



STATUTORY INSTRUMENTS.

S.I. No. 306 of 2013



DISTRICT COURT (ENFORCEMENT OF MAINTENANCE ORDERS)
RULES 2013

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 28th day of February 2013.

Rosemary Horgan Chairperson

Shalom Binchy

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 26th day of July 2013.

ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 9th August, 2013.*

S.I. No. 306 of 2013

DISTRICT COURT (ENFORCEMENT OF MAINTENANCE ORDERS)
RULES 2013

1. (1) These Rules, which may be cited as the District Court (Enforcement of Maintenance Orders) Rules 2013, shall come into operation on the 26th day of August 2013.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2013.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended:

(i) by the substitution for rule 9 of Order 54 of the following rule:

“Clerk to send copy of order

9. (1) Where the Court makes a maintenance order, an order varying, discharging or discharging part of such order, an interim order or a lump sum order in respect of the birth or funeral expenses of a dependent child, the Clerk shall give to, or send by registered prepaid post to the maintenance debtor or to the respondent party (as the case may be) a copy of the order so made.

(2) A copy of an order mentioned in sub-rule (1) given or sent to a maintenance debtor shall have endorsed on it, or be accompanied by a notice containing the following statement:

“This order is made by the District Court. If you the maintenance debtor fail to make a payment due under this order, you may be liable to imprisonment for contempt of court.

In certain limited circumstances (including a material change of circumstances since the order was made or last varied), the District Court can vary the terms of this order. If you believe that such circumstances arise and are concerned that you may not be able to comply with the terms of this order and would like to apply for a variation, you should consult a solicitor or contact the District Court Clerk at.....””;

(ii) by the substitution for Order 57 of the Order set out in Schedule 1.

3. The Forms numbered 57.1 to 57.8 inclusive in Schedule 2 are substituted for the Forms numbered 57.1 to 57.16 inclusive respectively in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule 1

“Order 57

Proceedings under:

section 8 of the Enforcement of Court Orders Act 1940
section 9A of the Family Law (Maintenance of Spouses and Children) Act
1976

Definitions

1. In this Order:

“the Act of 1940” means the Enforcement of Court Orders Act 1940 (No. 23 of 1940);

“the Act of 1976” means the Family Law (Maintenance of Spouses and Children) Act 1976 (No. 11 of 1976);

“the Act of 2009” means the Enforcement of Court Orders (Amendment) Act 2009 (No. 21 of 2009);

“the Act of 2011” means the Civil Law (Miscellaneous Provisions) Act 2011 (No. 31 of 2011);

“the Maintenance Regulation” means Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L7 of 10 January 2009, page 1).

Venue

2. Proceedings to which this Order relates may be brought, heard or determined at any sitting of the Court for the court area where either party to the proceedings ordinarily resides or carries on any profession, business or occupation or where the order which it is sought to enforce was made and, save where the context otherwise requires, any reference in this Order to the “Clerk” is a reference to the Clerk for that court area.

Application in writing for summons under section 8(1) of the Act of 1940

3. An application under section 8(1) of the Act of 1940 (as substituted by the Act of 2011) for the issue of a summons shall be in writing (and may be by the lodgment with the Clerk of a completed draft form of summons) and shall include:

- (a) a copy of the antecedent order concerned and, where relevant, a copy of any enforcement order made by the Master of the High Court in respect of the maintenance order concerned or, as the case may be, a copy of the extract in the form set out in Annex I or, as the case may be, Annex II, to the Maintenance Regulation, of the decision issued by the court of origin;
- (b) the period(s) for which the monetary amounts directed to be paid by the antecedent order have not been duly paid;

- (c) the amount of the arrears, and any amount provided by the antecedent order for costs and expenses which is unpaid;
- (d) a statement that the applicant understands that the information included in the application may have to be proved on oath at the hearing of any summons issued on foot of the application.

Issue of summons under section 8(1) of the Act of 1940

4. (1) The summons shall be in the Form 57.1 Schedule C. The summons shall, in addition to requiring the attendance of the defaulter at a sitting of the Court, also require the defaulter to complete, detach and lodge with the Clerk not less than one week before the date of the said sitting a statement of means and assets (in the Form 53.3 Schedule C, with the necessary modifications), which shall be attached to the summons.

