STATUTORY INSTRUMENTS

1980 No. 1582 (L.20)

MAGISTRATES' COURTS

PROCEDURE

The Magistrates' Courts (Matrimonial Proceedings) Rules 1980

Made - - - -	17*th October* 1980
Laid before Parliament	28*th October* 1980
Coming into Operation	1*st February* 1981

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SCHEDULE Forms.

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949(a), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

(a) 1949 c. 101, as extended by section 122 of the Magistrates' Courts Act 1952 (c. 55) and sections 6(8), 9(5), 12(2), 17(2) and 23(1) of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

Citation, commencement and revocation

1.—(1) These Rules may be cited as the Magistrates' Courts (Matrimonial Proceedings) Rules 1980 and shall come into operation on 1st February 1981.

(2) Subject to rule 2(4) below, the Magistrates' Courts (Matrimonial Proceedings) Rules 1960**(a)** are revoked.

Interpretation and application

2.—(1) In these Rules "the Act" means the Domestic Proceedings and Magistrates' Courts Act 1978.

(2) Expressions used in these Rules have the meaning which they bear in the Act.

(3) Any reference in these Rules to a form is a reference to a form in the Schedule to these Rules and includes a reference to a form to the like effect with such variations as the circumstances may require.

(4) These Rules shall not apply in relation to any such application or order as is referred to in paragraph 1 or 2 of Schedule 1 to the Domestic Proceedings and Magistrates' Courts Act 1978 (transitional provisions); and, accordingly, the Magistrates' Courts (Matrimonial Proceedings) Rules 1960 shall continue to apply in relation to any such application or order but with the following modification, that is to say, on any complaint made by virtue of paragraph 2(*d*) of the said Schedule 1 for the variation or revocation of a provision requiring access to a child to be given to a grandparent rule 7 of the said Rules of 1960 shall be construed as applying to the complaint as it applies to a complaint made by virtue of section 8 of the Matrimonial Proceedings (Magistrates' Courts) Act 1960 and as if paragraph (5) of that rule included a reference to that grandparent.

Application for order under section 2 (orders for financial provision)

3.—(1) An application for an order under section 2 of the Act shall be in writing and shall state the ground or grounds on which the application is made; Form 1 may be used for this purpose.

(2) Where the ground or one of the grounds so stated is the ground mentioned in paragraph (*c*) in section 1 of the Act (that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent) the application shall indicate briefly the circumstances alleged to support that ground.

(3) A summons issued in respect of such an application shall be in Form 2.

Application for order under section 6 (orders for payments agreed by the parties)

4.—(1) An application for an order under section 6 of the Act shall be in writing and shall state the type or types of financial provision applied for, the amount of any payment to be made thereunder and, in the case of periodical payments, the term for which the payments are to be made; Form 3 may be used for this purpose:

Provided that a magistrates' court may proceed on an application made orally where it is made by virtue of section 6(4) of the Act.

(2) A summons issued in respect of such an application shall be in Form 4.

(3) For the purposes of subsection (8) of the said section 6 evidence of the consent of the respondent to the making of the order and of the financial

(a) S.I. 1960/2229.

resources of the respondent shall be by way of a written statement in Form 5 signed by the respondent in the presence of one of the following persons:—

(*a*) in England and Wales—
any justice of the peace, justices' clerk, or solicitor;

(*b*) in Scotland—
any justice of the peace, sheriff or solicitor;

(*c*) in Northern Ireland—
any justice of the peace or solicitor;

(*d*) outside the United Kingdom—

(i) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;

(ii) a British consular officer;

(iii) a notary public; or

(iv) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

(4) For the purposes of the said subsection (8) a written statement purporting to be signed and witnessed in accordance with paragraph (3) above shall be admissible as evidence without further proof of the signature of the respondent and shall be deemed to have been so signed and witnessed on the date and at the place specified in the document, unless the contrary is proved.

Application for order under section 7 (orders for payments where parties are living apart by agreement)

5.—(1) An application for an order under section 7 of the Act shall be in writing in Form 6.

(2) A summons issued in respect of such an application shall be in Form 7.

(3) Where, under subsection (4) of the said section 7, a magistrates' court decides to treat such an application as if it were an application for an order under section 2 of the Act, the court shall indicate orally which of grounds (*a*) and (*b*) in that subsection it considers applicable and a memorandum of the decision and the grounds therefor shall be entered in the court's register.

(4) Where a magistrates' court decides as aforesaid and the respondent is not then present or represented in court, or the respondent or his representative does not then agree to the continuance of the hearing, the court shall adjourn the hearing and the clerk of the court shall serve notice of the decision and the grounds therefor on the respondent. Any such notice shall be in Form 8.

