STATUTORY INSTRUMENTS

1974 No. 636 (L.9)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1974

Made - - -	28*th March* 1974
Coming into Operation	1*st May* 1974

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1974.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(**a**), as amended (**b**), and a form referred to by number means the form so numbered in Appendix A to those Rules.

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

2. In Order 1, Rule 2(2)(*d*), for the words "the Friday before" there shall be substituted the words "the Tuesday after".

3. Order 45A shall be amended as follows:—

(1) In Rule 1—

(*a*) for the definition of "the Act of 1970" there shall be substituted the following definition:—

" "the Act of 1973" means the Matrimonial Causes Act 1973"(**d**);

(*b*) in the definition of "the deceased", for the words "section 15 of the Act of 1970" there shall be substituted the words "section 36 of the Act of 1973".

(2) In Rules 2, 3 and 7 for the words "section 15 of the Act of 1970", wherever they appear, there shall be substituted the words "section 36 of the Act of 1973".

(**a**) S.R. & O. 1936/626 (1936 I, p. 282).
(**b**) The relevant amending instruments are S.I. 1970/1871, 1971/2127, 1972/1156 (1970 III, p. 6154; 1971 III, p. 6276; 1972 II, p. 3430).
(**c**) 1889 c. 63. (**d**) 1973 c. 18.

(3) In paragraph 8 of Form 370 for the words from "for a maintenance order" to "*section* 17(2) *of the Act*)" there shall be substituted the words "made or deemed to be made by me during the lifetime of the deceased for any such order as is mentioned in section 26(4)(*c*) of the Act [*Give particulars*".

(4) In paragraph 1 of Form 370A for the words "section 14 of the Matrimonial Proceedings and Property Act 1970" there shall be substituted the words "section 35 of the Matrimonial Causes Act 1973".

4. In Order 46 after Rule 24 there shall be added the following Rule:—

"25.—(1) In this Rule a section referred to by number means the section so numbered in the Maintenance Orders (Reciprocal Enforcement) Act 1972**(a)**, and expressions used in this Rule which are used in that Act have the same meaning as in that Act.

(2) For the purpose of sections 2(3), 5(4) and 14 the prescribed officer in relation to a county court shall be the registrar.

(3) An application for a maintenance order made by a county court to be sent to a reciprocating country under section 2 shall be made to the registrar by lodging in the court office:—

(*a*) an affidavit by the applicant stating—

(i) the applicant's reasons for believing that the payer under the maintenance order is residing in that country, and

(ii) the amount of any arrears due to the applicant under the order, the date to which the arrears have been calculated, and the date on which the next payment falls due;

(*b*) a statement giving such information as the applicant possesses as to the whereabouts of the payer;

(*c*) a statement giving such information as the applicant possesses for facilitating the identification of the payer (including, if known to the applicant, the name and address of any employer of the payer, his occupation and the date and place of issue of any passport of the payer), and

(*d*) if available to the applicant, a photograph of the payer.

(4) Where a county court makes a provisional order under section 5, the document required by subsection (4) of that section to set out or summarise the evidence given in the proceedings shall be authenticated by a certificate signed by the registrar.

(5)(*a*) On receipt by a county court of a certified copy of a provisional order made in a reciprocating country, together with the document mentioned in section 5(5), the registrar shall fix a time and place for the court to consider whether or not the provisional order should be confirmed, and shall send to the payee under the maintenance order notice of the time and place so fixed, together with a copy of the provisional order and of that document.

(a) 1972 c. 18.

(*b*) The registrar shall send to the court which made the provisional order a certified copy of any order confirming or refusing to confirm that order.

(6)(*a*) A county court shall be the prescribed court for the purpose of taking the evidence of a person residing within its district pursuant to a request by a court in a reciprocating country under section 14 where the request for evidence relates to a maintenance order made by a county court which is not for the time being registered in a magistrates' court under the Maintenance Orders Act 1958(**a**).

(*b*) The evidence may be taken before the judge or registrar of the county court as the court thinks fit, and the provisions of Order 20, Rule 18, shall apply with the necessary modifications as if the evidence were required to be taken pursuant to an order made by the court for the examination of the witness on oath.

(7) Where a county court makes an order (other than a provisional order) varying or revoking a maintenance order a copy of which has been sent to a reciprocating country in pursuance of section 2, the registrar shall send a certified copy of the order to the court in the reciprocating country.

(8) Any document required to be sent to a court in a reciprocating country under section 5(4) or section 14(1), or paragraph (5)(*b*) or (7) of this Rule, shall be sent to the Secretary of State for transmission to that court unless the registrar is satisfied that, in accordance with the law of that country, the document may be sent by him direct to that court.".

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act 1959(**b**) having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

D. O. McKee.
Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
E. A. Everett.
A. A. Hibbert.
K. W. Mellor.
Arnold Russell Vick.
D. A. Marshall.
D. P. Tomlin.

I allow these Rules, which shall come into operation on 1st May 1974.

Dated 28th March 1974.

Elwyn-Jones, C.

(**a**) 1958 c. 39.

(**b**) 1959 c. 22.

EXPLANATORY NOTE

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

These Rules provide for county court offices to be closed on the Tuesday following (instead of the Friday before) the spring holiday and make minor amendments in Order 45A (Family Provision) by reason of the consolidation of the relevant enactments by the Matrimonial Causes Act 1973.

Provision is also made for proceedings under the Maintenance Orders (Reciprocal Enforcement) Act 1972. A new Rule 25 is added to Order 46 to deal with the transmission of a county court maintenance order for enforcement in a reciprocating country, the subsequent variation or revocation of such an order and the taking of evidence by a county court for the purpose of proceedings in a foreign court relating to a county court order.

SI 1974/636
ISBN 0-11-040636-2

