
STATUTORY INSTRUMENTS

1991 No. 2113 (L.34)

FAMILY PROCEEDINGS

SUPREME COURT OF ENGLAND AND WALES

COUNTY COURTS

The Family Proceedings (Amendment) Rules 1991

Made - - - - *19th September 1991*
Laid before Parliament *23rd September*
Coming into force - - *1991*
14th October 1991

We, the authority having power under section 40(1) of the Matrimonial and Family Proceedings Act 1984(1) to make rules of court for the purposes of family proceedings in the High Court and county courts, in the exercise of the powers conferred by the said section 40, and of all other powers enabling us in that behalf, hereby make the following Rules:

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(2).

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

(1) 1984 c. 42. Section 40 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 50.

(2) S.I.1991/1247.

- (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(3) 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(4)

8.3 Proceedings within paragraph 3(d) of Schedule 1 to the Supreme Court Act 1981(5) 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)”.

- 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.”.

(4) **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.

(5) **1981 c. 54.**

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

*Mackay of Clashfern, C.
Stephen Brown, P
Roy Ward
Marian F. Norrie
Gerald Angel
W. K. Wills
James Holman
Hugh Morgan
Michael Churchouse*

Dated 19th September 1991

APPENDIX 1

APPENDIX 1

Rule 3.15

Form M32

DECLARATION AS TO AN ADOPTION EFFECTED OVERSEAS UNDER SECTION 57 OF THE FAMILY LAW ACT 1986

1811/8

(Heading as in matter)

Upon the petition of _____ *(the petitioner)* and upon hearing _____ *(the respondent)*
(the petitioner) and upon hearing _____ *(the respondent)*:

It is declared* that, because the said _____, the petitioner was [or was not] adopted for the purposes of section 72(2) of the Adoption Act 1976 on the _____ day of _____ 19____, in _____ *(country where the adoption took place or did not take place)* in _____ *(the actual or alleged adoptive parent)*, then for the purposes of section 39 of the Adoption Act 1976 the said _____, the petitioner, is [or is not] the adopted child of the said _____ *(the actual or alleged adoptive parent)*.

Dated

**or, where the adoption is or is not recognised by the law of England and Wales and was or was not effected under the law of any country outside the British Islands, the following form shall be followed:—*

... that, because the said _____, the petitioner was [or was not] adopted for the purposes of being recognized under the law of England and Wales on the _____ day of _____ 19____, in _____ *(country where the adoption took place or did not take place)* by _____ *(the actual or alleged adoptive parent)*, then for the purposes of section 39 of the Adoption Act 1976 the said _____, the petitioner, is [or is not] the adopted child of the said _____ *(the actual or alleged adoptive parent)*."

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APPENDIX 2

APPENDIX 2

Application for the [Variation] [Discharge] of an order for Financial Provision for Children

Date received by court

Schedule 1 Para 1 (4) The Children Act 1989

- Please use black ink. The notes on page 3 tell you what to do when you have completed the form.
Please answer every part. If a part does not apply or you do not know what to say please say so.
If there is more than one child you must fill in a separate form for each child.
If you have any concerns about giving your address or that of the child or any other address requested in this form, you may give an alternative address where papers can be served.

THE CHILDREN ACT

I apply to The [High] [County] [Magistrates'] Court

Case No.

- for the [variation] [discharge] of an order for periodical payments
secured periodical payments*

*these orders can only be made in the High Court or a County Court

THE CHILDREN ACT

1 About the order for financial Provision

- (a) The order for Financial Provision was made on day month year
(b) The order was made at [High] [County] [Magistrates'] Court
Case No.
(c) It is helpful to the court if a copy of the order is attached. Please tick the box if you are enclosing a copy.

THE CHILDREN ACT

2 About the child

- (a) The name of the child is Put the surname last
(b) The child is a boy girl
(c) The child was born on the day month year Age now
(d) The child usually lives at See note on addresses at top of this form
(e) The child lives with the child's mother the child's father

THE CHILDREN ACT

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3 About myself (the person applying)

(a) I am a person to whom payments are made under the existing order
 ordered to make payments under the existing order

(b) My title is Mr Mrs Miss Ms Other (say here)

(c) My full name is
Put the surname last

(d) My full address is
See note on addresses at top of page 1

(e) My telephone number is

(f) My solicitor is

<i>Name</i>		
<i>Address</i>		
<i>Tel.</i>	<i>Fax</i>	<i>Ref</i>

THE CHILDREN ACT

4 About this application

(a) My reasons for making this application are

(b) I would like the court to order that
If you are asking for a variation of the order, please give details of the revised payments requested

(c) Please complete the statement of means form if you are seeking a variation or discharge of the order on the grounds of a change in your financial circumstances

THE CHILDREN ACT

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5 The Respondents

- The respondent(s) will be
- all those with parental responsibility
 - all those who were parties to the original application for financial provision
 - other people allowed by Rules of Court

(i) Please put the address where the respondent usually lives or where papers can be served. See note on addresses at the top of page 1.