Respondents to application for order under section 14(3), 20 or 21

6.—(1) The following persons (not being the applicant) shall be made respondents on an application for the variation or revocation of an order under section 14(3), 20 or 21 of the Act, that is to say:—

(*a*) in the case of the variation or revocation of an order made under section 2(1), 6, 7 or 11(2)(*a*) the parties to the marriage in question;

(*b*) in the case of the variation or revocation of an order made under section 11(3)(*a*) requiring payments to be made to or for the benefit of a child to a person who is not a party to the marriage in question and who has the legal custody of the child—

(i) that person;

(ii) the parties to the marriage in question;

(*c*) in the case of the variation or revocation of an order made under section 11(4) requiring payments to be made to a local authority or to a child in respect of whom the care has been committed to a local authority—

(i) that local authority;

(ii) the parties to the marriage in question;

(*d*) in the case of the variation or revocation of an order made under section 14(1) requiring access to a child to be given to a grandparent—

(i) the person who has the legal custody of the child;

(ii) the grandparent concerned;

(*e*) in the case of the variation or revocation of an order made under section 19 the parties to the marriage in question and also—

(i) if the order requires payments to be made for the benefit of a child who has his home with a person who is not a party to the marriage in question, that person;

(ii) if the order gives the legal custody of a child to a person who is not a party to the marriage in question, that person;

(*f*) in the case of the variation or revocation of any order referred to in sub-paragraphs (*a*) to (*e*) above requiring payments to be made to or for the benefit of a child who is 16 years of age or over, that child, in addition to the persons who are to be made respondents by virtue of those sub-paragraphs;

(*g*) in the case of the variation or revocation of an order made under section 8 in respect of a child of the family—

(i) the parties to the marriage in question;

(ii) any person who is a parent of the child but not a party to the marriage in question;

(iii) if the order gives the legal custody of the child to a person who is not a party to the marriage in question or parent of the child, that person,

and also, if the child is required by an order made under section 9 to be under the supervision of a local authority or a probation officer, the local authority or, as the case may be, the probation officer;

(*h*) in the case of the variation or revocation of an order made under section 9 requiring a child to be under the supervision of a local authority or a probation officer—

(i) the parties to the marriage in question;

(ii) any person who is a parent of the child but not a party to the marriage in question;

(iii) the local authority or, as the case may be, the probation officer;

(iv) if, by virtue of an order made under section 8, a person who is not a party to the marriage in question or parent of the child has the legal custody of the child, that person,

(*i*) in the case of the revocation of an order made under section 10 committing the care of a child to a local authority—

(i) the parties to the marriage in question;

(ii) any person who is a parent of the child but not a party to the marriage in question;

(iii) the local authority.

(2) References in paragraph (1) above to the parent of a child include the father of an illegitimate child if, but only if, he has been adjudged by a court to be the father of that child.

Notice to local authority with regard to child

7. Where a magistrates' court is required, under section 10(3)(*a*) of the Act, to notify a local authority of the court's intention to make an order committing the care of a child to a local authority, the court shall cause notice in Form 9 to be delivered or sent by post to that authority.

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

8. In a case where the powers of the court under section 8, 9, 10 or 11 of the Act to make provision with regard to any child of the family of the parties are or may be exercisable, the clerk of the court shall—

(*a*) upon the making of an application under section 1, 6, 7 or 21 of the Act, cause a notice in Form 10 to be given to the applicant;

(*b*) upon the issue of a summons after the making of such an application as aforesaid, cause a similar notice to be served on the respondent with the summons.

Notice to parent of child (other than a party to the marriage) of court's powers to make provision with regard to children

9.—(1) In the case of an application for an order under section 2, 6, 7, 14 or 21 of the Act where—

(*a*) there is a child of the family of the parties to the marriage in question who is not a child of both parties to the marriage; and

(*b*) the court is required, under section 12(2) of the Act, to take steps with a view to giving notice of the application, and of the time and place appointed for the hearing, to any person who, though not one of the parties to the marriage in question, is a parent of that child,

the court may exercise its powers under sections 8 to 10 of the Act in relation to that child if at the hearing a written statement signed by the clerk of the court that the steps required by paragraph (2) below have been taken with a view to giving notice to the parent as aforesaid has been submitted to the court.

(2) Subject to paragraph (3) below, the steps required by this rule are the following:—

(*a*) before the summons is issued on the application the applicant shall be required to say whether or not there is a child of the family who is not a child of both the parties to the marriage in question and in respect of whom a notice is required to be given to his parent or parents under section 12(2) of the Act, and, if there is, to give the name and address of the parent or parents so far as this information is known to, or can in the opinion of the clerk conveniently be obtained by the applicant;

(*b*) at least 10 days before the hearing at which the court proposes to make an order on the application the clerk shall cause a notice to be sent to any parent referred to in sub-paragraph (*a*) above whose name and address are known to the clerk, whether from information given by the applicant in accordance with that sub-paragraph or otherwise.

