1993 No. 138

MAGISTRATES' COURTS

Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 1993

Made	*24th March 1993*
Coming into operation . .	*5th April 1993*

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**a**) and all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Magistrates' Courts (Domestic Proceedings) (Amendment) Rules (Northern Ireland) 1993 and shall come into operation on 5th April 1993.

Interpretation

2. In these rules ''the principal rules'' means the Magistrates' Courts (Domestic Proceedings) Rules (Northern Ireland) 1980(**b**) and a rule or form referred to by number means the rule or form so numbered in the principal rules.

Amendment to the principal rules

3.—(1) In Rule 3(1) for the words ''and the ground or grounds on which the application is made must be stated'' there shall be substituted the words ''specifying the type of order sought and the ground or grounds on which the application is made''.

(2) In Rule 5(1) after the word ''orally'' there shall be added the words ''specifying the aggregate amount of the payments made during the period of three months immediately preceding the date of the making of the application and the type of order sought''.

4.—(1) In Form 2

(*a*) for paragraph (*c*), in the Notice to parties to the marriage of court's powers to make provision with regard to children, there shall be substituted the following ''(*c*) where certain conditions are satisfied the payment of maintenance for the child''.

(**a**) S.I. 1981/1675 (N.I. 26)
(**b**) S.R. 1980 No. 371 as amended by S.R. 1989 No. 303

(*b*) After the Notice to parties to the marriage of court's powers to make provision with regard to children, there shall be added the following Notice—

"*Notice to parties of requirement to give particulars of other proceedings*

The attention of all parties to these proceedings is drawn to section 39 of the Family Law Act 1986 (c. 55) which requires parties to proceedings for or relating to a custody order to give particulars of other proceedings known to them which relate to the child concerned (including proceedings out of the jurisdiction and concluded proceedings). The information to be supplied to the court is specified in Rule 5 of the Magistrates' Courts (Family Law Act 1986) Rules (Northern Ireland) 1988 [S.R. 1988 No. 113].".

(2) For Forms 1 and 4 there shall be substituted respectively the forms numbered 1 and 4 in the Schedule.

(3) In Form 7, before the words "the payment of maintenance for the child" there shall be inserted the words "where certain conditions are satisfied".

Dated 24th March 1993 *Mackay of Clashfern,* C.

FORM 1

DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Articles 4, 10, 11 and 12: Rules 3(3) and 9)

Summons to Respondent on application for order for financial provision

of Petty Sessions District of

Applicant

of County Court Division of

Respondent

Whereas an application has been made under Article 4 of the above Order for an order that you—

* (*a*) shall make to the applicant such periodical payments, for such term as may be specified;

* (*b*) shall pay to the applicant such lump sum as may be specified;

* (*c*) shall make to the applicant for the benefit of (being a child of the family), or to such child such periodical payments for such term as may be specified;

* (*d*) shall pay to the applicant for the benefit of (being a child of the family) or to such child such lump sum as may be specified;

on the ground(s) that you—

* (*a*) have failed to provide reasonable maintenance for the applicant; or

* (*b*) have failed to provide or make a proper contribution towards reasonable maintenance for any child of the family as named above; or

* (*c*) have, since the date of the marriage, committed adultery; or

* (*d*) have behaved in such a way that the applicant cannot reasonably be expected to live with you; or

* (*e*) have deserted the applicant.

Where an order is sought for periodical payments to or for the benefit of a child of the family it is—

* (*a*) for a stepchild;

* (*b*) in addition to child support maintenance already payable under a Child Support Agency assessment;

* (*c*) to meet expenses arising from a child's disability;

* (*d*) to meet expenses incurred by a child being educated or training for work;

* (*e*) when either the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;

* (*f*) on some other ground (please specify).

* Delete whichever is inappropriate.

THIS IS TO COMMAND YOU to appear as respondent on the hearing of the said application at on the day of 19 at o'clock before a Court of Summary Jurisdiction for the above-mentioned Petty Sessions District.

Dated this day of 19 .

Justice of the Peace
[or Clerk of Petty Sessions]

* Delete whichever is inappropriate.

Note: Children's birth certificates must be lodged before the hearing of the application.

Notice to parties to the marriage of court's powers to make provision with regard to children

NOTICE is hereby given to parties to proceedings under the above-mentioned Order that at the hearing the court has power to make provision for any of the following purposes as regards any child of the family—

(*a*) legal custody (which may be awarded to either party or to a third person who is a parent of the child);

(*b*) access to the child by either or both of the parties (or by a third person who is a parent of the child);

(*c*) where certain conditions are satisfied the payment of maintenance for the child.