(ii) You will have to serve a copy of this application on each of the respondents.

The name of the respondent	The respondent's address

THE CHILDREN ACT

6 Declaration

I declare that the information I have given is correct and complete to the best of my knowledge.

Signed

Date

THE CHILDREN ACT

What you (the person applying) must do next

- ▶ There is a Notice of Hearing on page 4. Fill in the boxes on the Notice.
- ▶ Take or send this form and statement of means to the court with enough copies for each respondent to be served. The top copy will be kept by the court and the other copies given or sent back to you for service.
- ▶ You must then serve the copies of the Application, the Notice of Hearing, the statement of means and the Respondent's Answer according to the Rules. You may also be required under the Rules to give notice of the proceedings to other people.

THE CHILDREN ACT

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In the
at

[High] [County] [Magistrates'] Court

(When writing to the court please state the Case No.)

Case No. [REDACTED]

Tel.

Fax

THE CHILDREN ACT

Notice of a [Hearing] [Directions Appointment]

You are named as a Respondent in these proceedings

about the child

[REDACTED]

a boy a girl

born on the

[REDACTED]

You must read this Notice now

THE CHILDREN ACT

About the [Hearing] [Directions Appointment]

name of applicant

[REDACTED]

has made an application to the Court.

The Court has been asked to make an order for the [Variation] [Discharge] for an order for financial provision of the child

THE CHILDREN ACT

To be completed by the court

The Court will hear this at

[REDACTED]

on

[REDACTED]

at

[REDACTED] o'clock

the time allowed is

[REDACTED]

THE CHILDREN ACT

What you must do

- ▶ There is a copy of the application with this Notice. Read the application now. You do not have to fill in any part. You must complete the form of Answer enclosed and follow the instructions on the first page of the Answer regarding service.
- ▶ You should obtain legal advice from a solicitor or, alternatively, from an advice agency. The Law Society administers a national panel of solicitors to represent children and other parties involved in proceedings relating to children. Addresses of solicitors (including panel members) and advice agencies can be obtained from the Yellow Pages and the Solicitors Regional Directory which can be found at Citizens Advice Bureaux, Law Centres and any local library. A solicitor or advice agency will also be able to advise you as to whether you will be eligible for legal aid.

date

[REDACTED]

THE CHILDREN ACT

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Application for Authority to Hold Child in Secure Accommodation

Section 25 The Children Act 1989

Date received by court

Please use black ink. The notes on page 4 tell you what to do when you have completed the form.

Please answer every part. If a part does not apply or you do not know what to say please say so. If there is not enough room continue on another sheet (put the child's name and the number of the part on the sheet).

If there is more than one child you must fill in a separate form for each child.

If you have any concerns about giving your address or that of the child or any other address requested in this form, you may give an alternative address where papers can be served. However, you must notify the court of the actual address on a separate form available from the court.

Application to The
for authority to hold child in secure accommodation

[High] [County] [Magistrates] Court

Case No.

THE CHILDREN ACT

1 About the child

(a) The name of the child is
Put the surname last

(b) The child is a

boy girl

(c) The child was born on the

day month year

Age now

(d) The child is at

*Say where the child is now.
See note on addresses at top of this page*

(e) The child is being cared for by

- a local authority
- a health authority
- a local education authority
- a residential care home
- a nursing home
- a mental nursing home
- other (say here)

(f) The child

- has been informed of his / her rights to legal advice
- has not been informed of his / her rights to legal advice

(g) A Guardian ad litem

- has not been appointed
- has been appointed. The Guardian ad litem is

Name
Address
Tel. Fax Ref

(h) The child's solicitor is

Name
Address
Tel. Fax Ref

THE CHILDREN ACT

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2 About the applicant

(a) The applicant's title is Mr Mrs Miss Ms Other (*say here*)

(b) The applicant's full name is
Put the surname last

(c) The applicant is` a local authority officer
 a health authority officer
 an education authority officer
 other (*say here*)

(d) The address for service is

(e) The applicant's telephone number and reference are
Tel. *Ref.*

(f) The applicant's solicitor is
Name
Address
Tel. *Fax* *Ref*

THE CHILDREN ACT

3 About this application

(a) My grounds for making this application are the child has a history of absconding and is likely to abscond from any other description of accommodation; and if he/she absconds, he/she is likely to suffer significant harm
Please tick the box which applies

OR

if the child is kept in any other description of accommodation, he/she is likely to injure him/herself or other persons.