(2) The applicant or solicitor for the applicant shall be entitled, on payment of the prescribed fee, to inspect and take or obtain copies of the statement of means at any time after it is lodged.

Distress warrant

5. A warrant of distress and sale under section 8(2)(c) of the Act of 1940 shall be in accordance with Form 57.2 Schedule C.

Application in writing for summons under section 9A(3) of the Act of 1976

6. An application under section 9A(3) of the Act of 1976 (as inserted by the Act of 2011) for the issue of a summons shall be in writing (and may be by the lodgment with the Clerk of a completed draft form of summons) and shall include:

- (a) a copy of the antecedent order concerned;
- (b) the period(s) for which the monetary amounts directed to be paid by the antecedent order have not been duly paid;
- (c) the amount of the arrears and any amount provided by the antecedent order for costs and expenses which is unpaid;
- (d) a statement that the applicant understands that the information included in the application may have to be proved on oath at the hearing of any summons issued on foot of the application.

Issue of summons under section 9A(3) of the Act of 1976

7. The summons addressed to the debtor shall be in the Form 57.3 Schedule C.

Service of summonses and orders

8. (1) Order 10 shall apply to the service and lodgment of proof of service of a summons mentioned in rule 4.

(2) Order 53, rules 8(2), 8(3) and 8(4) shall apply to the service and lodgment of proof of service of a summons mentioned in rule 7.

(3) An order made under section 8(2)(a) or section 8(2)(b) of the Act of 1940 shall be in the Form 57.4 Schedule C and a copy of such order shall be sent by registered post by the Clerk to every person directed to pay monies to the Clerk.

Persons affected by garnishee order

9. (1) A person served with an order mentioned in rule 8(2) who is unable to comply with the order may apply to the Court by notice of application in the Form 57.5 Schedule C to set aside or vary the order. A copy of the notice shall be served on the defaulter and on the applicant not later than seven days before the hearing of the application and the original notice shall be lodged with the Clerk not later than four days before the hearing of the application.

(2) Where the Court is considering making an order under section 8(2)(a) or section 8(2)(b) of the Act of 1940, the Court may adjourn the hearing of the summons and direct that the person who would be directed to pay monies to the Clerk under any such order be put on notice of the adjourned application.

Warrant of arrest

10. A warrant of arrest issued under section 9A(5) of the Act of 1976 shall be in accordance with Form 57.6 Schedule C.

Warrant of detention

11. Where a failure by the maintenance debtor is treated as constituting contempt of court and an order of imprisonment is made, the warrant of detention shall be in accordance with Form 57.7 or 57.8 Schedule C, as appropriate.

Application to purge contempt

12. Where a person is imprisoned for contempt of court in accordance with section 9A of the Act of 1976:

- (a) the person shall be notified in writing of the action required to purge his contempt;
- (b) the Court may direct that, if the contempt has not previously been purged, the person shall be brought back before the Court at a place and time fixed by the Court.

Clerk to provide certificate and to be available to tender evidence

13. (1) Before the time fixed for the hearing of an application under section 8 of the Act of 1940 or under section 9A of the Act of 1976, any Clerk for another court area to whom payments under the maintenance order, variation order, interim order or enforceable maintenance order are payable shall send to the Clerk a certificate signed by him or her certifying the amount of monies outstanding on foot of such order.

(2) On the hearing of an application under section 8(1) of the Act of 1940 or under section 9A of the Act of 1976, without prejudice to any other evidence which may be required on that hearing, there shall be tendered or cause to be tendered as evidence—

- (a) the maintenance order, variation order, interim order, (as the case may be);
- (b) in the case of an enforceable maintenance order a copy of the maintenance order;
- (c) in the case of a decision referred to in Article 17.1 of the Maintenance Regulation, a copy of the extract in the form set out in Annex I or, as the case may be, Annex II, to the Maintenance Regulation, of the decision issued by the court of origin;
- (d) the application for the summons;
- (e) in the case of an enforceable maintenance order, a copy of the order made by the Master of the High Court, and
- (f) any other relevant document.

