



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART V

FAMILY BUSINESS: DISTRIBUTION AND TRANSFER

Rules of court and fees

40 Family proceedings rules.

- (1) Subject to subsection (2) below, the power to make rules of court for the purposes of family proceedings in the High Court or county courts shall be exercisable [^{F1}by a committee known as the Family Proceedings Rule Committee, which is to consist of the following persons—]
- (a) the President of the Family Division,
 - (b) one puisne judge attached to that Division,
 - [^{F2}(c) one district judge of the principal registry of that Division,
 - (d) two Circuit judges,
 - (e) one district judge appointed under the County Courts Act 1984,
 - (f) two persons who have a Supreme Court qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990), and
 - (g) two persons who have been granted by an authorised body, under Part II of that Act, the right to conduct litigation in relation to all proceedings in the Supreme Court.]
- (2) Subsection (1) above is without prejudice to the powers of the following authorities to make rules in respect of the matters referred to below and rules in respect of those matters shall continue to be made by those authorities and shall not be made by the authority constituted by subsection (1) above.

The rules and rule-making authorities are—

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- (a) adoption rules made ^{F3}... under section 9(3) of the ^{M1}Adoption Act 1958, section 12(1) of the ^{M2}Adoption Act 1968 or section 66(1) of the ^{M3}Adoption Act 1976;
 - (b) probate rules made ^{F4}... under section 127 of the ^{M4}Supreme Court Act 1981.
- [^{F5}(3) The members of the Family Proceedings Rule Committee, other than those eligible to act by virtue of their office, are appointed under subsection (3ZA) or (3ZB).
- (3ZA) The Lord Chief Justice must appoint the persons referred to in paragraphs (b), (c) (d) and (e) of subsection (1), after consulting the Lord Chancellor.
- (3ZB) The Lord Chancellor must appoint the persons referred to in paragraphs (f) and (g) of subsection (1), after consulting the Lord Chief Justice.
- (3ZC) A person is to be appointed under subsection (3ZA) or (3ZB) for such period as the Lord Chancellor determines after consulting the Lord Chief Justice.]
- ^{F6}[(3A) Rules made under this section may make different provision for different cases or different areas, including different provision—
- (a) for a specific court, or
 - (b) for specific proceedings, or a specific jurisdiction,
- specified in the rules.]
- (4) Rules made under this section may, ^{F7} . . .
- (a) modify or exclude the application of any provision of the County Courts Act 1984;
 - [^{F8}(aa) authorise, for the purposes of the law relating to contempt of court, the publication in such circumstances as may be specified of information relating to family proceedings held in private;]and
 - (b) provide for the enforcement in the High Court of orders made in a divorce county court [^{F9} or a civil partnership proceedings county court] .
- ^{F10}(5)

Textual Amendments

- F1** Words in s. 40(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 380\(2\)](#) (with [Sch. 4 para. 361](#)); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 11\(cc\)](#)
- F2** S. 40(1)(c)–(g) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(3), [Sch. 18 para. 50](#)
- F3** Words in s. 40(2)(a) omitted (3.4.2006) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 1 para. 18\(a\)](#), [Sch. 18 Pt. 1](#); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 30\(a\)](#)
- F4** Words in s. 40(2)(b) omitted (3.4.2006) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 1 para. 18\(b\)](#), [Sch. 18 Pt. 1](#); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 30\(a\)](#)
- F5** S. 40(3)–(3ZC) substituted for s. 40(3) (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 380\(3\)](#) (with [Sch. 4 para. 361](#)); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 11\(cc\)](#)
- F6** S. 40(3A) inserted (14.3.1997) by [1997 c. 12, s. 10](#), [Sch. 2 para. 3\(a\)](#); S.I. 1997/841, [art. 2](#)
- F7** Words in s. 40(4) repealed (26.4.1999) by [1997 c. 12, s. 10](#), [Sch. 2 para. 3\(b\)](#); S.I. 1999/1009 art. 3(K)
- F8** S. 40(4)(aa) inserted (12.4.2005) by [Children Act 2004 \(c. 31\)](#), [ss. 62\(5\)](#), 67(7)(j); S.I. 2005/847, art. 2
- F9** Words in s. 40(4)(b) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 95](#); S.I. 2005/3175, art. 2(2)
- F10** S. 40(5) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 380\(4\)](#), [Sch. 18 Pt. 2](#) (with [Sch. 4 para. 361](#)); S.I. 2006/1014, art. 2(a), [Sch. 1 paras. 11\(cc\)30\(b\)](#)

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Modifications etc. (not altering text)

- C1** S. 40(2) modified (7.10.2005) by [The Courts Act 2003 \(Commencement No. 11 and Transitional Provision\) Order 2005 \(S.I. 2005/2744\)](#), [art. 3](#)

Commencement Information

- I1** S. 40 wholly in force at 14.10.1991 see s. 47(1)(e); [S.I. 1991/1211](#), [art. 2\(a\)](#).

Marginal Citations

- M1** 1958 c. 5.
M2 1968 c. 53.
M3 1976 c. 36.
M4 1981 c. 54.

[^{F11}40A Process for making rules of court under section 40

- (1) Family proceedings rules must be—
 - (a) signed by a majority of the members of the Family Proceedings Rule Committee, and
 - (b) submitted to the Lord Chancellor.
- (2) The Lord Chancellor may allow or disallow rules so made.
- (3) If the Lord Chancellor disallows rules, he must give the Committee written reasons for doing so.
- (4) Rules so made and allowed by the Lord Chancellor—
 - (a) come into force on such day as the Lord Chancellor directs, and
 - (b) are to be contained in a statutory instrument to which the Statutory Instruments Act 1946 applies as if the instrument contained rules made by a Minister of the Crown.
- (5) A statutory instrument containing Family Proceedings rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section and section 40B “Family Proceedings rules” means rules of court made under section 40.

Textual Amendments

- F11** Ss. 40A, 40B inserted (temp. from 3.4.2006 until the repeal of s. 40 comes into force on 6.4.2011) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 381](#) (with [Sch. 4 para. 361](#)); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11\(cc\)](#)

40B Rules to be made if required by Lord Chancellor

- (1) This section applies if the Lord Chancellor gives the Family Proceedings Rule Committee written notice that he thinks it is expedient for Family Proceedings rules to include provision that would achieve a purpose specified in the notice.
- (2) The Committee must make such Family Proceedings rules as it considers necessary to achieve the specified purpose.

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(3) Those rules must be—

- (a) made within a reasonable period after the Lord Chancellor gives notice to the Committee;
- (b) made in accordance with section 40A.]

Textual Amendments

F11 Ss. 40A, 40B inserted (temp. from 3.4.2006 until the repeal of s. 40 comes into force on 6.4.2011) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 4 para. 381** (with [Sch. 4 para. 361](#)); S.I. 2006/1014, art. 2(a), [Sch. 1 para. 11\(cc\)](#)

^{F12}41 Fees in family proceedings.

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Textual Amendments

F12 S. 41 repealed (4.1.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 278\(b\)](#), **Sch. 10**; S.I. 2004/3123, art. 2(b)(iv)(c)(iv) (with art. 3)

Status:

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Changes to legislation:

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