(b) I believe these grounds exist because

continue on next page if necessary

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3 About the application (continued)

(b) I believe these grounds exist because
continued

A large, empty rectangular box with a thin black border, intended for the user to provide their response to question (b).

(c) Give details where relevant of any
legal status the child has eg. whether
child is in care

A large, empty rectangular box with a thin black border, intended for the user to provide their response to question (c).

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4 The respondents

- The respondents to this application will be ● all those with parental responsibility
 ● other people allowed by Rules of Court

Some people have "parental responsibility" for a child. The law says what "parental responsibility" is and which people have it. These people include:

<p>A the mother</p> <p>B the father if he was married to the child's mother when the child was born</p> <p>C the father if he was not married to the child's mother when the child was born but he now has a residence order or he now has a court order which gives him parental responsibility or he now has a formal "parental responsibility agreement" with the mother or he has since married the mother</p>	<p>D a guardian of the child</p> <p>E someone who holds a custody or residence order</p> <p>F a local authority which has a care order</p> <p>G someone who holds an emergency protection order</p> <p>H any man or woman who has adopted the child</p>
--	--

The respondents will be

- (i) Please put the address where the respondent usually lives or can be served with papers. See note on addresses at the top of page 1.
- (ii) You will have to serve a copy of this application on each of the respondents.

Respondent's Name	Address

THE CHILDREN ACT

5 Declaration

I declare that the information I have given is correct and complete to the best of my knowledge

Signed Date

THE CHILDREN ACT

What you (the person applying) must do next

- ▶ There is a Notice of Hearing on page 5. Fill in the boxes on the Notice.
- ▶ Take or send this form and any supporting documentation to the court with enough copies for each respondent to be served. The top copy will be kept by the court and the other copies given or sent back to you for service.
- ▶ You **must** then serve the copies of the Application, the Notice of Hearing and any supporting documentation according to the Rules. You may also be required under the Rules to give notice of the proceedings to other people.

THE CHILDREN ACT

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In the

[High] [County] [Magistrates'] Court

at

(When writing to the court please state the Case No.)

Case No. [REDACTED]

Tel.

Fax

THE CHILDREN ACT

Notice of a [Hearing] [Directions Appointment]

You are named as a respondent in these proceedings

about the child

[REDACTED]

a boy a girl

born on the

[REDACTED]

You must read this Notice now

THE CHILDREN ACT

About the [Hearing] [Directions Appointment]

name of applicant

[REDACTED]

has made an application to the Court.

The Court has been asked to make an order authorising the child to be held in secure accommodation

THE CHILDREN ACT

To be completed by the court

The Court will hear this at

[REDACTED]

on

[REDACTED]

at

[REDACTED] o'clock

the time allowed is

[REDACTED]

THE CHILDREN ACT

What you must do

- ▶ There is a copy of the application with this Notice. Read the application now. You do not have to fill in any part.
- ▶ You should obtain legal advice from a solicitor or, alternatively, from an advice agency. The Law Society administers a national panel of solicitors to represent children and other parties involved in proceedings relating to children. Addresses of solicitors (including panel members) and advice agencies can be obtained from the Yellow Pages and the Solicitors Regional Directory which can be found at Citizens Advice Bureaux, Law Centres and any local library. A solicitor or advice agency will also be able to advise you as to whether you will be eligible for legal aid.

date

[REDACTED]

THE CHILDREN ACT



In the
at

[High Court of Justice]
[County Court]
[Magistrates' Court]

THE CHILDREN ACT

**Order making or refusing the appointment
of a solicitor**

Case No. [REDACTED]

Section 41 (3) The Children Act 1989

THE CHILDREN ACT

1 The child is

a [boy] [girl]

born on

2 The Court is satisfied that the child is not presently represented by a solicitor and that :-

a Guardian ad litem has not been appointed for the child or

the child has sufficient understanding to instruct a solicitor and has expressed a wish to do so or

it would be in the best interests of the child for him / her to be represented.

