
STATUTORY INSTRUMENTS

1991 No. 2113

The Family Proceedings (Amendment) Rules 1991

1. These Rules may be cited as the Family Proceedings (Amendment) Rules 1991 and shall come into force on 14th October 1991.
2. In these Rules, any reference to a rule by number alone shall be construed as a reference to the rule so numbered in the Family Proceedings Rules 1991(1).
3. In footnote (a) to the preamble to the Family Proceedings Rules 1991, after “c.42.” there shall be added “Section 40 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 50.”.
4. In rule 3.4(4)(a), for the words “estate duty” there shall be substituted the words “inheritance tax or any other tax replaced by that tax”.
5. In rule 4.1(2)(c), for “or 50(1)” there shall be substituted “, 50(1) or 102(1)”.
6. In rule 3.9(2), after the words “originating application” there shall be inserted the words “in Form N16A”.
7. In rule 3.9 there shall be inserted at the end the following new paragraph—
 - “(10) The jurisdiction of—
 - (a) the court under section 1, and
 - (b) a judge under section 2(1)may be exercised by a district judge.”.
8. In rule 4.2(2), the following shall be inserted after sub-paragraph (d)—
 - “(e) appeals against the determination of proceedings of a kind set out in subparagraphs (a) to (d).”.
9. In rule 4.4(4)—
 - (a) the word “or” where it appears at the end of sub-paragraph (c) shall be omitted, and
 - (b) after sub-paragraph (d) there shall be added, “or
 - (e) a warrant under section 102(1).”.
10. In rule 4.6, paragraphs (1), (4) and (5), for the words “any Order under Part I of Schedule 11 to the Act of 1989” there shall be substituted “the Allocation Order”.
11. In the title to rule 4.6, the words “from magistrates' court to county court and from county court to High Court” shall be deleted.
12. After paragraph (5) of rule 4.6 there shall be inserted the following new paragraphs—
 - “(6) Before ordering the transfer of proceedings from a county court to a magistrates' court in accordance with the Allocation Order, the county court shall notify the magistrates' court of its intention to make such an order and invite the views of the clerk to the justices on whether such an order should be made.

(7) An order transferring proceedings from a county court to a magistrates' court in accordance with the Allocation Order shall—

- (a) be in form CHA 66, and
- (b) be served by the court on the parties.

(8) In this rule “the Allocation Order” means the Children (Allocation of Proceedings) Order 1991(2) or any Order replacing that Order.”.

13. In rule 4.11 there shall be inserted after paragraph (2) the following paragraph—

“(2A) Where the guardian ad litem is the Official Solicitor, paragraph 2(a) shall not require him to appoint a solicitor for the child if he intends to act as the child’s solicitor in the proceedings, unless—

- (a) the child wishes to instruct a solicitor direct; and
- (b) the Official Solicitor or the court considers that he is of sufficient understanding to do so.”.

14. The following new rules shall be inserted after rule 5.4—

“Orders for use of secure accommodation

5.5 No order shall be made with the effect of placing or keeping a minor in secure accommodation, within the meaning of section 25(1) of the Act of 1989 unless—

- (a) the minor has been made a party to the summons, and
- (b) the minor is being represented either—
 - (i) where the minor wishes to instruct a solicitor on his own and is capable of doing so, by such a solicitor, or
 - (ii) in any other circumstances, by a guardian ad litem, for which purpose rule 4.10 shall apply as it applies to specified proceedings.

Notice to provider of refuge

5.6 Where a child is staying in a refuge which is certified under section 51(1) or 51(2) of the Act of 1989, the person who is providing that refuge shall be given notice of any application under this Part of these rules in respect of that child.”.

15. The following new rule shall be added after rule 8.2—

“Appeals under section 13 of the Administration of Justice Act 1960(3)

8.3 Proceedings within paragraph 3(d) of Schedule 1 to the Supreme Court Act 1981(4) shall be heard and determined by a Divisional Court of the Family Division and rule 8.2(4) shall apply, with the necessary modifications, to such proceedings.”.

16. In rule 9.1(2), after the words “So far as they relate to minors” there shall be added the words “who are the subject of applications”.

17. In rule 9.2(3), for “paragraph (4)” there shall be substituted “paragraph (2)”.

(2) S.I. 1991/1677.

(3) 1960 c. 65. The only relevant amendments were made by the County Courts Act 1984(c. 28), Schedule 2, Part V, paragraph 25. Section 13 was repealed in part by the Courts Act 1971 (c. 23), Schedule 11, Part II and the Supreme Court Act 1981 (c. 54), section 152(4) and Schedule 7.

(4) 1981 c. 54.

18. In rule 10.21, before the words “Nothing in these rules” there shall be inserted the words “Subject to rule 2.3,”.

19. In Appendix 1,—

- (a) the form set out in Appendix 1 to these rules shall be inserted after Form M31;
- (b) the forms set out in Appendix 2 to these rules shall be substituted for Forms CHA 15, 17, 31 and 57; and
- (c) the forms set out in Appendix 3 to these rules shall be added after Form CHA 65.

20. In Appendix 3—

- (a) in column (i), after “Section 25, 44(1), 44(9)(b), 45(4), 45(8), 46(7), 48(9)” delete “or 50(1)” and add “, 50(1) or 102(1)”, and
- (b) in the corresponding entry in column (iii),
 - (i) before the words “As for “all applications above”” insert “Except for applications under section 102(1)”, and
 - (ii) after the words “sought to have varied.” add the following new paragraph—

“In the case of an application under section 102(1), the person referred to in section 102(1) and any person preventing or likely to prevent such a person from exercising powers under enactments mentioned in subsection (6) of that section.”.

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