STATUTORY INSTRUMENTS

1997 No. 291

Act of Sederunt (Child Care and Maintenance Rules) 1997

CHAPTER 4

REGISTRATION OF CHILD CUSTODY ORDERS

Interpretation

4.1 In this Chapter, unless the context otherwise requires-

"the Act" means the Family Law Act 1986^{M1};

"appropriate court" means the High Court in England and Wales or the High Court in Northern Ireland or, in relation to a specified dependant territory, the corresponding court of that territory, as the case may be;

"appropriate register" means the sheriff court book in which there is registered the action in which the Part I order was made;

"corresponding court", in relation to a specified dependent territory, means the corresponding court specified in relation to that territory in Schedule 3 to the Family Law Act 1986 (Dependent Territories) Order 1991^{M2};

"Part I order" has the meaning assigned to it by sections 1, 32, 42(5) and 42(6) of the Act M3 ;

"proper officer" means the Secretary of the Principal Registry of the Family Division of the High Court in England and Wales or the Master (Care and Protection) of the High Court in Northern Ireland or, in relation to a specified dependent territory, the corresponding officer of the appropriate court in that territory, as the case may be; and

"specified dependent territory" means a territory specified in column 1 of Schedule 1 to the Family Law Act 1986 (Dependent Territories) Order 1991.

Marginal Citations

- M1 1986 c.55.
- M2 S.I. 1991/1723.
- M3 Section 1 was amended by the Children Act 1989 (c.41), Schedule 13, paragraph 63 and Schedule 15, the Age of Legal Capacity (Scotland) Act 1991 (c.50) Schedule 1, paragraph 44, and the Children (Scotland) Act 1995, Schedule 4, paragraph 41(2); section 42(6) was amended by the Children Act 1989, Schedule 13, paragraph 71(2) and Schedule 15.

Applications for registration of Part I order in another court

4.2—(1) An application under section 27 of the Act (registration) to register a Part I order made by a sheriff court in an appropriate court shall be made by letter to the sheriff clerk of the court in which the order was made.

(2) An application under paragraph (1) of this rule shall be accompanied by-

- (a) a copy of the letter of application;
- (b) an affidavit by the applicant;
- (c) a copy of that affidavit;
- (d) a certified copy of the interlocutor making the Part I order and any variation thereto which is still in force; and
- (e) any other document relevant to the application together with a copy of it.
- (3) The affidavit required under this rule shall set out-
 - (a) the name and address of the applicant and his right under the Part I order;
 - (b) the name and date of birth of the child in respect of whom the Part I order was made, the present whereabouts or suspected whereabouts of the child and the name of any person with whom he is alleged to be;
 - (c) the name and address of any other person who has an interest in the Part I order;
 - (d) the appropriate court in which it is sought to register the Part I order;
 - (e) whether the Part I order is in force;
 - (f) whether the Part I order is already registered and, if so, where it is registered; and
 - (g) details of any order known to the applicant which affects the child and is in force in the jurisdiction in which the Part I order is to be registered.

Transmission of application for registration

4.3—(1) Unless it appears to the court that the Part I order is no longer in force, the sheriff clerk shall send the documents mentioned in section 27(3) of the Act to the proper officer of the court in which the Part I order is to be registered.

(2) For the purposes of section 27(3) of the Act the prescribed particulars of any variation of a Part I order which is in force shall be a certified copy of the interlocutor making any such variation.

(3) On sending an application under paragraph (1) of this rule, the sheriff clerk shall record the date and particulars of the application and the Part I order in the appropriate register.

(4) On receiving notification from the appropriate court that the Part I order has been registered in that court under section 27(4) of the Act, the sheriff clerk shall record the date of registration in the appropriate register.

Notification of refusal of application

4.4 Where the court refuses to send an application under rule 4.2 to the appropriate court on the ground that the Part I order is no longer in force, the sheriff clerk shall notify the applicant in writing of the court's decision.

Retention of application and related documents

4.5 The sheriff clerk shall retain the letter of application under rule 4.2 together with any documents which accompanied it and which are not transmitted to the appropriate court under section 27(3) of the Act.

Cancellation or variation of registered Part I order

4.6—(1) Where the court revokes, recalls or varies a Part I order which it has made and which has been registered under section 27(4) of the Act, the sheriff clerk shall–

- (a) send a certified copy of the appropriate interlocutor to the proper officer of the court in which the Part I order is registered;
- (b) record the transmission of the certified copy in the appropriate register; and
- (c) record the revocation, recall or variation in the appropriate register.

(2) On receiving notification from the court in which the Part I order is registered that the revocation, recall or variation has been recorded, the sheriff clerk shall record that fact in the appropriate register.

