|  |
| --- |
| **Act of Sederunt (Child Care and Maintenance Rules) 1997****Statutory Instrument 1997 No. 291 (S.19)****Applications lodged on or after 28 November 2011 and before 1 August 2014** |
| **PART II OUTGOING ORDERS UNDER THE 1950 ACT** |
| **5.6** | [**Commencement of proceedings**](#r0506) |
| **5.7** | [**Application for registration**](#r0507) |
| **5.8** | [**Transmission**](#r0508) |
| **5.9** | [**Application to adduce evidence**](#r0509) |
| **5.10** | [**Re-registration in the High Court**](#r0510) |
| **5.11** | [**Transmission for re-registration**](#r0511) |
| **5.12** | [**Discharge and variation**](#r0512) |
| **5.13** | [**Cancellation of registration**](#r0513) |

**Commencement of proceedings**

**5.6** (1) Every writ by which proceedings are begun in a sheriff court having jurisdiction under or by virtue of Part I of the 1950 Act against a person residing in another part of the United Kingdom, and all parts of process (other than productions) lodged in any proceedings taken in a sheriff court under or by virtue of the 1950 Act or the 1958 Act, shall be headed "Maintenance Orders Act 1950" or as the case may be "Maintenance Orders Act 1958".

(2) The warrant of citation granted upon any writ which by virtue of those Acts is to be served upon a person residing in another part of the United Kingdom shall proceed upon a period of notice of 21 days, and such warrant of citation may be signed by the sheriff clerk.

(3) In connection with the service under section 15 of the 1950 Act (service of process) of a writ from a sheriff court the expressions "initial writ", "writ" and "summons" in the said section and in the forms contained in the Second Schedule to that Act shall include the warrant of citation relative thereto.

**Application for registration**

**5.7** (1) An application for registration in a magistrates' court in England or Northern Ireland of an order granted by a sheriff court to which the 1950 Act applies shall be made by lodging with the sheriff clerk-

(a) a letter of application;

(b) an affidavit by the applicant;

(c) a copy of that affidavit; and

(d) a certified copy of the order.

(2) An affidavit under this rule shall include-

(a) the name and address of the person liable to make payments under the order;

(b) details of any arrears due under the order and the date to which they are calculated;

(c) the reason for the application; and

(d) a statement that the order is not already registered under the 1950 Act.

**Transmission**

**5.8** On the grant of an application under rule 5.7, the sheriff clerk shall send to the clerk of the magistrates' court-

(a) the affidavit of the applicant;

(b) the certified copy of the order; and

(c) a letter requesting registration of the order.

**Application to adduce evidence**

**5.9** (1) An application to a sheriff court under section 22(5) of the 1950 Act to adduce evidence in connection with an order granted by that court and registered in a court in England or Northern Ireland shall be made by initial writ.

(2) Any evidence adduced in pursuance of such an application shall be recorded in such manner as the sheriff shall direct and the record of evidence certified by the sheriff shall be the transcript or summary of the evidence adduced, and shall be signed by the deponent, together with any documentary productions referred to therein.

(3) Where the sheriff clerk of a court in which an order was granted receives a transcript or summary of evidence connected with that order adduced, under section 22(5) of the 1950 Act, in the court where the order was registered, he shall lodge such transcript or summary in the process containing that order.

**Re-registration in the High Court**

**5.10** (1) When an order has been registered in the magistrates' court, an application to the sheriff court for the re-registration of that order in the High Court in England under the 1958 Act shall be made by lodging with the sheriff clerk-

(a) a letter of application;

(b) an affidavit by the applicant;

(c) a certified copy of that affidavit; and

(d) a certified copy of the order.

(2) An affidavit under this rule shall include-

(a) the name and address of the person liable to make payments under the order;

(b) details of any arrears due under the order and the date to which they are calculated;

(c) the reason for the application;

(d) the date and place of the original registration;

(e) where the order has been re-registered, the date and place of the last re-registration and whether or not that has been cancelled, or where any of these facts is not known a statement to that effect; and

(f) a declaration that no process remains in force for the enforcement of the registered order.

**Transmission for re-registration**

**5.11** If an application under rule 5.10 is granted, the sheriff clerk shall send to the Registrar-

(a) the affidavit of the applicant; and

(b) a letter stating that the application has been granted and requesting him to take steps to have the order registered in the High Court.

**Discharge and variation**

**5.12** Where an interlocutor is pronounced in the sheriff court varying or discharging an order registered under the 1950 Act or the 1958 Act, the sheriff clerk shall send to the clerk of the magistrates' court and, as the case may be, to the Registrar-

(a) a certified copy of the interlocutor; and

(b) a letter requesting the clerk of the magistrates' court and, as the case may be, the Registrar to take the appropriate action under those Acts, in accordance with the interlocutor, and to notify him of the result.

**Cancellation of registration**

**5.13** (1) An application under section 24(2) of the 1950 Act (cancellation of registration) in connection with an order granted by a sheriff court and registered in a court in England or Northern Ireland shall be made by lodging with the sheriff clerk an affidavit by the person liable to make payments under the order stating the facts on which the application is founded.

(2) Where it appears to the sheriff clerk that the applicant has ceased to reside in England or Northern Ireland, as the case may be, the sheriff clerk shall send notice to that effect to the clerk of the magistrates' court and the Registrar, as the case may be, of any court in which the order is registered.