

# REGISTRATION AND ENFORCEMENT OF ORDERS

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## I SCOPE AND INTERPRETATION OF THIS PART

### 32.1 Scope and interpretation

- (1) This Part contains rules about the registration and enforcement of maintenance orders and custody orders.
- (2) In this Part, the 1950 Act means the Maintenance Orders Act 1950<sup>1</sup>.
- (3) Chapter 2 of this Part relates to
  - (a) the registration of a maintenance order, made in the High Court or a county court, in a court in Scotland or Northern Ireland in accordance with the 1950 Act; and
  - (b) the registration of a maintenance order, made in Scotland or Northern Ireland, in the High Court in accordance with the 1950 Act.

(Provision in respect of proceedings in the magistrates' court under the 1950 Act is in rules made under section 144 of the Magistrates' Courts Act 1980).

- (4) Chapter 3 of this Part contains rules to be applied in the High Court or a county court in relation
  - (a) The registration of a maintenance order, made in the High Court or a county court, in a magistrates' court in accordance with the 1958 Act; and
  - (b) The registration of a maintenance order, made in a magistrates' court, in the High Court in accordance with the 1958 Act.

(Provision in respect of proceedings in the magistrates' court under the 1958 Act is in rules made under section 144 of the Magistrates' Courts Act 1980).

- (5) Chapter 4 of this Part relates to the registration and enforcement of custody orders in accordance with the 1986 Act.

## II REGISTRATION ETC. OF ORDERS UNDER THE 1950 ACT

### SECTION 1

*Interpretation of this Chapter*

### 32.2 Interpretation

In this Chapter

the clerk of the Court of Session means the deputy principal clerk in charge of the petition department of the Court of Session;

county court order means a maintenance order made in a county court;

High Court order means a maintenance order made in the High Court;

maintenance order means a maintenance order to which section 16 of the 1950 Act applies;

Northern Irish order means a maintenance order made by the Court of Judicature of Northern Ireland;

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<sup>1</sup> 1950 c.37.

the register means the register kept for the purposes of the 1950 Act;  
the registrar in Northern Ireland" means the chief registrar of the Queen's Bench Division (Matrimonial) of the High Court of Justice in Northern Ireland;  
registration means registration under Part 2 of the 1950 Act and registered is to be construed accordingly; and  
Scottish Order means a maintenance order made by the Court of Session.

## **SECTION 2**

*Registration etc of High Court and county court orders*

### **32.3 Registration of a High Court order**

- (1) An application for the registration of a High Court order may be made by sending to a court officer at the court which made the order
  - (a) a certified copy of the order; and
  - (b) a statement which
    - (i) contains the address in the United Kingdom, and the occupation, of the person liable to make payments under the order;
    - (ii) contains the date on which the order was served on the person liable to make payments, or, if the order has not been served, the reason why service has not been effected;
    - (iii) contains the reason why it is convenient for the order to be enforced in Scotland or Northern Ireland, as the case may be;
    - (iv) contains the amount of any arrears due to the applicant under the order;
    - (v) confirms that the order is not already registered; and
    - (vi) is verified by a statement of truth.
- (2) If it appears to the court that
  - (a) the person liable to make payments under the order resides in Scotland or Northern Ireland; and
  - (b) it is convenient for the order to be enforced there,the court officer will send the documents filed under paragraph (1) to the clerk of the Court of Session or to the registrar in Northern Ireland, as the case may be.
- (3) On receipt of a notice of the registration of a High Court order in the Court of Session or the Court of Judicature of Northern Ireland, the court officer (who is the prescribed officer for the purposes of section 17(4) of the 1950 Act) will
  - (a) enter particulars of the notice of registration in the register;
  - (b) note the fact of registration in the court records; and
  - (c) send particulars of the notice to the principal registry.

### **32.4 Notice of Variation etc. of a High Court order**

- (1) This rule applies where a High Court order, which is registered in the Court of Session or the Court of Judicature of Northern Ireland, is discharged or varied.
- (2) A court officer in the court where the order was discharged or varied will send a certified copy of that order to the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be.

### **32.5 Cancellation of registration of a High Court order**

- (1) This rule applies where

- (a) the registration of a High Court order registered in the Court of Session or the Court of Judicature of Northern Ireland is cancelled under section 24(1) of the 1950 Act; and
  - (b) notice of the cancellation is given to a court officer in the court in which the order was made (who is the prescribed officer for the purposes of section 24(3)(a) of the 1950 Act<sup>1</sup>).
- (2) On receipt of a notice of cancellation of registration, the court officer will enter particulars of the notice in Part 1 of the register.