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Act of Sederunt (Child Care and Maintenance Rules) 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. View outstanding changes

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Pt. 7 heading substituted by S.S.I. 2013/172 para. 3(30)
- Pt. 8 substituted by S.S.I. 2013/172 para. 3(41)
- Pt. 8A inserted by S.S.I. 2013/172 para. 3(48)
- Pt. 8B inserted by S.S.I. 2015/424 para. 3(7)
- Pt. 9 heading substituted by S.S.I. 2013/172 para. 3(49)
- Pt. 10 heading substituted by S.S.I. 2013/172 para. 3(53)
- Pt. 10A inserted by S.S.I. 2013/172 para. 3(57)
- Pt. 11 inserted by S.S.I. 2005/190 rule 2(3)
- Pt. 11A inserted by S.S.I. 2013/172 para. 3(62)
- Chapter 2Pt. 6 substituted by S.S.I. 2010/137 para. 2(2)
- Ch. 1rule 1.06 inserted by S.S.I. 2012/271 para. 4(2)
- Ch. 2Pt. 4A inserted by S.S.I. 2003/44 rule 6
- Ch. 2 Pt. 2-5 revoked (with transitional provisions and savings) by S.S.I. 2009/284 para. 4(1)(b)(2)-(6)
- Ch. 3 heading substituted by S.S.I. 2015/424 para. 3(9)
- Ch. 3 title words substituted by S.S.I. 2013/172 para. 3(2)
- Ch. 5 Pt. 78 inserted by S.S.I. 2011/386 para. 9(8)
- Ch. 5Pt. 9 inserted by S.S.I. 2014/201 rule 4(5)
- Sch. 1 Form 43 Sch. 1 Form 42 renumbered as Sch. 1 Form 43 by S.S.I. 2013/172 para. 4(18)(a)
- Sch. 1 Form 42 Sch. 1 Form 43 renumbered as Sch. 1 Form 42 by S.S.I. 2013/172 para. 4(19)(a)
- Sch. 1 Form 11A inserted by S.S.I. 2003/44 Sch.
- Sch. 1 para. l-n inserted by S.S.I. 2006/411 para. 2(8)(a)(iii)
- Sch. 1 Form 76A76B inserted by S.S.I. 2006/75 rule 2(6)(a)Sch.
- Sch. 1 Form 73A inserted by S.S.I. 2011/386 Sch. Pt. 2
- Sch. 1 Form 73B inserted by S.S.I. 2011/386 Sch. Pt. 2
- Sch. 1 Form 73C inserted by S.S.I. 2011/386 Sch. Pt. 2
- Sch. 1 Form 32A inserted by S.S.I. 2013/172 para. 4(8)Sch.
- Sch. 1 Form 65A-65E inserted by S.S.I. 2013/172 para. 4(38)Sch.
- Sch. 1 Form 73D inserted by S.S.I. 2014/201 rule 4(6)Sch.
- Sch. 1 Form 73E inserted by S.S.I. 2014/201 rule 4(6)Sch.
- Sch. 1 Form 73F inserted by S.S.I. 2014/201 rule 4(6)Sch.
- Sch. 1 Form 64C64D inserted by S.S.I. 2015/424 para. 3(10)(a)
- Sch. 1 Form 75-80 inserted by Pt. 11 (as inserted) by S.S.I. 2005/190 Sch.
- Sch. 1 para. i omitted by S.S.I. 2006/411 para. 2(8)(a)(ii)
- Sch. 1 Form 69 omitted by S.S.I. 2011/386 para. 9(9)(a)
- Sch. 1 Form 30 revoked by S.S.I. 2013/172 para. 4(44)(a)
- Sch. 1 Form 38 revoked by S.S.I. 2013/172 para. 4(44)(b)
- Sch. 1 Form 59 revoked by S.S.I. 2013/172 para. 4(44)(c)
- Sch. 1 para. h substituted by S.S.I. 2006/411 para. 2(8)(a)(i)
- Sch. 1 Form 22-25 substituted by S.S.I. 2010/137 para. 2(3)Sch.
- Sch. 1 Form 60 substituted by S.S.I. 2013/172 para. 4(35)(a)Sch.
- Sch. 1 Form 61 substituted by S.S.I. 2013/172 para. 4(35)(b)Sch.
- Sch. 1 Form 62 substituted by S.S.I. 2013/172 para. 4(35)(c)Sch.
- Sch. 1 Form 80 title substituted by S.S.I. 2013/172 para. 4(43)
- Sch. 1 Form 44A44B substituted for Form 44 by S.S.I. 2013/172 para. 4(20)Sch.

