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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART III**

**OTHER MATRIMONIAL ETC PROCEEDINGS**

**Domestic Violence and Matrimonial Proceedings Act 1976(1)**

**3.9.—**(1) In this rule a section referred to by number means the section so numbered in the Domestic Violence and Matrimonial Proceedings Act 1976.

(2) Subject to paragraph (3), an application under section 1 may be made by originating summons in Form No. 10 in Appendix A to the Rules of the Supreme Court (2) in the High Court or by originating application to the county court for the district in which either the applicant or the respondent resides or the matrimonial home is situated, and shall be dealt with in chambers unless the court otherwise directs.

(3) Where a cause, or proceedings under this Part, are pending, an application under section 1 made by a party to those proceedings may be made as an application in those proceedings.

(4) Where an application under section 1 is pending the court shall (on the application of either party or of its own motion) consider whether to exercise its powers under rule 10.10 to transfer the hearing of that application to another court and shall order such transfer if it seems necessary or expedient to do so.

(5) The application shall be served on the respondent not less than two days before the date upon which the application is to be heard, unless the court orders otherwise.

(6) Where an injunction contains one or more provisions of the kind described in section 2(1) (in this paragraph and paragraph (7) referred to as “the relevant provisions”) and a power of arrest is attached to the injunction—

- (a) the relevant provisions shall be set out in separate clauses of the injunction and those clauses shall not refer to any form of molestation which would not entitle a constable to arrest the respondent under section 2(3); and
- (b) a copy of the relevant provisions shall be delivered to the officer for the time being in charge of any police station for the applicant’s address.

(7) Where an order is made varying or discharging the relevant provisions of an injunction to which a power of arrest has been attached under section 2, the proper officer shall immediately inform the officer for the time being in charge of the police station at which a copy of the injunction was delivered pursuant to paragraph (6) and, if the applicant’s address has since changed, any police station for the new address; and a copy of the order shall be delivered to any officer so informed.

(8) The judge before whom a person is brought pursuant to section 2(4) may adjourn the proceedings and, where such an order is made, the arrested person shall be released and—

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(1) 1976 c. 50.  
(2) S.I.1965/1776.

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- (a) be dealt with (whether by the same or another judge) within 14 days of the day on which he was arrested; and
- (b) be given not less than two days' notice of the adjourned hearing,

but nothing in this paragraph shall prevent the issue of a notice under CCR Order 29, rule 1(4) if the arrested person is not dealt with within the period mentioned in sub-paragraph (a) above.

(9) In relation to a person who is in custody under such an order and warrant of a county court, CCR Order 29, rule 3, shall have effect as if the order and warrant were issued at the instance of the person who made the application under section 2(1).