(3) A notice sent in accordance with sub-paragraph (*b*) of paragraph (2) above to a parent who is not a party to the proceedings shall be in Form 11.

(4) Where, after notice has been sent to a parent in accordance with sub-paragraph (*b*) of paragraph (2) above, the hearing at which the court proposes to exercise the said powers is adjourned, the court may exercise the said powers at the adjourned hearing if it is satisfied that reasonable steps have been taken to give the parent adequate notice of the time and place thereof.

Notice to respondent of court's powers with regard to family protection orders

10. Where a summons is issued on an application for an order under section 16 or 17(1) of the Act, a notice in Form 12 indicating the powers conferred on a court by sections 16 and 18(1) shall be served on the respondent with the summons.

Jurisdiction in proceedings for order under section 2, 6, 7 or 16

11. In the case of an application for an order under section 2, 6, 7 or 16 of the Act a magistrates' court shall, subject to section 11 of the Administration of Justice Act 1964**(a)** and any determination of the committee of magistrates thereunder, have jurisdiction to hear the application if the applicant and the respondent last ordinarily resided together as man and wife within the commission area for which the court is appointed, as well as any such court as has jurisdiction by virtue of section 30(1) of the Act.

Transfer of proceedings for order under section 2, 6, 7 or 16

12.—(1) Where an application is made to a magistrates' court for an order under section 2, 6, 7 or 16 of the Act and a summons has been issued in consequence thereof, then, on an application in that behalf made by the respondent in accordance with paragraph (2) below, a justice of the peace acting for the same place as that court may, if it appears that the case could be more conveniently heard in another magistrates' court having jurisdiction to hear it by virtue of rule 11 above, determine that the proceedings shall be removed into that other court.

(2) An application under paragraph (1) above may be made orally or in writing by or on behalf of the respondent and, unless the respondent applies in person, there shall be lodged with the clerk of the court in which the proceedings were begun a statutory declaration by the respondent which shall state—

(*a*) the grounds upon which the application is made;

(*b*) the address of the respondent to which notices may be sent;

(*c*) a summary of the evidence which the respondent proposes to adduce in the proceedings, including the names, addresses and the occupation, if known, of any witnesses to be called by the respondent;

(*d*) the occupation of the respondent and, if known, of the applicant in the proceedings.

(3) The justice adjudicating on an application under paragraph (1) above shall, unless he determines that the application shall be refused forthwith, afford to the person who applied for the order an opportunity of making representations, either orally or in writing, thereon.

(4) Where a justice determines under paragraph (1) above that proceedings shall be removed into another magistrates' court, he shall cause the clerk of the court in which the proceedings were begun to send to the clerk of that

(a) 1964 c. 42.

other court the complaint, a copy of the summons and any other relevant documents; and, on receipt thereof in that other court, the complaint shall be deemed to have been made in, and the summons to have been issued by, that other court, and any justice acting for the same place as that other court may appoint a time and place for the hearing of the proceedings which, upon notice thereof being sent to the parties to the proceedings, shall be deemed to have been the time and place appointed in the summons.

Consideration of applications for family protection orders

13.—(1) Where an application has been made to a magistrates' court for an order under section 16 of the Act and the applicant makes a statement to the clerk of the court, either orally or in writing, to the effect that there is imminent danger of physical injury to the applicant or a child of the family, the clerk shall take such steps as may be necessary to ensure that the court considers as soon as practicable whether or not to exercise its power to make an expedited order under section 16(2) and (6) of that Act.

(2) On an application to a magistrates' court for an order under section 16(3) of the Act, the date fixed for the hearing of the application shall be as soon as practicable and in any event not later than 14 days after the date on which the summons is issued.

Form of court orders

14.—(1) An order under section 2, 6, 7, 8, 9, 10 or 11 of the Act shall be in Form 13.

(2) An order under section 16 of the Act shall be in Form 14.

(3) A power of arrest attached under section 18(1) of the Act to an order under section 16 shall be in Form 15.

(4) A warrant of arrest under section 18(4) of the Act shall be in Form 16.

Entries in court's registers

15.—(1) Where a clerk of a magistrates' court receives notice of any direction made by the High Court or a county court under section 28 of the Act by virtue of which an order made by the magistrates' court under Part I of the Act ceases to have effect, particulars thereof shall be entered in the court's register.