### 32.6 Application of this Chapter to a county court order

Rules 32.3 to 32.5 apply to an application to register a county court order as if

- (a) references to a High Court order were references to a county court order;
- (b) where the order is to be registered in Scotland, references to the Court of Session and the clerk of the Court of Session were references to the sheriff court and the sheriff-clerk of the sheriff court respectively; and
- (c) where the order is to be registered in Northern Ireland, references to the Court of Judicature of Northern Ireland and the registrar of Northern Ireland were references to the court of summary jurisdiction and the clerk of the court of summary jurisdiction respectively.

## SECTION 3

*Registration etc. of Scottish and Northern Irish orders*

### 32.7 Registration of Scottish and Northern Irish orders

On receipt of a certified copy of a Scottish order or a Northern Irish order for registration, a court officer in the principal registry (who is the prescribed officer for the purposes of section 17(2) of the 1950 Act) will

- (a) enter particulars of the order in Part 2 of the register;
- (b) notify the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be, that the order has been registered; and
- (c) file the certified copy of the order and any statutory declaration, affidavit<sup>(GL)</sup> or statement as to the amount of any arrears due under the order.

### 32.8 Application to adduce evidence before High Court

The Part 18 procedure applies to an application by a person liable to make payments under a Scottish order registered in the High Court to adduce before that court any evidence on which that person would be entitled to rely in any proceedings brought before the court by which the order was made for the variation or discharge of the order.

### 32.9 Notice of variation etc. of Scottish and Northern Irish orders

- (1) This rule applies where
  - (a) a Scottish order or a Northern Irish order, which is registered in the High Court, is discharged or varied; and
  - (b) notice of the discharge or variation is given to a court officer in the High Court (who is the prescribed officer for the purposes of section 23(1)(a) of the 1950 Act<sup>2</sup>).
- (2) On receipt of a notice of discharge or variation, the court officer will enter particulars of the notice in Part 2 of the register.

<sup>1</sup> Section 24(3)(a) was amended by section 3 of and paragraph 9 of Schedule 3 to the Administration of Justice Act 1977 (c.38).

<sup>2</sup> Section 23(1)(a) was amended by section 3 of and paragraph 8 of Schedule 3 to the Administration of Justice Act 1977.

### **32.10 Cancellation of registration of Scottish and Northern Irish orders**

- (1) The Part 18 procedure applies to an application for the cancellation of the registration of a Scottish order or a Northern Irish order in the High Court.
- (2) The application must be made without notice to the person liable to make payments under the order.
- (3) If the registration of the order is cancelled, the court officer will
  - (a) note the cancellation in Part II of the register; and
  - (b) send written notice of the cancellation to
    - (i) the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be; and
    - (ii) the court officer in any magistrates' court in which the order has been registered in accordance with section 2(5) of the 1958 Act.

### **32.11 Enforcement**

- (1) The Part 18 procedure applies to an application for or with respect to the enforcement of a Scottish order or a Northern Irish order registered in the High Court.
- (2) The application may be made without notice to the person liable to make payments under the order.

### **32.12 Inspection of register and copies of order**

Any person

- (a) who is entitled to receive, or liable to make, payments under a maintenance order made by the High Court, the Court of Session or the Court of Judicature of Northern Ireland; or
- (b) with the permission of the court,  
may
  - (i) inspect the register; or
  - (ii) request a copy of any order registered in the High Court under Part 2 of the 1950 Act and any statutory declaration, affidavit<sup>(GL)</sup> or statement filed with the order.

## **III REGISTRATION OF MAINTENANCE ORDERS UNDER THE 1958 ACT**

### **32.13 Interpretation**

In this Chapter the register means the register kept for the purposes of the 1958 Act.

### **32.14 Registration of orders - prescribed period**

The prescribed period for the purpose of section 2(2) of the 1958 Act is 14 days.

(Section 2(2) sets out the period during which an order, which is to be registered in a magistrates' court, may not be enforced)

### **32.15 Application for registration of a maintenance order in a magistrates' court**

- (1) An application under section 2(1) of the 1958 Act may be made by sending to the court officer at the court which made the order
  - (a) a certified copy of the maintenance order; and

- (b) two copies of the application.
- (2) When, on the grant of an application, the court officer sends the certified copy of the maintenance order to the magistrates' court in accordance with section 2(2), the court officer must
  - (a) note on the order that the application for registration has been granted; and
  - (b) send to the magistrates' court a copy of the application for registration of the order.
- (3) On receiving notice that the magistrates' court has registered the order, the court officer must enter particulars of the registration in the court records.

