STATUTORY INSTRUMENTS

1977 No. 615 (L18)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1977

Made - - - - - 31*st March* 1977

Coming into Operation 1*st June* 1977

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1977.

(2) In these Rules, unless the context otherwise requires, 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. The following Rule shall be added to Order 46 after Rule 27:—

"DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS ACT 1976

28.—(1) In this Rule a section referred to by number means the section so numbered in the Domestic Violence and Matrimonial Proceedings Act 1976. 1976 c. 50.

(2) An application under section 1 shall be made by originating application to the court for the district in which either the applicant or the respondent resides or the matrimonial home is situated.

(3) A power of arrest attached to an injunction under section 2 shall be in Form 411.

(4) A copy of any injunction to which a power of arrest has been attached under section 2 shall be delivered by an officer of the court to the officer for the time being in charge of any police station for the applicant's address.

(**a**) S.R. & O. 1936/626 (1936 I, p. 282).

(**b**) The relevant amending instruments are S.R. & O. 1943/1120, S.I. 1955/1799 1957/174, 1959/1251, 1965/2147, 1968/2010, 1970/673, 1971/2127, 2152, 1975/2040 (1943 I, p. 121; 1955 I, p. 530; 1957 I, p. 512; 1959 I, p. 795; 1965 III, p. 6292; 1968 III, p. 5448; 1970 II, p. 2180; 1971 III, pp. 6276, 6305; 1975 III, p. 7481).

(**c**) 1889 c. 63.

(5) Where an order is made varying or discharging an injunction to which a power of arrest has been attached under section 2, a copy of the order shall be delivered by an officer of the court to the officer for the time being in charge of the police station at which a copy of the injunction was delivered pursuant to paragraph (4) and, if the applicant has since changed her address, any police station for the new address.

(6) The judge before whom a person arrested is brought pursuant to section 2(4) may exercise his power to punish that person for disobedience to the injunction, notwithstanding that a copy of the injunction has not been served on him in accordance with Order 25, Rule 68(1), and that no notice in Form 194 has been issued or served on him pursuant to Order 25, Rule 68(2).

(7) Where the judge orders a warrant of attachment to issue, the order and warrant shall be in Form 412.

(8) In relation to a person who is in custody under an order and warrant in Form 412, Order 25, Rule 70, shall have effect as if the order and warrant were issued at the instance of the person who made the application under section 2(1)."

3. The following forms shall be added after Form 410:—

"411

POWER OF ARREST ATTACHED TO INJUNCTION UNDER SECTION 2 OF DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS ACT 1976

Order 46, Rule 28(3).

[*Here set out the injunction*]

AND the Judge being satisfied that the Respondent has caused actual bodily harm to the Applicant [*or* the child concerned] and being of opinion that he is likely to do so again, a power of arrest is attached to this injunction whereby any constable may arrest without warrant a person whom he has reasonable cause for suspecting of being in breach of the injunction as mentioned in section 2(3) of the Domestic Violence and Matrimonial Proceedings Act 1976.

412

ORDER AND WARRANT FOR ATTACHMENT OF PERSON ARRESTED UNDER SECTION 2 OF DOMESTIC VIOLENCE AND MATRIMONIAL PROCEEDINGS ACT 1976

Order 46, Rule 28(7).

[*General Title—Form* 1] (SEAL)

WHEREAS by an order of this Court dated the day of 19 [*here recite the injunction*]

AND WHEREAS [*insert name*] being suspected of a breach of the said order has been arrested by a constable and brought before a Judge of this Court under section 2 of the Domestic Violence and Matrimonial Proceedings Act 1976

NOW UPON HEARING the said and and upon [*state such evidence as may have been given*] the Judge being of opinion, upon consideration of the facts disclosed by the evidence given, that the said has been guilty of a

contempt of this Court by a breach of the said order, that is to say by [*here set out the particular matter of contempt*], doth order that the said do stand committed to H.M. Prison at [*here insert name of prison used by the Court*] for his contempt.

THESE ARE THEREFORE to require you to keep the said under arrest and safely convey and deliver him to the Governor of Her Majesty's Prison at and you the said Governor to receive the said and keep him safely in the said Prison until the further order of this Court.

[*Add, if so ordered*—And it is further ordered that any application for the release of the said from custody shall be made to the judge.]

Dated this day of 19 .

Registrar.

To the Registrar and bailiffs of the Court and every constable within his jurisdiction and to the Governor of Her Majesty's Prison at ."

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Acts 1959(**a**), 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.

Conolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Granville Wingate.
T. Richard Nevin.
E. A. Everett.
A. A. Hibbert.
Arnold Russell Vick.
E. Somerset Jones.
D. A. Marshall.
Emyr O. Parry.

I allow these Rules, which shall come into operation on 1st June 1977.

Dated 31st March 1977.

Elwyn-Jones, C.

(**a**) 1959 c. 22.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules prescribe the method of applying to a county court for an injunction under section 1 of the Domestic Violence and Matrimonial Proceedings Act 1976 and make provision for cases in which a power of arrest is attached to an injunction under section 2 of the Act.

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