(2) Where the hearing of an application under section 1 of the Act is adjourned after the court has decided that it is satisfied of any ground mentioned in that section and the parties to the proceedings agree to the resumption of the hearing in accordance with section 31 by a court which includes justices who were not sitting when the hearing began, particulars of the agreement shall be entered in the court's register.

Substitution of new supervisor for child

16.—(1) Where an order made under section 9 of the Act by a magistrates' court provides for a child to be under the supervision of a local authority or a probation officer appointed for or assigned to a petty sessions area, and the court is of the opinion, upon representations made to it orally or in writing by or on behalf of that local authority or, as the case may be, by or on behalf of a probation officer appointed for or assigned to that area that the child is or will be resident in the area of another local authority or, as the case may be, in another petty sessions area, the court may vary the order by substituting the other local authority or, as the case may be, by substituting a probation officer appointed for or assigned to the other petty sessions area.

(2) Where a magistrates' court varies an order made under section 9 of the Act in accordance with this rule, the court shall cause a notice in Form 17 to be sent—

(*a*) to the person who has the legal custody of the child; and

(*b*) to the local authority or, as the case may be, the clerk to the justices for the petty sessions area substituted by the order under this rule,

and shall cause the local authority or probation officer by or on whose behalf the representations were made to be informed that the order has been so varied.

Copy of extract from register to be sent to grandparent applying under section 14(1)

17. Where at any time while an order made under section 8(2) of the Act regarding the legal custody of a child is in force, an application is made to a magistrates' court under section 14(1) by a grandparent of the child for an order requiring access to the child to be given to that grandparent, the clerk of the court shall send to that grandparent a certified copy of an extract from the court's register containing the particulars of the order made under section 8(2).

Notification of orders made under section 13 or 17(1)

18.—(1) Where a magistrates' court makes an order under section 13(1) of the Act regarding a dispute between two persons who have a parental right or duty jointly by virtue of an order made by another magistrates' court under section 8(2) or makes an order under section 13(2) varying or revoking any such order under section 13(1), the clerk of the court shall send a copy thereof to the clerk of the court which made the order under section 8(2).

(2) Where a magistrates' court makes an order under section 17(1) of the Act varying or revoking an order made by another magistrates' court under section 16 for the protection of a party to a marriage or a child of the family, the clerk of the court shall send a copy thereof to the clerk of the court which made the order under section 16.

Notification of certain family protection orders

19.—(1) Where a magistrates' court makes an expedited order under section 16(2) and (6) of the Act (hereinafter referred to as an "expedited order"), the clerk of the court shall serve notice of the making of the order on the respondent by causing a copy of the order to be delivered to the respondent personally:

Provided that if a justice of the peace is satisfied by evidence on oath that prompt personal service on the respondent is impracticable he may allow service to be effected—

(*a*) by leaving a copy of the order for him with some person at his last known or usual place of abode; or

(*b*) by sending a copy of the order by post in a letter addressed to him at his last known or usual place of abode.

(2) (*a*) Where a magistrates' court makes an order under section 16 of the Act to which a power of arrest is attached, the clerk of the court shall cause a copy of the order to be sent to the officer for the time being in charge of any police station for the address at which the person who applied for the order resides.

(*b*) Where a magistrates' court makes an order under section 17(1) of the Act varying or revoking any order under the said section 16 to which a power of arrest is attached, the clerk of the court shall cause a copy of the order under section 17(1) to be sent to the officer for the time being in charge of the police station to which a copy of the order under section 16 was sent in pursuance of sub-paragraph (*a*) above and, if the person who applied for the order under section 16 has since changed address, any police station for the new address.

(3) In the case of an expedited order a copy thereof shall not be sent to the police in pursuance of paragraph (2)(*a*) above until notice of the making of the order has been served on the respondent in accordance with paragraph (1) above and the clerk of the court shall, before sending it to the police, enter on it an endorsement in Form 18 indicating that it has been so served and the date on which the order takes effect.

(4) Where a copy of an expedited order is sent to the police in pursuance of paragraph (2)(*a*) above, a copy of the order and its endorsement shall also be sent to the person who applied for the order.

(5) Where, by virtue of section 16(8)(*b*) of the Act, an expedited order to which a power of arrest is attached expires on the date of the commencement of the hearing by a magistrates' court of an application for an order under section 16 of that Act, the clerk of the court shall cause notice of the expiry to be sent to the officer for the time being in charge of the police station to which a copy of the order was sent in pursuance of paragraph (2)(*a*) above.

Service of documents

20.—(1) Subject to the provisions of rule 19(1) above, service on any person of a document under these Rules may be effected—

(*a*) by delivering it to him; or

(*b*) by leaving it for him with some person at his last known or usual place of abode; or

(*c*) by sending it to him by post in a letter addressed to him at his last known or usual place of abode or at an address given by him for that purpose.

