
STATUTORY INSTRUMENTS

1992 No. 2071

**The Magistrates' Courts (Children
and Young Persons) Rules 1992**

PART III

PROCEEDINGS IN CERTAIN OTHER MATTERS

Application and interpretation of Part III

13.—(1) This Part applies in connection with proceedings in a court in the case of any child or young person in relation to whom proceedings are brought or proposed to be brought under—

- (a) section 72 or 73 of the Social Work (Scotland) Act 1968⁽¹⁾(persons subject to supervision requirements or orders moving from or to Scotland), or
- (b) regulations made under section 25 of the Act of 1989 (authority to retain child in secure accommodation),

except that rules 14, 16(2), 20 and 21 do not apply in connection with proceedings under the enactments mentioned in sub-paragraph (a) above.

(2) In this Part—

“the applicant” means the person by whom proceedings are brought or proposed to be brought;

“court”, in relation to proceedings of the kind mentioned in paragraph (1)(b), means a magistrates' court, whether a youth court or not, but does not include a family proceedings court; and

“the relevant minor” means the person in relation to whom proceedings are brought or proposed to be brought as mentioned in paragraph (1).

Notice by person proposing to bring proceedings

14.—(1) The applicant shall send a notice to the clerk of the court specifying the grounds for the proceedings and the names and addresses of the persons to whom a copy of the notice is sent in pursuance of paragraph (2).

(2) Without prejudice to section 34(2) of the Act of 1969 and regulations made under section 25 of the Act of 1989, the applicant shall—

- (a) send to each of the persons mentioned in paragraph (3) a copy of the said notice, and
- (b) notify each of those persons of the date, time and place appointed for the hearing unless a summons is issued for the purpose of securing his attendance thereat.

(3) The persons referred to in paragraph (2) are—

- (a) the relevant minor, unless it appears to the applicant inappropriate to notify him in pursuance of paragraph (2), having regard to his age and understanding,

(1) 1968 c. 49; sections 72 and 73 were amended by the Act of 1969, Schedule 5, paragraphs 58 and 59 and Schedule 6.

- (b) the parent or guardian of the relevant minor if the whereabouts of such parent or guardian is known to the applicant or can readily be ascertained by him, and
- (c) where the father and mother of the relevant minor were not married to each other at the time of his birth, any person who is known to the applicant to have made an application for an order under section 4 of the Act of 1989 (acquisition of parental responsibility by father) which has not yet been determined.

Rights of parents and guardians

15. Without prejudice to any provision of these Rules which provides for a parent or guardian to take part in proceedings, the relevant minor's parent or guardian shall be entitled to make representations to the court at any such stage after the conclusion of the evidence in the hearing as the court considers appropriate.

Adjournment of proceedings and procedure at hearing

16.—(1) The court may, at any time, whether before or after the beginning of the hearing, adjourn the hearing, and, when so doing, may either fix the date, time and place at which the hearing is to be resumed or leave the date, time and place to be determined later by the court; but the hearing shall not be resumed at that date, time and place unless the court is satisfied that the applicant, the respondent and any other party to the proceedings have had adequate notice thereof.

(2) Subject to the provisions of the Act of 1969, sections 56, 57 and 123 of the Magistrates' Courts Act 1980(2)(non-appearance of parties and defects in process) shall apply to the proceedings as if they were by way of complaint and as if any references therein to the complainant, to the defendant and to the defence were, respectively, references to the applicant, to the relevant minor and to his case.

(3) Rules 14 and 16(1) of the Magistrates' Courts Rules 1981 (order of evidence and speeches and form of order) shall apply to the proceedings as if they were by way of complaint and as if any references therein to the complainant, to the defendant and to the defence were, respectively, references to the applicant, to the relevant minor and to his case.

Duty of court to explain nature of proceedings

17. Except where, by virtue of any enactment, the court may proceed in the absence of the relevant minor, before proceeding with the hearing the court shall inform him of the general nature both of the proceedings and of the grounds on which they are brought, in terms suitable to his age and understanding, or if by reason of his age and understanding or his absence it is impracticable so to do, shall so inform any parent or guardian of his present at the hearing.

Conduct of case on behalf of relevant minor

18.—(1) Except where the relevant minor or his parent or guardian is legally represented, the court shall, unless the relevant minor otherwise requests, allow his parent or guardian to conduct the case on his behalf, subject, however, to the provisions of rule 19(2).

(2) If the court thinks it appropriate to do so it may, unless the relevant minor otherwise requests, allow a relative of his or some other responsible person to conduct the case on his behalf.

Power of court to hear evidence in absence of relevant minor and to require parent or guardian to withdraw

19.—(1) Where the evidence likely to be given is such that in the opinion of the court it is in the interests of the relevant minor that the whole, or any part, of the evidence should not be given in his presence, then, unless he is conducting his own case, the court may hear the whole or part of the evidence, as it thinks appropriate, in his absence; but any evidence relating to his character or conduct shall be heard in his presence.

(2) If the court is satisfied that it is appropriate so to do, it may require a parent or guardian of the relevant minor to withdraw from the court while the relevant minor gives evidence or makes a statement; but the court shall inform the person so excluded of the substance of any allegations made against him by the relevant minor.

Duty of court to explain procedure to relevant minor at end of applicant's case

20. If it appears to the court after hearing the evidence in support of the applicant's case that he has made out a prima facie case it shall tell the relevant minor or the person conducting the case on his behalf under rule 18 that he may give evidence or make a statement and call witnesses.

Consideration of reports: secure accommodation proceedings

21.—(1) The court shall arrange for copies of any written report before the court to be made available, so far as practicable before the hearing to—

- (a) the applicant,
- (b) the legal representative, if any, of the relevant minor,
- (c) the parent or guardian of the relevant minor, and
- (d) the relevant minor, except where the court otherwise directs on the ground that it appears to it impracticable to disclose the report having regard to his age and understanding or undesirable to do so having regard to potential serious harm which might thereby be suffered by him.

(2) In any case in which the court has determined that the relevant criteria are satisfied, the court shall, for the purpose of determining the maximum period of authorisation to be specified in the order, take into consideration such information as it considers necessary for that purpose, including such information which is provided in pursuance of section 9 of the Act of 1969.

(3) Any written report may be received and considered by the court without being read aloud.

Duty of court to explain manner in which it proposes to deal with case and effect of order

22.—(1) Before finally disposing of the case, the court shall in simple language inform the relevant minor, any person conducting the case on his behalf, and his parent or guardian, if present, of the manner in which it proposes to deal with the case and allow any of those persons so informed to make representations; but the relevant minor shall not be informed as aforesaid if the court considers it undesirable or, having regard to his age and understanding, impracticable so to inform him.

(2) On making any order, the court shall in simple language suitable to his age and understanding explain to the relevant minor the general nature and effect of the order unless it appears to it impracticable so to do having regard to his age and understanding and shall give such an explanation to the relevant minor's parent or guardian, if present.