### **32.16 Registration in a magistrates' court of an order registered in the High Court**

- (1) This rule applies where
  - (a) a maintenance order is registered in the High Court in accordance with section 17(4) of the 1950 Act; and
  - (b) the court officer receives notice that the magistrates' court has registered the order in accordance with section 2(5) of the 1958 Act.
- (2) The court officer must enter particulars of the registration in Part II of the register.

### **32.17 Registration in the High Court of a magistrates' court order**

- (1) This rule applies where a court officer receives a certified copy of a magistrates' court order for registration in accordance with section 2(4)(c) of the 1958 Act.
- (2) The court officer must register the order in the High Court by
  - (a) filing the copy of the order; and
  - (b) entering particulars in
    - (i) the register; or
    - (ii) if the order is received in a district registry, the cause book or cause card.
- (3) The court officer must notify the magistrates' court that the order has been registered.

### **32.18 Registration in the High Court of an order registered in a magistrates' court**

- (1) This rule applies where
  - (a) an order has been registered in the magistrates' court in accordance with section 17(4) of the 1950 Act; and
  - (b) a sheriff court in Scotland or a magistrates' court in Northern Ireland has
    - (i) made an order for the registration of that order in the High Court; and
    - (ii) sent a certified copy of the maintenance order to the court officer of the High Court in accordance with section 2(4)(c) of the 1958 Act.
- (2) The court officer must register the order in the High Court by
  - (a) filing the copy of the order; and
  - (b) entering particulars in the register.
- (3) The court officer must notify
  - (a) the court which made the order; and
  - (b) the magistrates' court in which the order was registered in accordance with section 17(4) of the 1950 Act,
 that the order has been registered in the High Court.

### **32.19 Variation or discharge of an order registered in a magistrates' court**

- (1) This rule applies where a maintenance order is registered in a magistrates' court under Part 1 of the 1958 Act.
- (2) If the court which made the order makes an order varying or discharging that order the court officer must send a certified copy of the order of variation or discharge to the magistrates' court.
- (3) If the court officer receives from the magistrates' court a certified copy of an order varying the maintenance order the court officer must
  - (a) file the copy of the order; and
  - (b) enter the particulars of the variation in the place where the details required by rule 32.15(3) were entered.

### **32.20 Variation or discharge of an order registered in the High Court**

- (1) This rule applies where a maintenance order is registered in the High Court under Part 1 of the 1958 Act.
- (2) If the court officer receives from the magistrates' court a certified copy of an order varying or discharging the maintenance order the court officer must
  - (a) file the copy of the order;
  - (b) enter the particulars of the variation or discharge in
    - (i) the register; or
    - (ii) if the order is received in a district registry, the cause book or cause card; and
  - (c) send notice of the variation or discharge to the court officer of a county court
    - (i) who has notified the court officer of enforcement proceedings in that court relating to the maintenance order; or
    - (ii) to whom a payment is to be made under an attachment of earnings order made by the High Court for the enforcement of the registered order.

### **32.21 Cancellation of registration orders registered in the High Court**

- (1) This rule applies where an order is registered in the High Court.
- (2) A person giving notice under section 5(1) of the 1958 Act must give the notice to the court officer.
- (3) The court officer must take the steps mentioned in paragraph (4) if
  - (a) notice is given under section 5 of the 1958 Act; and
  - (b) the court officer is satisfied, by a witness statement by the person entitled to receive payments under the order that no enforcement proceedings in relation to the order, that were started before the giving of the notice, remain in force.
- (4) The court officer must, if satisfied as mentioned in paragraph (3)
  - (a) cancel the registration by entering particulars of the notice in the register or cause book (or cause card) as the case may be; and
  - (b) send notice of the cancellation to
    - (i) the court which made the order; and
    - (ii) where applicable, to the magistrates' court in which the order was registered in accordance with section 17(4) of the 1950 Act.

- (5) Where the cancellation results from a notice given under section 5(1) of the 1958 Act, the court officer must state that fact in the notice of cancellation sent in accordance with paragraph (4)(b).
- (6) If notice is received from a magistrates' court that the registration in that court under the 1958 Act of an order registered in the High Court in accordance with section 17(4) of the 1950 Act has been cancelled, the court officer must note the cancellation in Part II of the register.