(2) In the case of a notice sent by post for the purposes of rule 12(4) above the notice shall be sent in a registered letter or by recorded delivery service.

Dated 17th October 1980. *Hailsham of St. Marylebone,* C.

SCHEDULE

Rule 2(3)

FORMS

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Rule 3(1)

FORM 1

Complaint for order under section 2 (*D.P.M.C. Act* 1978, *ss.* 2, 30(2))

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

Date:

Respondent:

Address:

The application of:

Address: Telephone No.

who applies for an order under section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground(s) that the respondent—

[(*a*) has failed to provide reasonable maintenance for the applicant]

[(*b*) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family]

[(*c*) has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent]

[(*d*) has deserted the applicant]

If ground (*c*) *is alleged indicate briefly below the circumstances alleged to support that ground*

Taken before me

Justice of the Peace
Justices' Clerk

FORM 2 *Rule 3(3)*

Summons on complaint for order under section 2 (*M.C. Act* 1952, *s.* 43; *D.P.M.C. Act* 1978, *s.* 2)

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

Date:

To the respondent:

Address:

You are hereby summoned to appear on (*date*) at (*time*) before the Magistrates' Court at to answer to the following complaint

Date of Application:

The applicant is:

Address:

who has applied for an order for financial provision under section 2 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground(s) that you—

[(*a*) have failed to provide reasonable maintenance for the applicant]

[(*b*) have failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family]

[(*c*) have behaved in such a way that the applicant cannot reasonably be expected to live with you]

[(*d*) have deserted the applicant]

[In support of ground (*c*) the applicant alleged: (*insert below the circumstances alleged*)]

Justice of the Peace
Justices' Clerk

You should complete the tear-off slip below and return it as soon as possible. If you are to be represented by a solicitor show this form to him before returning it.

- -

Tear off along here

The Clerk to the Justices

........................Magistrates' Court

Address......................................

....

Name ....

Hearing Date................................

*I will not contest the application

*I will contest the application on the following grounds†

Signed....................

Date ....

* Delete whichever is inappropriate.

† State briefly your reasons for contesting the application. If your reasons include an allegation about the behaviour of your wife/husband set out the main facts which you will rely on in support of your allegation.

Rule 4(1)

FORM 3

Complaint for order under section 6 (*D.P.M.C. Act* 1978, *ss.* 6, 30(2))

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

Date:

Respondent:

Address:

The application of:

Address: Telephone No.

who applies for an order for financial provision under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground that the respondent has agreed to—

[the making of periodical payments to the applicant to the amount of £ per for a term of beginning on]

[the payment of a lump sum to the applicant to the amount of £]

[the making of periodical payments to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £ per for a term of beginning on]

[the payment of a lump sum to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £]

Taken before me

Justice of the Peace
Justices' Clerk

FORM 4 *Rule 4(2)*

Summons on complaint for order under section 6 (*M.C. Act* 1952, *s.* 43; *D.P.M.C. Act* 1978, *s.* 6)

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

Date:

To the respondent:

Address:

You are hereby summoned to appear on (*date*) at (*time*) before the Magistrates' Court at to answer to the following complaint

Date of application:

The applicant is:

Address:

who has applied for an order for financial provision under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 on the ground that you have agreed to—

[the making of periodical payments to the applicant to the amount of £ per for a term of beginning on]

[the payment of a lump sum to the applicant to the amount of £]

[the making of periodical payments to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £ per for a term of beginning on]

[the payment of a lump sum to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £]

Justice of the Peace
Justices' Clerk

Note:

If you agree to an order being made in these terms, you may give your consent either at the hearing or by completing the form prescribed for the purpose and returning it to the court.

Rule 4(3)

FORM 5

Consent to order under section 6 (*D.P.M.C. Act* 1978, *s.* 6(8))

Concerning the application made by (*applicant's name*) to be heard on (*date*)

*I, (*full name*) , hereby consent to the making of an order for financial provision under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 in the terms set out in the summons dated which I have received.

OR (*if you are completing this form before a summons is issued*)

*I, (*full name*) , hereby consent to the making of an order for financial provision under section 6 of the Domestic Proceedings and Magistrates' Courts Act 1978 in the following terms:—

[the making of periodical payments to the applicant to the amount of £ per for a term of beginning on]

[the payment of a lump sum to the applicant to the amount £ (*specify conditions of payment*)]

[the making of periodical payments to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £ per for a term of beginning on]

[the payment of a lump sum to (being a child of the family)/the applicant for the benefit of (being a child of the family) to the amount of £ (*specify conditions of payment*)]

*Delete whichever is inappropriate.