Provisions regarding warrants to apply

14. The provisions contained in Order 26 regarding warrants shall apply to warrants issued under this Order with the proviso that warrants of distress shall be addressed to and executed by the several Sheriffs and County Registrars.

15. Order 46B shall not apply in any proceedings under section 9A of the Act of 1976.”

Schedule 2

No. 57.1

SCHEDULE C

O.57, r. 4(1)

ENFORCEMENT OF COURT ORDERS ACT 1940, section 8
(as amended by Civil Law (Miscellaneous Provisions) Act 2011, section 63)

SUMMONS FOR ATTENDANCE OF MAINTENANCE DEBTOR

District Court Area of District No.

..... of Maintenance Creditor/Applicant

..... of Maintenance Debtor/Defaulter

If you fail to attend in the District Court at the place and on the date given below, a warrant may be issued for you to be arrested and brought before the Court.

YOU ARE REQUIRED BY THIS SUMMONS to attend at the District Court at..... on the day of 20.... at... a.m./p.m. to be examined as to your means and assets.

YOU ARE ALSO REQUIRED BY THIS SUMMONS at least one week before that date to complete the Statement of Means and Assets attached to this summons, detach it and lodge the completed Statement of Means and Assets, by delivering or sending it to the Clerk of the District Court at the address shown on the Statement of Means and Assets.

*1. The above-named Maintenance Creditor, being the person entitled to the payments, claims that, by *maintenance/*variation/*interim order (hereinafter the "original order") dated the day of 20...., made at the sitting of the *High/*Circuit/*District Court at..... you were ordered to pay to the Maintenance Creditor *(the weekly sum of €.....for her/his support) *(and) *(the weekly sum of €..... for the support of..... dependent children *(of the family)) *(together with the sum of €..... for costs and expenses).

*1. The above-named Applicant, being the person entitled to the payments, claims that, by maintenance order made on the day of 20.... by ‡..... you were ordered to pay to the Maintenance Creditor the weekly sum of €..... *(together with the sum of €..... for costs and expenses). On the day of 20...., the Master of the High Court made an enforcement order in respect of that maintenance order (and the said maintenance order as ordered to be enforced is hereinafter referred to as the "original order").

*1. The above-named Applicant, being the person entitled to the payments, claims that, by a decision referred to in Article 17.1 of Council Regulation (EC)

4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations made on the day of 20.... by ‡.....you were ordered to pay to the Maintenance Creditor the weekly sum of €.....*(together with the sum of €..... for costs and expenses) (and the said decision is hereinafter referred to as the “original order”).

2. The Maintenance Creditor claims that the monetary amounts directed to be paid by the original order have not been duly paid, and there is now in arrear:

€....., being the amount ofweekly payments, which have become due and payable

*€..... for costs and expenses, making

€.....in total

3. By application in writing dated the day of 20...., the above-named Applicant, being the person entitled to the payments applied to the undersigned District Court Clerk for the issue of a summons directed to the above-named defaulter requiring the defaulter to attend before the District Court for the purposes of section 8 of the said Act.

TAKE NOTICE that on the hearing of this summons:

- (1) you may be examined on oath by or on behalf of the applicant;
- (2) having heard evidence as to the amount outstanding and as to your means and assets, the Judge may make such order as to the payment, collection or recovery of the amounts outstanding as to the Judge seems fair and reasonable.

Dated this day of 20....

Signed.....
District Court Clerk

To
of
the above named maintenance debtor

*Delete where inapplicable
‡State Court which made order

ENFORCEMENT OF COURT ORDERS ACT 1940, section 8
(as amended by Civil Law (Miscellaneous Provisions) Act 2011, section 63)

WARRANT OF DISTRESS AND SALE

District Court Area of

District No.