### **32.22 Cancellation of registration orders registered in a magistrates' court**

- (1) Where the court gives notice under section 5(2) of the 1958 Act, the court officer must endorse the notice on the certified copy of the order of variation or discharge sent to the magistrates' court in accordance with rule 32.19(2).
- (2) Where notice is received from a magistrates' court that registration of an order made by the High Court or a county court under Part 1 of the 1958 Act has been cancelled, the court officer must enter particulars of the cancellation in the place where the details required by rule 32.15(3) were entered.

## **IV REGISTRATION AND ENFORCEMENT OF CUSTODY ORDERS UNDER THE 1986 ACT**

### **32.23 Interpretation**

In this Chapter

"appropriate court" means, in relation to

- (a) Scotland, the Court of Session;
  - (b) Northern Ireland, the High Court in Northern Ireland; and
  - (c) a specified dependent territory, the corresponding court in that territory;
- appropriate officer means, in relation to

- (a) the Court of Session, the Deputy Principal Clerk of Session;
- (b) the High Court in Northern Ireland, the Master (Care and Protection) of that court; and
- (c) the appropriate court in a specified dependent territory, the corresponding officer of that court;

Part 1 order means an order under Part 1 of the 1986 Act;

the register means the register kept for the purposes of Part 1 of the 1986 Act; and

specified dependent territory means a dependent territory specified in column 1 of Schedule 1 to the Family Law Act 1986 (Specified Dependent Territories) Order 1991<sup>1</sup>.

### **32.24 Prescribed officer and functions of the court**

- (1) The prescribed officer for the purposes of sections 27(4) and 28(1) of the 1986 Act<sup>2</sup> is the family proceedings department manager of the principal registry.
- (2) The function of the court under sections 27(3) and 28(1) of the 1986 Act<sup>3</sup> shall be performed by a court officer.

<sup>1</sup> S.I. 1991/1723.

<sup>2</sup> Section 27(4) was amended by section 108(5) of and paragraph 62 of Schedule 13 to the Children Act 1989.

<sup>3</sup> Section 27(3) was amended by section 108(5) of and paragraph 62 of Schedule 13 to the Children Act 1989.



### **32.25 Application for the registration of an order made by the High Court or a county court**

- (1)** An application under section 27 of the 1986 Act for the registration of an order made in the High Court or a county court may be made by sending to a court officer at the court which made the order
  - (a) a certified copy of the order;
  - (b) a copy of any order which has varied the terms of the original order;
  - (c) a statement which
    - (i) contains the name and address of the applicant and the applicant's interest under the order;
    - (ii) contains
      - (aa) the name and date of birth of the child in respect of whom the order was made;
      - (bb) the whereabouts or suspected whereabouts of the child; and
      - (cc) the name of any person with whom the child is alleged to be;
    - (iii) contains the name and address of any other person who has an interest under the order and states whether the order has been served on that person;
    - (iv) states in which of the jurisdictions of Scotland, Northern Ireland or a specified dependent territory the order is to be registered;
    - (v) states that to the best of the applicant's information and belief, the order is in force;
    - (vi) states whether, and if so where, the order is already registered;
    - (vii) gives details of any order known to the applicant which affects the child and is in force in the jurisdiction in which the order is to be registered;
    - (viii) annexes any document relevant to the application; and
    - (ix) is verified by a statement of truth; and
  - (d) a copy of the statement referred to in paragraph (c).
- (2)** On receipt of the documents referred to in paragraph (1), the court officer will, subject to paragraph (4)
  - (a) keep the original statement and send the other documents to the appropriate officer;
  - (b) record in the court records the fact that the documents have been sent to the appropriate officer; and
  - (c) file a copy of the documents.
- (3)** On receipt of a notice that the document has been registered in the appropriate court the court officer will record that fact in the court records.
- (4)** The court officer will not send the documents to the appropriate officer if it appears to the court officer that
  - (a) the order is no longer in force; or
  - (b) the child has reached the age of 16.
- (5)** Where paragraph (4) applies
  - (a) the court officer must, within 14 days of the decision, notify the applicant of the decision of the court officer in paragraph (4) and the reasons for it; and
  - (b) the applicant may apply to a judge, but not a district judge, in private for an order that the documents be sent to the appropriate court.