I, (*full name*) , declare that my financial resources are as follows:—

MEANS

1. (*If you work for an employer*)
   Usual pay (including overtime and bonuses)
   Gross (before deductions) £.....per week/month/year
   Net (after deductions) £.....per week/month/year
2. (*If you are self employed*)
   Gross profits over last twelve months £.....
   Outgoings from the business in the last twelve months £.....
   Income tax demand for last year £.....
3. Amount received in State benefits £.....per week
4. Any other income (state source) £.....per week/month/year
5. If you have a bank balance, savings or any other capital, state total value £.....

EXPENSES

6. Rent and Rates/Mortgage and rates £.....per week/month
7. Hire Purchase, bank loans £.....per week/month
8. Travelling expenses to and from work £.....per week/month
9. Other payments (give details) £.....per week/month
10. If you wish to say anything else about your financial position, use this space

Signed.....

Address.....

.....

This Form was signed by the above mentioned person before me at
on the day of 19 .

Signature .....

Full name.....

Description*.....

*The following persons may witness this form:

in England and Wales	—a justice of the peace, justices' clerk or solicitor
in Scotland	—a justice of the peace, sheriff or solicitor
in Northern Ireland	—a justice of the peace or solicitor
outside the United Kingdom	—any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose
	—a British consular officer
	—a notary public
	—if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

Rule 5(1)

FORM 6

Complaint for order under section 7 (*D.P.M.C. Act* 1978, *ss.* 7, 30(2))

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

Date:

Respondent:

Address:

The application of:

Address: Telephone No.

who applies for an order for financial provision under section 7 of the Domestic Proceedings and Magistrates' Courts Act 1978, not exceeding the aggregate of the payments made to the applicant during the last three months; and states that he/she has been living apart from h.... husband/wife for a continuous period exceeding three months, neither of them having deserted the other, and that h.... husband/wife has been making periodical payments for [h.... benefit] [and] [the benefit of (*name(s)*) being a child/children of the family].

The aggregate amount of the payments made during the last three months is £.....

Taken before me

Justice of the Peace
Justices' Clerk

FORM 7 *Rule 5(2)*

Summons on complaint for order under section 7 (*M.C. Act* 1952, *s.* 43; *D.P.M.C. Act* 1978, *s.* 7)

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

Date:

To the respondent:

Address:

You are hereby summoned to appear on (*date*) at (*time*) before the Magistrates' Court at to answer to the following complaint

Date of application:

The applicant is:

Address:

who has applied for an order for financial provision under section 7 of the Domestic Proceedings and Magistrates' Courts Act 1978, not exceeding the aggregate of the payments made to the applicant during the last three months. The applicant has declared that he/she 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] [(*name(s)*) being a child/children 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 £.....

Justice of the Peace
Justices' Clerk

Rule 5(4) FORM 8

Notice of decision to treat complaint for order under section 7 *as complaint for order under section* 2 (*D.P.M.C. Act* 1978, *s.* 7(4))

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

Date:

To the respondent:

Address:

You are hereby notified that the above named Magistrates' Court at the hearing of the application made on (*date*) by your husband/wife for an order under section 7 of the Domestic Proceedings and Magistrates' Courts Act 1978 (being an order for financial provision not exceeding the aggregate of the payments made to the applicant during the preceding three months) has decided, under subsection (4) of section 7, to treat the application as if it were an application under section 2 (for an order for such payments as the court may specify) because the court considers that the orders which it has the power to make under section 7

[would not provide reasonable maintenance for the applicant]

[would not provide, or make a proper contribution towards, reasonable maintenance for the child(ren) of the family]

*The hearing has been adjourned until (*time*) on (*date*
at

Justices' Clerk

You should complete the tear-off slip below and return it as soon as possible. If you are represented by a solicitor show this form to him before returning it.

* At this hearing the court will have power to make any order for financial provision which it thinks fit on the evidence disclosed. You may feel therefore that it is in your interests to appear at the adjourned hearing.

- -

Tear off along here

The Clerk to the Justices

...........................Magistrates' Court

Address.....................................

....

Name ....

Hearing Date...............................

*I will not contest the application

*I will contest the application on the following grounds†

Signed....................

Date ....

* Delete whichever is inappropriate.

† State briefly your reasons for contesting the application. If your reasons include an allegation about the behaviour of your wife/husband set out the main facts which you will reply on in support of your allegation.