..... Maintenance Creditor/Applicant

..... Maintenance Debtor/Defaulter

WHEREAS
of.....
(hereinafter referred to as the Maintenance Debtor) was this day before a sitting of the District Court at
in court area and district aforesaid, on foot of a summons issued under section 8 of said Act reciting that:—

*1. By †maintenance/†variation/†interim order dated the day of 20..., made at a sitting of the *High/*Circuit/*District Court at..... the Maintenance Debtor, of, was ordered to pay to the above named Maintenance Creditor/Applicant (the weekly sum of €..... for her/his support) †(and) †(the weekly sum of €..... for the support of..... dependent children †(of the family)) † (together with the sum of €..... for costs and expenses).

*1. By maintenance order made on the day of 20... by ‡....., the Maintenance Debtor, now residing at..... in court (area and) district aforesaid, was ordered to pay the weekly sum of €.....† (together with the sum of €..... for costs and expenses) to..... of (hereinafter referred to as the Maintenance Creditor).

The Master of the High Court on the day of 20..., made an enforcement order in respect of that maintenance order.

*1. By a decision made on the day of 20... by ‡....., the Maintenance Debtor, now residing at..... in court (area and) district aforesaid, was ordered to pay the weekly sum of €.....† (together with the sum of €..... for costs and expenses) to..... of (hereinafter referred to as the Maintenance Creditor) and the said decision is a decision referred to in Article 17.1 of Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of

decisions and cooperation in matters relating to maintenance obligations (hereinafter referred to as the Maintenance Regulation).

2. By written application dated the day of 20..., the Maintenance Creditor applied to the relevant District Court Clerk, being the District Court Clerk for the above court area, for the issue of a summons under section 8 of the Enforcement of Court Orders Act 1940.

AND WHEREAS the Court was satisfied that said summons was duly served

AND WHEREAS there have been produced to the Court:

- *said †maintenance/†variation/†interim order
- *a copy of the maintenance order *and the enforcement order
- *a copy of the extract in the form set out in *Annex I *Annex II, to the Maintenance Regulation, of the decision issued by the court of origin (hereinafter referred to as the said order)

the application received by the District Court Clerk for the summons herein;

AND WHEREAS the Court is satisfied on the evidence adduced that of the said weekly payments which have become due and payable by virtue of the said order, the sum of €..... †(together with the sum of €..... for costs and expenses, making in all the total sum of €.....) has not been duly paid;

*AND HAVING HEARD the applicant and the Maintenance Debtor and such evidence as they respectively adduced;

NOW IT IS HEREBY ORDERED AND DIRECTED that the said sum of €..... †(together with the sum of €....., being the costs of these proceedings, making in all the sum of €.....), be levied by distress and sale of the goods and chattels of the Maintenance Debtor and be paid to the District Court Clerk at..... within..... days from this date.

This warrant to be returned in.....days if not executed.

Dated this day of 20....

Signed.....
Judge of the District Court

To the several Sheriffs and County Registrars

County of

I authorise and empower
and of
Court Messengers, or either of them, and their assistants to execute the above order.

Dated this day of 20....

Signed.....
Sheriff/County Registrar of the said County

The sum to be levied hereunder is €.....

Sheriff/County Registrar

*Delete where inapplicable
†Delete where inapplicable
‡State Court which made order

No. 57.3

SCHEDULE C

O.57, r. 6

FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT
1976, SECTION 9A

(as inserted by Civil Law (Miscellaneous Provisions) Act 2011, section 31)

SUMMONS FOR ATTENDANCE OF MAINTENANCE DEBTOR

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

If you fail to attend in the District Court at the place and on the date given below at the time stated, the Judge may treat such failure to attend court as constituting contempt of court and the Judge may deal with the matter accordingly, including by directing that a warrant may be issued, without further warning, for you to be arrested and brought before the District Court.

The maintenance order is made by the District Court. If you the maintenance debtor fail to make a payment due under this order, you may be liable to imprisonment for contempt of court.

