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STATUTORY INSTRUMENTS

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**1980 No. 1585 (L.23)**

**MAGISTRATES' COURTS**

**PROCEDURE**

**The Magistrates' Courts (Guardianship of Minors) (Amendment)  
Rules 1980**

<i>Made - - - - -</i>	<i>17th October 1980</i>
<i>Laid before Parliament</i>	<i>28th October 1980</i>
<i>Coming into Operation</i>	<i>1st February 1981</i>

The Lord Chancellor, in exercise of the power conferred on him by section 15 of the Justices of the Peace Act 1949(a), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

1. These Rules may be cited as the Magistrates' Courts (Guardianship of Minors) (Amendment) Rules 1980 and shall come into operation on 1st February 1981.

2. The Magistrates' Courts (Guardianship of Minors) Rules 1974(b) shall have effect subject to the amendments specified in the Schedule to these Rules:

Provided that the said amendments shall not have effect in relation to any such application as is referred to in paragraph 1 of Schedule 1 to the Domestic Proceedings and Magistrates' Courts Act 1978(c) (transitional provisions) and, accordingly, the said Rules of 1974 shall have effect in relation to any such application as if these Rules had not been made.

Dated 17th October 1980.

*Hailsham of St. Marylebone, C.*

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(a) 1949 c.101, as extended by section 122 of the Magistrates' Courts Act 1952 (c.55).  
(b) S.I. 1974/706; amended by S.I. 1979/953. (c) 1978 c.22.

## Rule 2

## SCHEDULE

AMENDMENTS TO MAGISTRATES' COURTS  
(GUARDIANSHIP OF MINORS) RULES 1974

1. For the word "custody" wherever it appears, that is to say in rules 7, 8(2), 9(2), (3) and (6) and 9A(2) and (3), there shall be substituted the words "legal custody".
2. In rule 5(1) for the words "having jurisdiction in the place where" there shall be substituted the words "for the commission area in which".
3. In rule 7 for the words "proposes to commit a minor to the care of a local authority" there shall be substituted the words "is required, under section 4(2) of the Act of 1973(a), to notify a local authority of the court's intention to make an order committing the care of a minor to the local authority".
4. In rule 9—
  - (a) in paragraph (5) for the words "section 9 of the Act of 1971, as applied by section 4(3)" there shall be substituted the words "section 4(3A)(b)";
  - (b) in paragraph (7)—
    - (i) for sub-paragraph (a) there shall be substituted the following sub-paragraph:—

"(a) the persons specified in sub-paragraph (a) of paragraph (3)";
    - (ii) at the end there shall be inserted the following sub-paragraph and proviso:—

"(c) where, under the order, payment is required to be made to or for the benefit of a child who is 16 years or over that child:  
Provided that the local authority to whose care the minor was committed shall not be a defendant where the application is made under subsection (3A) of section 4 of the Act of 1973 as applied by subsection (3D) of that section (c).
5. Rules 10 and 11 and, in the Schedule, the forms numbered 3 and 4 shall be omitted.

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(a) Section 4(2) was amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22), section 89(2) and Schedule 2, paragraph 41.

(b) Subsection (3A) was inserted by the Children Act 1975 (c.72), section 108(1) and Schedule 3, paragraph 80 and amended by the Act of 1978, section 44(2).

(c) Subsection (3D) was inserted by the Act of 1978, section 44(2).

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

1. These Rules amend the Magistrates' Courts (Guardianship of Minors) Rules 1974 consequent upon the coming into force on 1st February 1981 (S.I.1980/1478) of certain provisions in Part II of the Domestic Proceedings and Magistrates' Courts Act 1978.
2. In conformity with the transitional provisions contained in Schedule 1 to the Act of 1978 the amendments do not apply in relation to applications made before the new provisions come into force (rule 2, proviso).
3. The principal change is the omission of rule 10 which relates to proceedings against a person outside the United Kingdom for the variation, etc. of certain guardianship orders (paragraph 5 of the Schedule). Provisions relating to such proceedings in respect of various types of orders, including guardianship orders, are inserted in the Magistrates' Courts Rules 1968 (S.I.1968/1920) by the Magistrates' Courts (Amendment) (No. 2) Rules 1980 (S.I.1980/1583).

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