### **32.26 Registration of orders made in Scotland, Northern Ireland or a specified dependent territory**

- (1)** This rule applies where the prescribed officer receives, for registration, a certified copy of an order made in Scotland, Northern Ireland or a specified dependent territory.
- (2)** The prescribed officer will
  - (a)** enter in the register
    - (i)** the name and address of the applicant and the applicant's interest under the order;
    - (ii)** the name and date of birth of the child and the date the child will attain the age of 16;
    - (iii)** the whereabouts or suspected whereabouts of the child; and
    - (iv)** the terms of the order, its date and the court which made it;
  - (b)** file the certified copy and accompanying documents; and
  - (c)** notify
    - (i)** the court which sent the order; and
    - (ii)** the applicant,that the order has been registered.

### **32.27 Revocation and variation of an order made in the High Court or a county court**

- (1)** Where a Part 1 order, registered in an appropriate court, is varied or revoked, the court officer of the court making the order of variation or revocation will
  - (a)** send a certified copy of the order of variation or revocation to
    - (i)** the appropriate officer; and
    - (ii)** if a different court, the court which made the Part 1 order;
  - (b)** record in the court records the fact that a copy of the order has been sent; and
  - (c)** file a copy of the order.
- (2)** On receipt of notice from the appropriate court that its register has been amended, this fact will be recorded by the court officer of
  - (a)** the court which made the order of variation or revocation; and
  - (b)** if different, the court which made the Part 1 order.

### **32.28 Registration of varied, revoked or recalled orders made in Scotland, Northern Ireland or a specified dependent territory**

- (1)** This rule applies where the prescribed officer receives a certified copy of an order made in Scotland, Northern Ireland or a specified dependent territory which varies, revokes or recalls a registered Part 1 order.
- (2)** The prescribed officer shall enter particulars of the variation, revocation or recall in the register and give notice of the entry to
  - (a)** the court which sent the certified copy;
  - (b)** if different, the court which made the Part 1 order;
  - (c)** the applicant for registration; and
  - (d)** if different, the applicant for the variation, revocation or recall of the order.
- (3)** An application under section 28(2) of the 1986 Act must be made in accordance with the Part 19 procedure.
- (4)** The applicant for the Part 1 order, if not the applicant under section 28(2) of the 1986 Act, must be made a defendant to the application.

- (5) Where the court cancels a registration under section 28(2) of the 1986 Act, the court officer will amend the register and give notice of the amendment to the court which made the Part 1 order.

### **32.29 Interim directions**

The following persons will be made parties to an application for interim directions under section 29 of the 1986 Act<sup>1</sup>

- (a) the parties to the proceedings for enforcement; and
- (b) if not a party to those proceedings, the applicant for the Part 1 order.

### **32.30 Staying and dismissal of enforcement proceedings**

- (1) The following persons will be made parties to an application under section 30(1) or 31(1) of the 1986 Act
  - (a) the parties to the proceedings for enforcement which are sought to be stayed<sup>(GL)</sup>; and
  - (b) if not a party to those proceedings, the applicant for the Part 1 order.
- (2) Where the court makes an order under section 30(2) or (3) or section 31(3) of the 1986 Act, the court officer will amend the register and give notice of the amendment to
  - (a) the court which made the Part 1 order; and
  - (b) the applicants for
    - (i) registration;
    - (ii) enforcement; and
    - (iii) stay<sup>(GL)</sup> or dismissal of the enforcement proceedings.

### **32.31 Particulars of other proceedings**

A party to proceedings for or relating to a Part 1 order who knows of other proceedings which relate to the child concerned (including proceedings out of the jurisdiction and concluded proceedings) must file a witness statement which

- (a) states in which jurisdiction and court the other proceedings were begun;
- (b) states the nature and current state of the proceedings and the relief claimed or granted;
- (c) sets out the names of the parties to the proceedings and their relationship to the child;
- (d) if applicable and if known, states the reasons why relief claimed in the proceedings for or relating to the Part 1 order was not claimed in the other proceedings; and
- (e) is verified by a statement of truth.

### **32.32 Inspection of register**

The following persons may inspect any entry in the register relating to a Part 1 order and may request copies of the order any document relating to it

- (a) the applicant for registration of the Part 1 order;
- (b) a person who, to the satisfaction of a district judge, has an interest under the Part 1 order; and
- (c) a person who obtains the permission of a district judge.

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<sup>1</sup> Section 29 was amended by section 108(5) of and paragraphs 62(1) and (2)(a) of Schedule 13 to the Children Act 1989 and by section 15(1) of and paragraphs 2 and 4 of Schedule 2 to the Children and Adoption Act 2006.

