STATUTORY INSTRUMENTS

1990 No. 1909 (L.18)

MAGISTRATES' COURTS

The Magistrates' Courts (Social Security Act 1986) (Transfer of Orders to maintain and Enforcement of Maintenance Orders) Rules 1990

Made - - - -	*17th September 1990*
Laid before Parliament	*21st September 1990*
Coming into force	*15th October 1990*

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980(a) as extended by section 145 of that Act, after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1.—(1) These Rules may be cited as the Magistrates' Courts (Social Security Act 1986) (Transfer of Orders to maintain and Enforcement of Maintenance Orders) Rules 1990 and shall come into force on 15th October 1990.

(2) In these Rules, "personal allowance element", "the dependent parent" and "the liable parent" have the same meaning as in section 24A of the Social Security Act 1986(b) ("the 1986 Act").

2. Where under section 24A of the 1986 Act the Secretary of State gives notice in writing to a magistrates' court which has made an order under section 24(4) of that Act, transferring to a dependent parent (by virtue of subsection (3)) or transferring back from the dependent parent to himself (by virtue of subsection (7)) the right to receive the payments under the order (exclusive of any personal allowance element), the clerk of that court shall amend the order by substituting the name of the dependent parent for that of the Secretary of State or the name of the Secretary of State for that of the dependent parent, as appropriate.

3. Where a clerk amends an order made under section 24(4) in accordance with rule 2 of these Rules, he shall–

(a) make a written record of the fact that, the circumstances in which and the date on which, he has done so, and shall keep it with the register kept under rule 66 of the Magistrates' Courts Rules 1981(c) ; and

(b) send a copy of the amended order, as soon as practicable, to the Secretary of State, the liable parent and the dependent parent.

4. Where an application within paragraph (a) or (b) of section 24B(5) of the 1986 Act(d) is made to a magistrates' court, the clerk of the court shall, after giving notice to the Secretary of State of any such application, notify the parties to the application that he

(a) 1980 c.43.
(b) 1986 c.50; section 24A was added by section 8 of the Social Security Act 1990 (c.27).
(c) S.I. 1981/552, amended by S.I. 1983/523 and 1988/2132 and there are other amendments which are not relevant to these Rules.
(d) Section 24B was added by section 8 of the Social Security Act 1990.

has done so and that the Secretary of State is entitled to appear and be heard on the application.

Dated 17th September 1990 *Mackay of Clashfern,* C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules are made in consequence of the passage of the Social Security Act 1990 which amends the Social Security Act 1986 in particular so as to allow for the transfer from the Secretary of State to the dependent parent of the right to receive payments under an order made under section 24 of the 1986 Act and for that right to be transferred back to the Secretary of State.

Rule 2 of these Rules imposes a duty on the clerk of a magistrates' court which has made an order under section 24(4) of the Social Security Act 1986 to amend the order as regards the person to whom payments under the order should be made where the right to receive payments under the order has been transferred from the Secretary of State to the dependent parent under section 24A(3) of that Act or transferred back from the dependent parent to the Secretary of State under section 24A(7) of that Act.

Rule 3 provides that where the clerk has amended an order in accordance with rule 2 of these Rules, he shall make a written record that he has done so and shall keep that record with the register. In addition, he shall send a copy of any amended order to the Secretary of State, the liable parent and the dependent parent.

Under rule 4, where the clerk has given the Secretary of State notice of any application specified in paragraph (a) or (b) of section 24B(5) of the Social Security Act 1986, he must notify the parties to any such application that he has done so and that the Secretary of State is entitled to appear and be heard on the application.

By virtue of rule 1, these Rules come into force on 15th October 1990, the date on which the amendments to the 1986 Act made by the 1990 Act come into force by virtue of the Social Security Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1446).

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