1. A maintenance order was made on the day of 20.... by the District Court sitting at..... for the District Court Area of..... District No....., under which you, the above-named Maintenance Debtor were ordered to pay to the above-named Maintenance Creditor †(the weekly sum of €..... for her/his support) †(and) †(the weekly sum of €..... for the support of..... dependent children †(of the family)) †(together with the sum of €.....for costs and expenses), *the first such payment to be made before or on the day of 20.... and each subsequent payment to be made weekly thereafter;

*2. Proof has been given that the said maintenance order was duly served on you the Maintenance Debtor of.....;

3. An application was made in writing by the Maintenance Creditor to the District Court Clerk for the above court area, on the day of 20...., for the issue of this summons in respect of the sums in arrear as set out below;

4. The Maintenance Creditor claims that you the Maintenance Debtor have not complied with the said maintenance order and that there is now in arrear in respect of same the sum of €....., being the amount of..... weekly payments, which have become due and payable †(together with the sum of €..... for costs and expenses making in all the sum of €.....);

YOU ARE REQUIRED to attend at the sitting of the District Court to be held at..... on the day of 20.... at..... a.m./p.m. on the hearing of this summons.

At that hearing, having listened to the Maintenance Creditor and to you, the Court may:

- (a) having heard evidence as to the financial circumstances of both you and of the Maintenance Creditor, treat the case as one asking the Court to vary the said maintenance order and if it does, it may change the amount of each payment, or the times at which payments are to be made or change a single payment to payment by such instalments at such times as the Judge thinks is reasonable in all the circumstances;
- (b) adjourn the hearing to enable the outstanding payment to be made, or
- (c) adjourn the hearing to enable an application to be made for an attachment of earnings order against you, or
- (d) if satisfied that your failure to pay is not due to your inability to make the payment concerned by reason of a change in your financial circumstances since the above order was made or due to some other reason not attributable to any act or omission on your part, treat your failure to make the payment concerned as constituting contempt of court and deal with the matter accordingly, including by making an order for your imprisonment.

Dated this day of 20....

Signed.....
District Court Clerk

To.....
of.....
the above-named Maintenance Debtor

*Delete where inapplicable
†Delete where inapplicable

No. 57.4

SCHEDULE C

O.57, r. 8(2)

Record Number

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 8(2)

ORDER

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

WHEREAS

the above named Maintenance Debtor of..... was on the day of 20.... before a sitting of the District Court at..... in court area and district aforesaid, on foot of a summons issued under section 8 of the above-mentioned Act reciting that:—

By †maintenance order/†variation order/†interim order/†decision (referred to in Article 17.1 of Council Regulation (EC) 4/2009 of 18 December 2008) dated day of 20...., made by the ‡.....Court at the Maintenance Debtor, of, was ordered to pay to, the above named Maintenance Creditor, the †(weekly sum of €..... for her/his support) †(and) †(the weekly sum of €..... for the support of..... dependent children †(of the family)) †(together with the sum of €..... for costs and expenses)

THE COURT

*BEING SATISFIED THAT said summons was duly served

HAVING HEARD EVIDENCE as to the amount outstanding on foot of such order and having heard evidence as to the means and assets of the Maintenance Debtor,

*BEING SATISFIED THAT there are monies, in the amount of *(not less than) €..... due and owing by another person, namelyof..... to the Maintenance Debtor, ORDERS AND DIRECTS the saidof..... to pay the monies concerned to the District Court Clerk at.....to the extent of the amount outstanding to the applicant on foot of the said †maintenance order/†variation order /†interim order/†decision dated day of 20...., amounting to €..... together with the costs of the said application under section 8 of the above-mentioned Act of €....., amounting in total to €.....

*BEING SATISFIED THAT there are monies, in the amount of *(not less than) €..... which will become due or may become due by another person, namelyof..... to the Maintenance Debtor, ORDERS AND

DIRECTS the saidof..... to pay the monies concerned to the District Court clerk at.....to the extent of the amount outstanding to the applicant on foot of the said †maintenance order/†variation order/†interim order/†decision dated day of 20..., amounting to €..... together with the costs of the said application under section 8 of the above-mentioned Act of €....., amounting in total to €.....

Dated this day of 20....

Signed.....
Judge of the District Court

To:.....of.....

