STATUTORY INSTRUMENTS

1979 No. 1220 (L. 16)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Forms) (Amendment) Rules 1979

Made - - - -	*28th September* 1979
Laid before Parliament	*9th October* 1979
Coming into Operation	*1st November* 1979

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949(**a**) as extended by section 122 of the Magistrates' Courts Act 1952(**b**), and section 17(2) of the Domestic Proceedings and Magistrates' Courts Act 1978(**c**), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Forms) (Amendment) Rules 1979 and shall come into operation on 1st November 1979.

2. In the Schedule to the Magistrates' Courts (Forms) Rules 1968(**d**) after the form numbered 115 under the heading "CIVIL PROCEDURE" there shall be inserted the sub-heading and forms contained in the Schedule to these Rules.

Dated 28th September 1979.

Hailsham of St. Marylebone, C.

(**a**) 1949 c. 101. (**b**) 1952 c. 55. (**c**) 1978 c. 22.
(**d**) S.I. 1968/1919, to which there are amendments not relevant to these Rules.

Rule 2

SCHEDULE

FORMS TO BE INSERTED IN THE MAGISTRATES' COURTS (FORMS) RULES 1968

FAMILY PROTECTION ORDERS

115A

Notice of courts' powers under sections 16 and 18(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 *(M.C. Rules* 1968, *r. 82(5A)(b))*

Applications for an order under section 16

Respondents to an application for an order under section 16 of the Domestic Proceedings and Magistrates' Courts Act 1978 are informed that on hearing the application the court (if satisfied as to certain circumstances involving violence or threats of violence) has power to make any order under section 16 of the Act, whether or not the applicant asks for a particular kind of order to be made and, if so, whether or not the particular kind of order asked for by the applicant is made.

Any or all of the following orders may be made under section 16:—

(i) *Under section 16(2)*

(*a*) An order that the respondent shall not use, or threaten to use, violence against the person of the applicant;

(*b*) An order that the respondent shall not use, or threaten to use, violence against the person of a child of the family.

(ii) *Under section 16(3)*

(*a*) An order requiring the respondent to leave the matrimonial home;

(*b*) An order prohibiting the respondent from entering the matrimonial home.

(iii) *Under section 16(4)*

If an order under section 16(3) is made, a further order requiring the respondent to permit the applicant to enter and remain in the matrimonial home.

(iv) *Under section 16(10)*

If an order under section 16(2) is made, it may include provision that the respondent shall not incite or assist another person to use, or threaten to use, violence against the person of the applicant or, as the case may be, the child of the family.

Powers of arrest under section 18

In certain circumstances the court may attach a power of arrest to an order made under section 16. If so, a constable may arrest the respondent without warrant if he has reasonable cause for suspecting the respondent of being in breach of the order.

115B

Family protection order (D.P. & M.C. Act 1978, *s. 16)*

..... Magistrates' Court *(Code)*

Date:

Respondent:

Address:

On the application of

Applicant:

Address:

that

Substance of complaint: (particulars)

(Section 16 of the Domestic Proceedings and Magistrates' Courts Act 1978)

It is adjudged that the complaint is true and it is ordered that:—

s. 16(2) DPMCA 1978 [s. 16(10) DPMCA 1978]

Order: *Delete if inapplicable*

The respondent shall not use or threaten to use, violence against the person of the applicant [and that the respondent shall not incite or assist any other person to use or threaten to use, violence against the person of the applicant].

s. 16(2) DPMCA 1978 [s. 16(10) DPMCA 1978]

Delete if inapplicable

The respondent shall not use, or threaten to use, violence against the person of (*name*) being a child of the faimily [and that the respondent shall not incite or assist any other person to use, or threaten to use, violence against the person of (*name*)].

s. 16(3)[(4)] DPMCA 1978

Delete if inapplicable

The respondent shall leave (*address*) being the matrimonial home [and that the respondent shall permit the applicant to enter and remain therein].

s. 16(3)[(4)] DPMCA 1978

Delete if inapplicable

The respondent shall not enter (*address*) being the matrimonial home [and that the respondent shall permit the applicant to enter and remain therein].

s. 16(9) DPMCA 1978 s. 54(1) MCA 1952

here state any exceptions, conditions or other provisions:—

s. 16(9) DPMCA 1978

(*Where the order is not an expedited order*) This order shall take effect on ..... and shall expire on .....

5(8) MCA 3 *(Where the order is an expedited order)* This order shall take effect

[on the date when] [x days after] notice of the making of the order is served on the respondent and shall expire on ..... (being 28 days after the date on which this order is made) or on the date of the commencement of the hearing, in accordance with the provisions of Part II of the Magistrates' Courts Act 1952, of the application, whichever occurs first].

Costs: And it is ordered that the respondent pay costs of £ to the applicant [forthwith] [by weekly/monthly instalments of £] [not later than .....]

J.P.,
Justice of the Peace

[By order of the Court

J.C.,
Justices' Clerk]

Note: If you disobey this order you could be sent to prison for up to 2 months or ordered to pay up to £1,000.

115C

Power of arrest attached to order made under section 16 of the Domestic Proceedings and Magistrates' Courts Act 1978 *(D.P. & M.C. Act* 1978 *s.18(1) & (2))*

The court, having made an order under section 16 of the Domestic Proceedings and Magistrates' Courts Act 1978 which provides that the respondent—

Delete any provision which is inapplicable

(*a*) shall not use violence against the person of the applicant or

(*b*) shall not use violence against the person of (*name*), being a child of the family, or

(*c*) shall not enter (*address*), being the matrimonial home,

and being satisfied that the defendant has physically injured [the applicant] [a child of the family] and considering that he is likely to do so again, a power of arrest is attached to the provision(s) mentioned at (*a*)/(*b*)/(*c*) above.

A CONSTABLE MAY ARREST without warrant a person whom he has reasonable cause for suspecting of being in breach of any such provision as is mentioned at (*a*)/(*b*)/(*c*) above by reason of that person's use of violence or, as the case may be, his entry into the matrimonial home.

115D

Endorsement of expedited order (D.P. & M.C. Act 1978, *s. 16(8); M.C. Rules* 1968, *r. 43A(3))*

This order was served on the respondent in accordance with rule 43A(1) of the Magistrates' Courts Rules 1968 on ..... and [took effect on that date] [will take effect on .....].

J.C.,
Clerk of the Court.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Magistrates' Courts (Forms) Rules 1968 in consequence of sections 16 to 18 of the Domestic Proceedings and Magistrates' Courts Act 1978 (powers of court to make orders for the protection of a party to a marriage or a child of the family) which come into force on 1st November 1979 (S.I. 1979/731). The forms set out in the Schedule to these Rules are forms for the notice of courts' powers under sections 16 and 18(1) of the Act of 1978 (Form 115A), the family protection order (Form 115B), the power of arrest attached to an order made under section 16 of the Act of 1978 (Form 115C) and the endorsement of an expedited order (Form 115D).

SI 1979/1220
ISBN 0-11-094220-5

