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STATUTORY INSTRUMENTS

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**2011 No. 1329**

**The Magistrates' Courts (Enforcement or  
Variation of Orders Made in Family Proceedings  
and Miscellaneous Provisions) Rules 2011**

**PART 3**

**PROCEEDINGS UNDER THE 1950 ACT**

**CHAPTER 3**

**MAINTENANCE ORDERS REGISTERED IN A  
MAGISTRATES' COURT IN ENGLAND AND WALES**

**Procedure under Part 2 of the 1950 Act in relation to a maintenance order made by a court in Scotland or Northern Ireland**

**25.**—(1) The designated officer for the magistrates' court specified in section 17(3)(b) of the 1950 Act will be the prescribed officer for the purpose of section 17(2) of the 1950 Act.

(2) On receipt, further to section 17 of the 1950 Act, of a certified copy of a maintenance order made by a court in Scotland or Northern Ireland, the designated officer must—

- (a) enter a memorandum of that order in the register; and
- (b) send written notice that the order has been so registered to the clerk of the court by which the order was made.

**Payments in respect of a maintenance order registered in a magistrates' court in England and Wales**

**26.**—(1) This rule applies where in exercise of—

- (a) the duty imposed by section 19(2) of the 1950 Act; or
- (b) the powers conferred by section 18(2ZA)(1) or 22(1A) or (1E)(2) of the 1950 Act,

a magistrates' court in England and Wales orders that payments under a maintenance order registered in that court are to be made by a particular means.

(2) The justices' clerk must record on a copy of the order the means of payment which the court has ordered.

(3) As soon as practicable, the designated officer must notify in writing the person liable to make payments under the order of how payments are to be made.

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(1) Section 18(2ZA) was inserted by section 10 of and paragraph 3 of Schedule 1 to the Maintenance Enforcement Act 1991 (c.17) and amended by section 108(1) of and paragraph 88(1) and (2) of Schedule 8 to the Courts Act 2003.

(2) Section 22(1A) and(1E) were inserted by section 10 of and paragraph 5 of Schedule 1 to the Maintenance Enforcement Act 1991 and amended by section 106 of and Part 5 of Schedule 15 to the Access to Justice Act 1999 (c.22) and section 109(1) of and Schedule 8, paragraph 89(1) and (2) of the Courts Act 2003.

(4) Where the court orders payment to the designated officer for the court, or to the designated officer for any other magistrates' court, by a method of payment falling within section 59(6) of the 1980 Act (standing order etc.), the designated officer to whom payments are to be made must notify the person liable to make the payments under the order of sufficient details of the account into which the payments should be made to enable payments to be made into that account.

(5) Where, under section 60(4) of the 1980 Act<sup>(3)</sup> as modified by section 22(1E) of the 1950 Act, the court receives an application from an interested party for the method of payment to be varied—

- (a) the designated officer must, as soon as practicable, notify in writing that interested party and, where practicable, any other interested party, of the result of the application, including any decision to refer the matter to the court; and
- (b) where the justices' clerk grants the application, the justices' clerk must record the variation on a copy of the order.

**Application under section 21(2) of the 1950 Act to adduce evidence: maintenance order made by the Court of Session and registered in a magistrates' court in England and Wales**

27.—(1) An application to a magistrates' court under section 21(2) of the 1950 Act to adduce evidence in connection with a maintenance order made by the Court of Session and registered in the magistrates' court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act<sup>(4)</sup> may be made orally.

(2) The complaint may be made, and the proceedings heard, without notice to the respondent.

(3) The court in which the application is made must ensure that a transcript or summary of any evidence taken is sent to the Deputy Principal Clerk of Session.

**Variation of a maintenance order registered in a magistrates' court in England and Wales: section 22(1) of the 1950 Act**

28.—(1) An application under section 22(1) of the 1950 Act for the variation of the rate of the payments under a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales must be made by way of complaint in accordance with the 1980 Act.

(2) When the complaint is made, a summons may be issued directed to any person to whom the justice to whom the complaint is made may consider proper to answer it.

