules a reference to "the Rules" or to a rule by a number alone, means the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules 1986(c) or a rule so numbered in those Rules.

Amendments to the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules 1986

3. For "Secretary of State", in every place where it occurs in the Rules, substitute "Lord Chancellor".
4. In rule 3 after "the 1982 Act" add "and the Civil Jurisdiction and Judgments Order 2001(d)".
5. In rule 4—
 - (a) after paragraph (1) insert—

“(1A) Where a justices’ chief executive receives an application under Article 38 of the Regulation for enforcement of a maintenance order made in a Regulation State other than the United Kingdom he shall, subject to Articles 34 and 35 of the Regulation 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 court’s register.”;
 - (b) in paragraphs (2), (4), (6) and (7) after “paragraph (1)” insert “or (1A)”; and

(a) 1980 c. 43.
(b) 1982 c. 27. Section 48 was amended on 25th January 2002 by the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929).
(c) S.I. 1986/1962.
(d) S.I. 2001/3929.

- (c) in paragraph (5) after “1968 Convention” insert “or under Article 38 of the Regulation”.
6. In rule 5 after “the 1968 Convention” insert “or under Article 43 of the Regulation”.
 7. In rule 6(1) after “the 1982 Act” insert “or under Article 38 of the Regulation”.
 8. In rule 6A(1)—
 - (a) for “rule 9(1)” substitute “rule 6(1)”; and
 - (b) for “section 5(6B)” substitute “section 5(5B)”.
 9. In rule 7 after “a Contracting State” insert “or a Regulation State”.
 10. In rule 8(1) and rule 9 after “Convention” insert “or under Article 53 of the Regulation, as appropriate”.
 11. For the title of Part III of the Rules substitute—

“Applications for Maintenance under Article 5(2) of the 1968 Convention or under Article 5(2) of the Regulation”.
 12. In rule 10—
 - (a) in paragraph (1)—
 - (i) after “a Contracting State” insert “or a Regulation State”; and
 - (ii) after “the 1968 Convention” insert “or Article 5(2) of the Regulation”;
 - (b) in paragraph (6) after “Rule” insert “in respect of a complaint in relation to which the court has jurisdiction by virtue of Article 5(2) of the 1968 Convention”; and
 - (c) after paragraph (6) insert—

“(7) Where a maintenance order has been made under this Rule in respect of a complaint in relation to which the court has jurisdiction by virtue of Article 5(2) of the Regulation, the justices’ chief executive shall cause notice thereof to be given to the defendant by sending a copy of the order by 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—

 - (a) a certified copy of the order; and
 - (b) a completed certificate in the form of Annex V to the Regulation; with a view to an application being made by the complainant for registration and enforcement under Articles 38 and 39 of the Regulation.”.
 13. In rule 11—
 - (a) in paragraph (1) after “a Contracting State” insert “or a Regulation State”;
 - (b) in paragraph (5) for “to which this Rule applies” substitute “to vary or revoke a maintenance order where the payer under the order is residing in a Contracting State”;
 - (c) after paragraph (5) insert—

“(6) Where upon an application to vary or revoke a maintenance order where the payer under the order is residing in a Regulation State the court varies or revokes the order, the justices’ chief executive shall cause notice thereof to be given to the respondent by sending a copy of the order of variation or revocation by post addressed to his last known or usual place of abode and, on application by the applicant, shall give to the applicant the following documents—

 - (a) a certified copy of the order of variation or revocation; and
 - (b) a completed certificate in the form of Annex V to the Regulation; with a view to an application being made by the applicant for registration and enforcement of the order of variation or revocation under Articles 38 and 39 of the Regulation.”.
 14. In rule 12—
 - (a) in paragraph (1)—
 - (i) for “Rule 10(6) and Rule 11(5)” substitute “Rules 10(6), 10(7), 11(5) and 11(6)”; and
 - (ii) after “a Contracting State” insert “or a Regulation State”;
 - (b) in paragraph (2)(c) after “Contracting State” insert “or the Regulation State”; and
 - (c) in paragraph (5) after “Contracting State” insert “or in another Regulation State”.

- 15.** In rule 13—
- (a) in paragraph (1)—
 - (i) after “Contracting State”, in each place it occurs, insert “or another Regulation State”; and
 - (ii) after “1982 Act” insert in each place it occurs, “or the Regulation”;
 - (b) in paragraph (2) after “the other Contracting State” insert “or the other Regulation State”; and
 - (c) in paragraph (8)—
 - (i) after “Contracting State” insert “or another Regulation State”; and
 - (ii) after “1982 Act” insert “or the Regulation”.
- 16.** In rule 14—
- (a) in paragraph (1)—
 - (i) after “in a Contracting State” insert “or in a Regulation State”; and
 - (ii) in sub-paragraph (a) after “Contracting State” insert “or Regulation State”; and
 - (b) in paragraph (6) after “Contracting State” insert “or the Regulation State”.

Irvine of Lairg, C.

Dated 31st January 2002

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules 1986 (S.I. 1986/1962). The amendments are needed in consequence of the coming into force on 1st March 2002 of Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. This Regulation applies to all Member States except Denmark. The Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929), which, for the most part, will also come into force on 1st March 2002, makes the main legislative changes needed in respect of the Regulation.

In addition, the following amendments have been made to correct and clarify those Rules,

—the references to Secretary of State have been changed to the Lord Chancellor; this function was transferred by the Transfer of Functions (Magistrates' Courts and Family Law) Order 1992 (S.I. 1992/709)

—the cross-references in rule 6A, inserted by the Magistrates' Courts (Maintenance Enforcement Act 1991) (Miscellaneous Amendments) Rules 1992 (S.I. 1992/457), have been corrected.

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