STATUTORY RULES OF NORTHERN IRELAND

2002 No. 159

MAGISTRATES' COURTS

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

Made . . . . . 19th April 2002

Coming into operation . . 20th May 2002

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**), and section 48 of the Civil Jurisdiction and Judgments Act 1982(**b**), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby 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 (Northern Ireland) 2002 and shall come into operation on 20th May 2002.

2. In these Rules a reference to a rule by number alone is a reference to the rule so numbered in the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986(**c**).

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

3. In rule 3 after the words "the 1982 Act" insert the words "and the Civil Jurisdiction and Judgments Order 2001(**d**)".

4. In rule 4—

(a) after paragraph (1) insert the following new paragraph—

"(1A) Where the clerk of petty sessions 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 Order Book.";

(b) in paragraphs (2), (4), (6) and (7) after the words "paragraph (1)" insert the words "or (1A)"; and

(c) in paragraph (5) after the words "that Convention" insert the words "or Article 38 of the Regulation".

5. In rule 5 after the words "the 1968 Convention", where they first occur, insert the words "or under Article 43 of the Regulation".

6. In rule 7 after the words "a Contracting State" insert the words "or a Regulation State".

7. In rule 8(1) and rule 9 after the word "Convention" insert the words "or under Article 53 of the Regulation, as appropriate".

(**a**) S.I. 1981/1675 (N.I. 26)
(**b**) 1982 c. 27. Section 48 was amended by the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929)
(**c**) S.R. 1986 No. 359
(**d**) S.I. 2001/3929

8. In rule 10—

(a) in paragraph (1)—

(i) after the words "a Contracting State" insert the words "or a Regulation State"; and

(ii) after the words "the 1968 Convention" insert the words "or Article 5(2) of the Regulation";

(b) in paragraph (6) after the word "Rule" insert the words "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 the following new paragraph—

"(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 clerk of petty sessions 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.".

9. In rule 11—

(a) in paragraph (1) after the words "a Contracting State" insert the words "or a Regulation State";

(b) in paragraph (5) for the words "which this Rule applies" substitute the words "vary or revoke a maintenance order where the payer under the order is residing in a Contracting State";

(c) after paragraph (5) insert the following new paragraph—

"(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 clerk of petty sessions 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 complainant, shall give to the complainant 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 complainant for enforcement of the order of variation or revocation under Articles 38 and 39 of the Regulation.".

10. In rule 12—

(a) in paragraph (1)—

(i) for the words "Rule 10(6) and Rule 11(5)" substitute the words "Rules 10(6), 10(7), 11(5) and 11(6)"; and

(ii) after the words "a Contracting State" insert the words "or a Regulation State";

(b) in paragraph (2)(c) after the words "Contracting State" insert the words "or the Regulation State"; and

(c) in paragraph (5) after the words "Contracting State" insert the words "or in another Regulation State".

11. In rule 13—

(a) in paragraph (1)—

(i) after the words "Contracting State", in each place they occur, insert the words "or another Regulation State"; and

(ii) after the words "1982 Act" in each place they occur insert the words "or the Regulation";

(b) in paragraph (2) after the words “the other Contracting State” insert the words “or the other Regulation State”; and

(c) in paragraph (8)—

(i) after the words “Contracting State” insert the words “or another Regulation State”; and

(ii) after the words “1982 Act” insert the words “or the Regulation”.

12. In rule 14—

(a) in paragraph (1)—

(i) after the words “Contracting State” insert the words “or in a Regulation State”; and

(ii) in sub-paragraph (a) after the words “Contracting State” insert the words “or Regulation State”; and

(b) in paragraph (6) after the words “Contracting State” insert the words “or the Regulation State”.

Dated 19th April 2002 *Irvine of Lairg*, C.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Magistrates' Courts (Civil Jurisdiction and Judgments Act 1982) Rules (Northern Ireland) 1986 (S.R. 1986 No. 359). 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.

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