FORM 9 *Rule 7*

Notice to local authority of intention to commit to them the care of a child (*D.P.M.C. Act* 1978, *s.* 10(1))

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

Date:

To the council of the [non-metropolitan county] [metropolitan district] of

Proceedings are pending under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 before this court between (*the applicant*) , of and (*the respondent*) , of

Notice is hereby given that the court intends to commit the care of the following child(ren) of the family of the parties to the council, namely:—

If the council wishes to make any representations in this matter, including representations about payments to the council for the maintenance of the said child(ren), the court will hear such representations on (*date*) at (*time*) at

It will be helpful to the court to know in advance of the hearing if representations are to be made.

Justices' Clerk

Rule 8 FORM 10

Notice to parties to the marriage of court's powers to make provision with regard to children (M.C. (M.P.) Rules 1980, *r.* 8)

Parties to proceedings under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 are informed that at the hearing the court has power to make provision for any of the following purposes as regards any child of both parties or any child who has been treated by both parties as one of the family; (*a*) legal custody (which may be awarded to either party or to a third person); (*b*) access to the child by either or both of the parties (or anybody else who is a parent of the child); (*c*) on the application of a grandparent of the child, access to the child by that grandparent; (*d*) the payment of maintenance for the child by either or both of the parties.

In certain exceptional circumstances the court may commit the care of the child to a local authority or place him under the supervision of a local authority or a probation officer.

The court may exercise these powers whether the applicant asks for any provision about the child 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.

Justices' Clerk

.....Magistrates' Court

Address.....

.....

FORM 11 *Rule 9(2)*

Notice to parent of child (other than a party to the marriage) of court's power to make provision with regard to children (D.P.M.C. Act 1978, *s.* 12)

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

Date:

To

You are hereby given notice that proceedings are pending under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 between (*the applicant*) and (*the respondent*) and it has been stated that their family includes a child (*name*) whose parents are (*name*) and yourself but who has been treated as one of the family by the said applicant and respondent.

If this information is correct, the court has power to make provision at the hearing for any of the following purposes as regards that child; (*a*) legal custody (which may be awarded to either party or to a third person, including yourself); (*b*) access to the child by either or both of the parties or yourself, or any other parent; (*c*) on the application of a grandparent of the child, access to the child by that grandparent; (*d*) the payment of maintenance for the child by either or both of the parties.

In certain exceptional circumstances the court may commit the care of the child to the local authority or place him under the supervision of the local authority or a probation officer.

The hearing will take place on (*date*) at (*time*) before the Magistrates' Court at .

At the hearing the court will hear anything which you may, as a parent of the child, wish to say on these matters. For this purpose you may appear in person or be represented by a barrister or solicitor.

Justices' Clerk

You should complete the tear-off slip below and return it as soon as possible.

- -

Tear off along here

The Clerk to the Justices

..............................Magistrates' Court

Address ....

....

Proceedings between (*name*) and (*name*)

Hearing date....................

I will/will not appear at the hearing or be represented.
I wish to speak to the court about custody and access.

Signed..........................

Date..........................

1 ff

Rule 10 FORM 12

Notice to respondent of court's powers with regard to family protection orders (D.P.M.C. Act 1978, *ss.* 16, 18(1))

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.

FORM 13 *Rule 14(1)*

Orders under section 2, 6, 7, 8, 9, 10 *or* 11 (*D.P.M.C. Act* 1978)

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

Date:

Respondent:

Address:

Children of the Family *Name* *Date of Birth*

On the application of

Address:

that

Complaint: (*particulars*) (section [1][6][7] of the Domestic Proceedings and Magistrates' Courts Act 1978)

[It is adjudged that the complaint is true and] it is ordered that:

ORDERS FOR FINANCIAL PROVISION

[The respondent pay to the applicant £ per from until] s. 2(1)(*a*)/ s. 6/s.7

[The respondent pay to the applicant a lump sum of £ (*specify conditions of payment*)] s. 2(1)(*b*)/ s. 6

[The [respondent/applicant] pay [to the applicant/respondent/ (*name of person given legal custody*) for the benefit of (*name of child*)] [to (*name of child*)] [to the Council] £ per from until] s. 2(1)(*c*)/ s. 6/s.7/ s. 11(2)/(3)/ (4)

[The [respondent/applicant] pay [to the applicant/respondent/ (*name of person given legal custody*) for the benefit of (*name of child*)] [to (*name of child*)] a lump sum of £ (*specify conditions of payment*)] s. 2(1)(*d*)/ s. 6/s.11(2)/ (3)

[All payments under the above orders are to be made to the Clerk of the Court].

ORDERS FOR CUSTODY, ETC.