In certain exceptional circumstances the court may commit the care of the child to the Department of Health and Social Services or place him under the supervision of the said Department. The court may exercise these powers whether at the request of the applicant or not and whether any other order is made on the application or the application is dismissed.

At the hearing of the application the court will hear anything the parties may wish to say on these matters.

The court cannot make its final decision on the application until it has decided whether or not and, if so, how to exercise these powers. The court may exercise these powers whether at the request of the applicant or not and whether any other order is made on the application or the application is dismissed.

Notice to parties of requirement to give particulars of other proceedings

The attention of all parties to these proceedings is drawn to section 39 of the Family Law Act 1986 (c. 55) which requires parties to proceedings for or relating to a custody order to give particulars of other proceedings known to them which relate to the child concerned (including proceedings out of the jurisdiction and concluded proceedings). The information to be supplied to the court is specified in Rule 5 of the Magistrates' Courts (Family Law Act 1986) Rules (Northern Ireland) 1988 [S.R. 1988 No. 113].

FORM 4

DOMESTIC PROCEEDINGS (NORTHERN IRELAND) ORDER 1980
(Articles 9, 10, 11 and 12: Rules 5(2) and 9)

Summons to Respondent on application for order for payments where parties are living apart by agreement

of Petty Sessions District of

Applicant

of County Court Division of

Respondent

Whereas an application has been made under Article 9 of the above Order for an order that you—

* (*a*) shall make to the applicant such periodical payments for such term as may be specified;

* (*b*) shall make to the applicant for the benefit of (being a child of the family) or to such child such periodical payments for such term as may be specified;

on the grounds that the applicant has been living apart from you for a continuous period exceeding three months, neither of you having deserted the other and that you have been making periodical payments for the benefit of the [applicant] [and child[ren] of the family].

The aggregate amount of the payments made during the period of three months immediately preceding the date of the making of the application is specified as £ .

Where an order is sought for periodical payments to or for the benefit of a child of the family it is—

* (*a*) for a stepchild;

* (*b*) in addition to child support maintenance already payable under a Child Support Agency assessment;

* (*c*) to meet expenses arising from a child's disability;

* (*d*) to meet expenses incurred by a child being educated or trained for work;

* (*e*) when either the child or the person with care of the child or the absent parent of the child is not habitually resident in the United Kingdom;

* (*f*) on some other ground (please specify).

* Delete whichever is inappropriate.

THIS IS TO COMMAND YOU to appear as respondent on the hearing of the said application at on the day of 19 , at o'clock before a Court of Summary Jurisdiction for the above-mentioned Petty Sessions District.

Dated this day of 19 .

Justice of the Peace
[or Clerk of Petty Sessions]

Notice to parties to the marriage of court's powers to make provision with regard to children

NOTICE is hereby given to parties to proceedings under the above-mentioned Order that at the hearing the court has power to make provision for any of the following purposes as regards any child of the family:—

(*a*) legal custody (which may be awarded to either party or to a third person who is a parent of the child);

(*b*) access to the child by either or both of the parties (or by a third person who is a parent of the child);

(*c*) where certain conditions are satisfied the payment of maintenance for the child.

In certain exceptional circumstances the court may commit the care of the child to the Department of Health and Social Services or place him under the supervision of the said Department. The court may exercise these powers whether at the request of the applicant or not and whether any other order is made on the application or the application is dismissed.

At the hearing of the application the court will hear anything the parties may wish to say on these matters.

The court cannot make its final decision on the application until it has decided whether or not and, if so, how to exercise these powers. The court may exercise these powers whether at the request of the applicant or not and whether any other order is made on the application or the application is dismissed.

Notice to parties of requirement to give particulars of other proceedings

The attention of all parties to these proceedings is drawn to section 39 of the Family Law Act 1986 (c. 55) which requires parties to proceedings for or relating to a custody order to give particulars of other proceedings known to them which relate to the child concerned (including proceedings out of the jurisdiction and concluded proceedings). The information to be supplied to the court is specified in Rule 5 of the Magistrates' Courts (Family Law Act 1986) Rules (Northern Ireland) 1988 [S.R. 1988 No. 113].

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Domestic Proceedings Rules (Northern Ireland) 1980 (''the rules'') in consequence of the Child Support (Northern Ireland) Order 1991 (''the Order''). The Order makes provision with regard to the assessment, collection and enforcement of periodical maintenance payable by certain parents with respect to their children who are not in their care.

The Rules are amended so as to elicit information about the grounds on which a periodical payments order in respect of a child is being sought.