*delete where inapplicable
†delete where inapplicable
‡State Court which made order

No. 57.5

SCHEDULE C

O.57, r. 9(1)

Record Number

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 8(2)

NOTICE OF APPLICATION TO VARY A GARNISHEE ORDER

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

.....Garnishee/Applicant

TAKE NOTICE that the above-named applicant will apply at the sitting of the District Court to be held at..... on the day of 20..., ata.m./p.m. for an order *varying *setting aside an order dated theday of.....20..., made in this matter by the District Court sitting in the said court area,

*directing the said applicant to pay certain monies *due *which will become due or may become due to the Maintenance Debtor to the District Court Clerk at.....to the extent of the amount outstanding to the applicant on foot of an order dated day of 20..., amounting to €..... together with the costs of an application under section 8 of the above-mentioned Act of €....., amounting in total to €.....

Dated this day of 20....

Signed.....
Applicant /Solicitor for Applicant

To
of
the above-named Maintenance Creditor

And to:
of
the above-named Maintenance Debtor

And to: District Court Clerk at

*Delete where inapplicable

SCHEDULE C
O.57, r. 10

FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT
1976, SECTION 9A(5)
(as inserted by Civil Law (Miscellaneous Provisions) Act 2011, section 31)

WARRANT OF ARREST

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

WHEREAS by †maintenance/†variation/†interim order dated the day of 20...., made at the sitting of the District Court at....., the Maintenance Debtor, of..... was ordered to pay to the Maintenance Creditor of....., †(the weekly sum of €..... for her/his support) †(and) †(the weekly sum of €..... for the support of..... dependent children †(of the family)) †(together with the sum of €..... for costs and expenses).

AND WHEREAS the said Maintenance Creditor alleges that the monetary amounts directed to be made by the said order have not been duly paid according thereto, and there is now in arrear in respect of same the sum of €..... being the amount of..... weekly payments which have become due and payable, †(together with the sum of €..... for costs and expenses, making in all the sum of €.....).

AND WHEREAS the said Maintenance Creditor duly applied for the issue of a summons under section 9A(3) of the above-mentioned Act and such summons was duly issued directing the said Maintenance Debtor to appear before the District Court sitting atthis day

AND WHEREAS I AM SATISFIED that said summons was duly served on the Maintenance Debtor

AND WHEREAS I AM SATISFIED that said Maintenance Debtor has failed, without reasonable excuse, to appear in court in answer to the said summons

THIS IS TO COMMAND YOU to whom this warrant is addressed to arrest the said Maintenance Debtor of and to bring him/her before me or before another Judge at the sitting of the District Court in District No..... next following the date of his/her arrest to be dealt with according to law.

Dated this day of 20....

Signed.....
Judge of the District Court

To the Superintendent of the Garda Síochána

At.....

†Delete where inapplicable

SCHEDULE C

O.57, r. 11

FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT
1976, SECTION 9A

(as inserted by Civil Law (Miscellaneous Provisions) Act 2011, section 31)

WARRANT OF DETENTION (WHERE DEBTOR HAS ATTENDED)

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

WHEREAS

the above named Maintenance Debtor of..... was this day before a sitting of the District Court at..... in court area and district aforesaid, pursuant to a summons issued under section 9A of the above-mentioned Act warrant reciting that:—

By †maintenance/†variation/†interim order dated day of 20...., made by the ‡.....Court at..... the Maintenance Debtor, of....., was ordered to pay to....., the above named Maintenance Creditor, the †(weekly sum of €..... for her/his support) †(and †(the weekly sum of €..... for the support of..... dependent children †(of the family)) †(together with the sum of €..... for costs and expenses)

AND WHEREAS the Court is satisfied on the evidence adduced that, of the said weekly payments which have become due and payable by virtue of the said order, the sum of €..... †(together with the sum of €..... for costs and expenses, making in all the sum of €.....) has not been duly paid;

AND WHEREAS the Court,

having given to the Maintenance Debtor the explanations referred to in section 9A(8) of the said Act,

having given the Maintenance Debtor an opportunity to apply for legal advice and legal aid,

and having heard such evidence as was adduced by the Maintenance Creditor and the Maintenance Debtor,