The Court orders that

of

be appointed as solicitor for the child

or

3 The Court orders that no appointment shall be made.

THE CHILDREN ACT

This order was made on

[Mr / Mrs Justice]

[His / Her Honour Judge]

[District Judge [of the Family Division]]

[Justice of the Peace]

[Clerk of the Court]

THE CHILDREN ACT

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In the

at

[High Court of Justice]

[County Court]

[Magistrates' Court]

THE CHILDREN ACT

Refusal of Order

The Children Act 1989

[]

Case No. []

THE CHILDREN ACT

1 The child is

a [boy] [girl]

born on

2 An [ex parte] application has been made to the court by
for

3 No order has been made by the court because

[the court has applied the provisions of section 1(5) of the Children Act 1989]

[the grounds are not proved and the court has dismissed the application]

([] delete where appropriate)

THE CHILDREN ACT

This order was made on

[Mr / Mrs Justice]

[His / Her Honour Judge]

[District Judge (of the Family Division)]

[Justice of the Peace]

[Clerk of the Court]

THE CHILDREN ACT

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APPENDIX 3

APPENDIX 3



In the
at

County Court

THE CHILDREN ACT

Certificate of Transfer to Magistrates' Court

The Children (Allocation of Proceedings) Order 1991, Article 11

Case No.

THE CHILDREN ACT

1 Name of child
a [boy] [girl]
born on

2 Type of proceedings

3 These proceedings are transferred to

Magistrates' Court

4 Reasons for transfer

- the criterion of exceptional gravity, importance or complexity does not apply
- the criterion of consolidation no longer applies
- the criterion of urgency no longer applies

THE CHILDREN ACT

This order was made on

[District Judge [of the Family Division]]

THE CHILDREN ACT

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In the

County Court

at

THE CHILDREN ACT

Order following Reconsideration of Refusal to Transfer

The Children Act 1989

Case No. [REDACTED]

THE CHILDREN ACT

1 The child is

a [boy] [girl]

born on

2 Type of proceedings

3 An application has been made to the court for an order transferring proceedings from a Magistrates' court, following the refusal of the Magistrates' court to order such a transfer.

4 The application is granted.

The reasons for transfer are

- consolidation
- urgency
- exceptional gravity, importance or complexity

5 The application is refused.

6 The court also directs that

THE CHILDREN ACT

This order was made on

[District Judge [of the Family Division]]

THE CHILDREN ACT



In the
at

[High Court of Justice]
[County Court]
[Magistrates' Court]

THE CHILDREN ACT

Direction to undertake an investigation

Section 37 The Children Act 1989

Case No.

THE CHILDREN ACT

1 The child is

a [boy] [girl]

born on

2 The court directs that the

shall undertake an investigation of the child's circumstances.

local authority

3 The court also directs that

[copies of

shall be served on the

local authority]

THE CHILDREN ACT

This order was made on

[Mr / Mrs Justice]

[His / Her Honour Judge]

[District Judge[of the Family Division]]

[Justice of the Peace]

[Clerk of the Court]

THE CHILDREN ACT

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In the

at

[High Court of Justice]
[County Court]
[Magistrates' Court]

THE CHILDREN ACT

Directions

The Children Act 1989

[]

Case No. [REDACTED]

THE CHILDREN ACT

1

The child is

a [boy] [girl]

born on

2

The court directs that

3

These directions were [not] made ex parte

THE CHILDREN ACT

These directions were given on

[Mr / Mrs Justice]

[His / Her Honour Judge]

[District Judge [of the Family Division]]

[Justice of the Peace]

[Clerk of the Court]

THE CHILDREN ACT

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Family Proceedings Rules 1991. The main amendments:—

- (a) add applications under section 102(1) of the Children Act 1989 (c. 41), and appeals in specified proceedings, to the list of proceedings specified for the purposes of section 41 of the 1989 Act. Provision is also made for section 102(1) applications to be made ex parte,
- (b) provide that jurisdiction under sections 1 and 2 of the Domestic Violence and Matrimonial Proceedings Act 1976(6) may be exercised by a district judge,
- (c) provide for the transfer of proceedings from a county court to a magistrates' court,
- (d) partially exempt the Official Solicitor from a guardian ad litem's general duty under the rules to appoint a solicitor for a child,
- (e) provide that a minor must be represented on any application to place him in secure accommodation,
- (f) require notice of any application in respect of a child to be given to the provider of any refuge in which the child is staying, and
- (g) provide for appeals under section 13 of the Administration of Justice Act 1960.

Minor amendments expand a footnote to the pre-ambule to the main rules, replace an obsolete reference to estate duty, insert references to the prescribed form for injunction applications to the Children (Allocation of Proceedings) Order 1991, ensure that the disapplication of rule 9.1(2) of the main rules applies only to minors who are the subject of an application, amend a cross reference and clarify the relationship between rules 2.3 and 10.21.

This Order also amends forms CHA 15, 17, 31 and 57, inserts new forms M31 and CHA 66, 67, 68 and 69 and makes consequential amendments to Appendix 3 of the main Rules.

(6) 1976 c. 50. Section 2 was amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), Schedule 2, paragraph 53.