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Sch. 1 Form 3131A31B substituted for Sch. 1 Form 31 by S.S.I. 2013/172 para.
     4(6)Sch.
     Sch. 1 Form 6363A substituted for Sch. 1 Form 63 by S.S.I. 2013/172 para. 4(35)
     (d)Sch.
     Sch. 1 Form 6464A64B substituted for Sch. 1 Form 64 by S.S.I. 2013/172 para.
     4(36)Sch.
     Sch. 1 Form 26 text amended by S.S.I. 2013/172 para. 4(2)
     Sch. 1 Form 27 text amended by S.S.I. 2013/172 para. 4(3)
     Sch. 1 Form 28 text amended by S.S.I. 2013/172 para. 4(4)
     Sch. 1 Form 29 text amended by S.S.I. 2013/172 para. 4(5)
     Sch. 1 Form 32 text amended by S.S.I. 2013/172 para. 4(7)
     Sch. 1 Form 33 text amended by S.S.I. 2013/172 para. 4(9)
     Sch. 1 Form 34 text amended by S.S.I. 2013/172 para. 4(10)
     Sch. 1 Form 35 text amended by S.S.I. 2013/172 para. 4(11)
     Sch. 1 Form 39 text amended by S.S.I. 2013/172 para. 4(14)
     Sch. 1 Form 39A text amended by S.S.I. 2013/172 para. 4(15)Sch.
     Sch. 1 Form 40 text amended by S.S.I. 2013/172 para. 4(16)
     Sch. 1 Form 41 text amended by S.S.I. 2013/172 para. 4(17)
     Sch. 1 Form 43 text amended by S.S.I. 2013/172 para. 4(18)(b)-(e)
     Sch. 1 Form 42 text amended by S.S.I. 2013/172 para. 4(19)(b)-(e)
     Sch. 1 Form 45 text amended by S.S.I. 2013/172 para. 4(21)
     Sch. 1 Form 46 text amended by S.S.I. 2013/172 para. 4(22)
     Sch. 1 Form 47 text amended by S.S.I. 2013/172 para. 4(23)
     Sch. 1 Form 48 text amended by S.S.I. 2013/172 para. 4(24)
     Sch. 1 Form 49 text amended by S.S.I. 2013/172 para. 4(25)
     Sch. 1 Form 50 text amended by S.S.I. 2013/172 para. 4(26)
     Sch. 1 Form 51 text amended by S.S.I. 2013/172 para. 4(27)
     Sch. 1 Form 52 text amended by S.S.I. 2013/172 para. 4(28)
     Sch. 1 Form 53 text amended by S.S.I. 2013/172 para. 4(29)
     Sch. 1 Form 54 text amended by S.S.I. 2013/172 para. 4(30)
     Sch. 1 Form 55 text amended by S.S.I. 2013/172 para. 4(31)
     Sch. 1 Form 56 text amended by S.S.I. 2013/172 para. 4(32)
     Sch. 1 Form 57 text amended by S.S.I. 2013/172 para. 4(33)
     Sch. 1 Form 58 text amended by S.S.I. 2013/172 para. 4(34)
     Sch. 1 Form 65 text amended by S.S.I. 2013/172 para. 4(37)
     Sch. 1 Form 79 text amended by S.S.I. 2013/172 para. 4(42)(b)-(e)
     Sch. 1 Form 75 word substituted by S.S.I. 2015/283 para. 4(2)
     Sch. 1 Form 75 words inserted by S.S.I. 2015/424 para. 3(10)(b)
     Sch. 1 Form 76A words inserted by S.S.I. 2015/424 para. 3(10)(c)
     Sch. 1 Form 77 words inserted by S.S.I. 2015/424 para. 3(10)(d)
     Sch. 1 Form 22 words inserted by S.S.I. 2019/147 para. 3(7)(a)(i)
     Sch. 1 Form 22 words inserted by S.S.I. 2019/147 para. 3(7)(a)(ii)
     Sch. 1 Form 22 words inserted by S.S.I. 2019/147 para. 3(7)(a)(iii)
     Sch. 1 Form 22 words inserted by S.S.I. 2019/147 para. 3(7)(a)(iv)
     Sch. 1 Form 23 words inserted by S.S.I. 2019/147 para. 3(7)(b)(i)
     Sch. 1 Form 23 words inserted by S.S.I. 2019/147 para. 3(7)(b)(ii)
     Sch. 1 Form 24 words inserted by S.S.I. 2019/147 para. 3(7)(c)(i)
     Sch. 1 Form 24 words inserted by S.S.I. 2019/147 para. 3(7)(c)(ii)
     Sch. 1 Form 24 words inserted by S.S.I. 2019/147 para. 3(7)(c)(iii)
     Sch. 1 Form 24 words inserted by S.S.I. 2019/147 para. 3(7)(c)(iv)
     Sch. 1 Form 70 words omitted by S.S.I. 2011/386 para. 9(9)(b)(ii)
