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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART X**

**PROCEDURE (GENERAL)**

**Service out of England and Wales**

**10.6.**—(1) Any document in family proceedings may be served out of England and Wales without leave either in the manner prescribed by these rules or—

- (a) where the proceedings are pending in the High Court, in accordance with RSC Order I 1, rules 5 and 6 (which relate to the service of a writ abroad); or
- (b) where the proceedings are pending in a divorce county court, in accordance with CCR Order 8, rules 8 to 10 (which relate to the service of process abroad).

(2) Where the document is served in accordance with RSC Order 11, rules 5 and 6, those rules and rule 8 of the said Order I I (which deals with expenses incurred by the Secretary of State) shall have effect in relation to service of the document as they have effect in relation to service of notice of a writ, except that the official certificate of service referred to in paragraph (5) of the said rule 5 shall, if the document was served personally, show the server's means of knowledge of the identity of the person served.

(3) Where the document is served in accordance with CCR Order 8, rules 8 to 10, those rules shall have effect subject to the following modifications—

- (a) the document need not be served personally on the person required to be served so long as it is served in accordance with the law of the country in which service is effected;
- (b) the official certificate or declaration with regard to service referred to in paragraph (6) of the said rule 10 shall, if the document was served personally, show the server's means of knowledge of the identity of the person served; and
- (c) in paragraph (7) of the said rule 10 the words “or in the manner in which default summonses are required to be served” shall be omitted.

(4) Where a petition is to be served on a person out of England and Wales, then—

- (a) the time within which that person must give notice of intention to defend shall be determined having regard to the practice adopted under RSC Order 11, rule 4(4) (which requires an order for leave to serve a writ out of the jurisdiction to limit the time for appearance) and the notice in Form M5 shall be amended accordingly;
- (b) if the petition is to be served otherwise than in accordance with RSC Order 11, rules 5 and 6, or CCR Order 8, rules 8 to 10, and there is reasonable ground for believing that the person to be served does not understand English, the petition shall be accompanied by a translation, approved by the district judge, of the notice in Form M5, in the official language of the country in which service is to be effected or, if there is more than one official language of that country, in any one of those languages which is appropriate to the place where service is to be effected; but this sub-paragraph shall not apply in relation to

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a document which is to be served in a country in which the official language, or one of the official languages, is English.

(5) Where a document specifying the date of hearing of any proceedings is to be served out of England and Wales, the date shall be fixed having regard to the time which would be limited under paragraph (4)(a) for giving notice of intention to defend if the document were a petition.