BEING SATISFIED that the payment concerned has not been made and that the failure to make the payment concerned is not due to—

- (a) the inability of the Maintenance Debtor to make the payment concerned by reason of a change in his or her financial circumstances which occurred since the *(last) said order was made, or
- (b) some other reason not attributable to any act or omission of the Maintenance Debtor,

Treated the failure by the Maintenance Debtor to make the payment concerned as constituting contempt of court and dealt with the matter accordingly by ordering the imprisonment of the Maintenance Debtor

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the Maintenance Debtor, the said in the prison at..... there to be detained by the Governor of the said prison

*until the day of 20.... ato'clock, ¹(when the Governor shall have him/her at the District Court at), unless the sum of €..... be sooner paid by or on behalf of the said Maintenance Debtor to the District Court Clerk for District No. or to you for transmission to said District Court Clerk

**(insert any other condition or requirement imposed by the Court to purge the contempt as appropriate)*

Dated this day of 20....

Signed.....
Judge of the District Court

To the Superintendent of the Garda Síochána
at.....
and his/her assistants.

And to Governor of the prison
at.....

†delete where inapplicable

*delete where inapplicable

¹ use where the Court has directed that the Maintenance Debtor be brought back before the Court on a date fixed by the Court.

‡State Court which made order

SCHEDULE C

O.57, r. 11

FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT
1976, SECTION 9A

(as inserted by Civil Law (Miscellaneous Provisions) Act 2011, section 31)

WARRANT OF DETENTION (FAILURE TO ATTEND)

District Court Area of

District No.

.....Maintenance Creditor

.....Maintenance Debtor

WHEREAS

the above named Maintenance Debtor of..... was on the day of 20.... before a sitting of the District Court at..... in court area and district aforesaid, on foot of a warrant issued under section 9A(5) of the above-mentioned Act reciting that:—

By †maintenance/†variation/†interim order dated day of 20...., made by the ‡..... Court at..... the Maintenance Debtor, of....., was ordered to pay to....., the above named Maintenance Creditor, the †(weekly sum of €..... for her/his support) †(and) †(the weekly sum of €..... for the support of..... dependent children †(of the family)) †(together with the sum of €..... for costs and expenses)

AND WHEREAS the Court on said date, pursuant to section 9A(7) of said Act, fixed this day as the new date for the hearing of the summons issued under section 9A(3) of said Act in respect of the Maintenance Debtor and explained to the Maintenance Debtor in ordinary language—

- (a) that *(s)he was required to attend before the Court on this day,
- (b) that failure to attend may in itself constitute a contempt of court and the consequences of such contempt, including in particular the possibility of imprisonment, and that such contempt and the consequences which may follow are in addition to the consequences arising by reason of failure to make a payment under the said order, and
- (c) that *(s)he is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995

And the said Maintenance Debtor not attending in Court on this date

Treated the failure by the Maintenance Debtor to attend court as constituting contempt of court and dealt with the matter accordingly by ordering the imprisonment of the Maintenance Debtor

THIS IS TO COMMAND YOU, to whom this warrant is addressed, to lodge the Maintenance Debtor, the said..... in the prison at..... there to be detained by the Governor of the said prison

*until (*insert condition or other details as appropriate*)

*until the day of 20.... *(ato'clock) *(when the Governor shall have him/her at the District Court at).

Dated this day of 20....

Signed.....
Judge of the District Court

To the Superintendent of the Garda Síochána
at.....
and his/her assistants.

And to Governor of the prison
at.....

†delete where inapplicable
*delete where inapplicable
‡State Court which made order

EXPLANATORY NOTE

(This does not form part of the Instrument and does not purport to be a legal interpretation.)

These Rules amend the District Court Rules by the substitution of rule 9 of Order 54 and Order 57 and associated forms prescribing procedure for the enforcement of maintenance orders pursuant to section 8 of the Enforcement of Court Orders Act 1940 and section 9A the Family Law (Maintenance of Spouses and Children) Act 1976.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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