(3) Where the maintenance order is varied, the designated officer must—

- (a) give notice of the variation to the clerk of the court in Scotland or Northern Ireland by which the order was made; and
- (b) if the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, give notice of the variation to the appropriate officer of the High Court,

by sending to the clerk of the court and, where necessary, the appropriate officer of the High Court, a certified copy of the order of variation.

(4) Where a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court is discharged or varied by any other court, the designated officer for the court in which it is registered will be the prescribed officer to whom, under section 23(1)(a) of the 1950 Act, notice of the discharge or variation must be given.

(5) On receipt of a certified copy of an order discharging or varying the registered order, the designated officer must enter a memorandum of that order in the register.

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<sup>(3)</sup> Section 60(4) was amended by section 109(1) and (3) of and paragraphs 211(1) and (2) of Schedule 10 to the Courts Act 2003.

<sup>(4)</sup> Section 1(2) was substituted by section 3 of and paragraph 1 of Schedule 3 to the Administration of Justice Act 1977.

### **Application under section 22(5) of the 1950 Act to adduce evidence: maintenance order registered in England and Wales**

29.—(1) An application to a magistrates' court in England and Wales under section 22(5) of the 1950 Act to adduce evidence in connection with a maintenance order registered in that court may be made orally.

(2) The application may be made, and the proceedings heard, without notice to the respondent.

(3) The court in which the application is made must ensure that a transcript or summary of any evidence taken is sent to the clerk of the court in Scotland or Northern Ireland by which the order was made.

(4) The designated officer for the court in England and Wales in which the maintenance order is registered will be the prescribed officer under section 22(5) of the 1950 Act to whom any transcript or summary of evidence adduced in the court in Scotland or Northern Ireland by which the order was made must be sent.

### **Cancellation of registration of a maintenance order registered in a magistrates' court in England and Wales: section 24 of the 1950 Act**

30.—(1) An application under section 24(1) of the 1950 Act for the cancellation of the registration of a maintenance order registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales must—

- (a) be made to the designated officer for the court in which the maintenance order is registered;
- (b) be made in writing and state the date of the registration of the order; and
- (c) have attached to it a copy of the order the registration of which it is sought to cancel.

(2) Where the designated officer cancels the registration of the maintenance order, the designated officer must send written notice of the cancellation—

- (a) to the clerk of the court by which the order was made; and
- (b) where the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, to the appropriate officer of the High Court.

(3) Where a maintenance order is registered under Part 2 of the 1950 Act in a magistrates' court in England and Wales, the designated officer for the court in which the order is registered will be the prescribed officer to whom notice must be sent under section 24(2) of the 1950 Act<sup>(5)</sup> that the person liable to make the payments under the order has ceased to reside in England and Wales.

(4) On receipt of a notice referred to in paragraph (3), the designated officer must—

- (a) cancel the registration of the order; and
- (b) send written notice of the cancellation to—
  - (i) the clerk of the court by which the order was made; and
  - (ii) where the order is registered in the High Court under Part 1 of the 1958 Act by virtue of section 1(2) of that Act, to the appropriate officer of the High Court.

(5) Where the designated officer for a magistrates' court in which a maintenance order is registered under Part 1 of the 1958 Act receives a notice of cancellation under section 24(3) of the 1950 Act<sup>(6)</sup> from the appropriate officer of the High Court, the designated officer must—

- (a) ensure that the particulars of the notice are entered in the register;

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<sup>(5)</sup> Section 24(2) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977.

<sup>(6)</sup> Section 24(3)(a) and (b) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977. Section 24(3)(b) was amended by sections 15, 23 and 36 of and Part 3 of Schedule 10 to the Civil Jurisdiction and Judgments Act 1982.

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- (b) cancel the registration under Part 1 of the 1958 Act; and
- (c) give notice of the cancellation to, the appropriate officer of the court in Scotland or Northern Ireland which made the order, being—
  - (i) the Deputy Principal Clerk of Session, in the case of the Court of Session; or
  - (ii) the Chief Registrar of the Queen’s Bench Division (Matrimonial), in the case of the High Court of Justice in Northern Ireland.