[The legal custody of (*name*) be given to the [applicant/respondent/ (*name of other person*)] from until his eighteenth birthday] s. 8(2)

[The aforementioned child be under the supervision of [the Council/ a probation officer for the petty sessions area] until his eighteenth birthday] s. 9

[Access to the aforementioned child be given to the [respondent/applicant/ (*name of other person*)] subject to the following conditions (*specify*)] s. 8(2)

ORDERS FOR CARE

[The care of (*name*) be committed to the Council until the child's eighteenth birthday] s. 10

SUPPLEMENTARY

[(*Any appropriate direction under section* 25(2))]

[The respondent pay costs of £ to the applicant (*specify conditions of payment*)]

Justice of the Peace
[By Order of the Court
Justices' Clerk]

Rule 14(2) FORM 14

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*)

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

s. 16(2) [s. 16(10)] Order: [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) [s. 16(10)] [The respondent shall not use, or threaten to use, violence against the person of (*name*) being a child of the family [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)] [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)] [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) s. 54(1) MCA 1952 *here state any exceptions, conditions or other provisions:—*

s. 16(9) (*Where the order is not an expedited order*) This order shall take effect on ..... and shall expire on.....

s. 16(8) (*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.....]

Justice of the Peace
[By order of the Court
Justices' Clerk]

Notes:

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

(*Where the order is an expedited order*) This is a *temporary* order only, and has been made because the applicant has satisfied the court that there is imminent danger of physical injury to the applicant or a child of the family. Before an ordinary (non-expedited) order is made, you will be able to be present in court and to explain your side of the matter.

Rule 14(3) FORM 15

Power of arrest attached to family protection order (*D.P.M.C. Act* 1978, *s.* 18(1) *and* (2))

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

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

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

[(*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.

FORM 16 *Rule 14(4)*

Warrant of arrest for breach of family protection order (*D.P.M.C. Act* 1978, *s.* 18(4))

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

Date:

Respondent:

Address:

Family protection order made by Magistrates' Court on

Alleged breach of order:

Application on [oath] [affirmation] having this day been made to me by (*name*)
that the respondent has disobeyed the above order

Direction: You, the constables of the Police Force are hereby required to arrest the respondent and to bring the respondent before the above magistrates' court immediately.

[Bail: On arrest, the accused shall be released on bail on entering into a recognizance in the sum of £ [and providing ..... suret[y][ies] in the sum of £ [each]] for h.... appearance before the Magistrates' Court on (*date*) at (*time*)].

Justice of the Peace

Rule 16(2) FORM 17

Notice of appointment of new supervisor for child (*D.P.M.C. Act* 1978, *s.* 9(5))

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

Date:

To:

Address:

to whom the legal custody of (*name of child*)—hereafter called the child—has been given by an order made under section 8(2) of the Domestic Proceedings and Magistrates' Courts Act 1978.

To the clerk to the justices for the petty sessions area [*or* to the Council].

By an order made under section 9 of the aforementioned Act on (*date*) , the child, then of , was placed under the supervision of a probation officer for the petty sessions area [*or* of the Council].

You are hereby given notice that the court, being of the opinion that the child is now (*or* will be) resident in the petty sessions area [*or* the area of the Council], has varied the order made under section 9 so that the child shall be under the supervision of a probation officer for that petty sessions area [*or* of that Council].

Justices' Clerk

FORM 18 *Rule 19(3)*

Endorsement of expedited family protection order (*D.P.M.C. Act* 1978, *s.* 16(8))

This order was served on the respondent in accordance with rule 19(1) of the Magistrates' Courts (Matrimonial Proceedings) Rules 1980 on and [took effect on that date] [will take effect on].

Justices' Clerk

EXPLANATORY NOTE

(This Note is not part of the Rules.)

1. These Rules revoke and replace the Magistrates' Courts (Matrimonial Proceedings) Rules 1960 consequent upon the coming into force on 1st February 1981 (S.I. 1980/1478) of the main provisions of Part I of the Domestic Proceedings and Magistrates' Courts Act 1978 and the repeal by that Act of the Matrimonial Proceedings (Magistrates' Courts) Act 1960/(C.48).

2. In conformity with the transitional provisions contained in Schedule 1 to the Act of 1978 these Rules do not apply in relation to applications and orders made before the new provisions come into force (rule 2(4)).

3. The principal matters dealt with in the Rules are as follows:—

(*a*) The forms of applications on complaint, orders and notices in connection with matrimonial proceedings in magistrates' courts are prescribed (rules 3 to 5, 7 to 10, 14, 16 and 19 and the Schedule).

(*b*) The respondents to applications for the variation or revocation of certain orders are specified (rule 6).

(*c*) The courts which are to have jurisdiction to hear certain applications, in addition to those courts which have jurisdiction by virtue of the Act of 1978 are specified (rule 11).

(*d*) Provision is made for the transfer of certain applications from one court to another having jurisdiction to hear them (rule 12).

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