     Sch. 1 Form 70 words omitted by S.S.I. 2011/386 para. 9(9)(b)(iii)
     Sch. 1 Form 71 words omitted by S.S.I. 2011/386 para. 9(9)(c)(i)
     Sch. 1 Form 71 words omitted by S.S.I. 2011/386 para. 9(9)(c)(ii)
     Sch. 1 Form 71 words omitted by S.S.I. 2011/386 para. 9(9)(c)(iii)
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     Sch. 1 Form 72 words omitted by S.S.I. 2011/386 para. 9(9)(d)
     Sch. 1 Form 13 Heading words substituted by S.S.I. 2006/411 para. 2(8)(b)
     Sch. 1 Form 14 Heading words substituted by S.S.I. 2006/411 para. 2(8)(b)
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Sch. 1 Form 70 words substituted by S.S.I. 2011/386 para. 9(9)(b)(i) Sch. 1 Form 70 words substituted by S.S.I. 2011/386 para. 9(9)(b)(iv) Sch. 1 Form 71 words substituted by S.S.I. 2011/386 para. 9(9)(c)(iv) Sch. 1 Form 73 words substituted by S.S.I. 2011/386 para. 9(9)(e) Sch. 1 Form 22 words substituted by S.S.I. 2012/188 para. 13(2) Sch. 1 Form 56 words substituted by S.S.I. 2013/135 para. 5(2) Sch. 1 Form 36 words substituted by S.S.I. 2013/172 para. 4(12) Sch. 1 Form 37 words substituted by S.S.I. 2013/172 para. 4(13) Sch. 1 Form 75 words substituted by S.S.I. 2013/172 para. 4(39) Sch. 1 Form 76A words substituted by S.S.I. 2013/172 para. 4(40) Sch. 1 Form 77 words substituted by S.S.I. 2013/172 para. 4(41) Sch. 1 Form 79 words substituted by S.S.I. 2013/172 para. 4(42)(a) rule 3.69A-3.69C inserted by S.S.I. 2006/75 rule 2(3) rule 5.22A-5.22B inserted by S.S.I. 2009/29 para. 2(7) rule 5.17A inserted by S.S.I. 2009/29 para. 2(5) rule 3.05A inserted by S.S.I. 2013/172 para. 3(8) rule 3.46A inserted by S.S.I. 2013/172 para. 3(34) rule 3.61A inserted by S.S.I. 2013/172 para. 3(52) rule 3.81A inserted by S.S.I. 2013/172 para. 3(66) rule 3.61A omitted by S.S.I. 2015/419 para. 8(4)(c) rule 5.16A cross-heading words omitted by S.S.I. 2009/29 para. 2(3) rule 5.16A(1) words omitted by S.S.I. 2009/29 para. 2(4) rule 3.69B(1) words omitted by S.S.I. 2013/172 para. 3(63)(b) rule 1.5 inserted by S.S.I. 2007/468 rule 2(2) rule 1.02 words substituted by S.S.I. 2013/172 para. 2(2) rule 1.6(3)(a) word substituted by S.S.I. 2015/419 para. 8(2)(a) rule 1.6(3)(b) words substituted by S.S.I. 2015/419 para. 8(2)(b) rule 2.60 substituted by S.S.I. 2015/419 para. 8(3) rule 2.52(1) words inserted by S.S.I. 2019/147 para. 3(5) rule 2.51(1)(c) words inserted by S.S.I. 2019/147 para. 3(4)(a)(i) rule 2.51(1)(d) words substituted by S.S.I. 2019/147 para. 3(4)(a)(ii) rule 2.26(1A) inserted by S.S.I. 2006/411 para. 2(6) rule 2.52(2)(a) words substituted by S.S.I. 2010/279 para. 7(4) rule 2.51(2)(d) words inserted by S.S.I. 2019/147 para. 3(4)(b) rule 2.21(2)(fa)-(fd) inserted by S.S.I. 2006/411 para. 2(3)(a)(ii) rule 2.21(3)(r)-(t) substituted for rule 2.21(3)(r) by S.S.I. 2006/411 para. 2(3)(c) rule 2.21(3A) inserted by S.S.I. 2006/411 para. 2(3)(d) rule 2.49(4) words inserted by S.S.I. 2019/147 para. 3(3) rule 2.51(5)(b) words inserted by S.S.I. 2019/147 para. 3(4)(c)rule 2.21(6) inserted by S.S.I. 2006/411 para. 2(3)(e) rule 3.02 substituted by S.S.I. 2013/172 para. 3(4) rule 3.05 heading substituted by S.S.I. 2013/172 para. 3(7)(d) rule 3.09 heading substituted by S.S.I. 2013/172 para. 3(12) rule 3.66 substituted by S.S.I. 2015/424 para. 3(8) rule 3.033.03A substituted for rule 3.3 by S.S.I. 2013/172 para. 3(5) rule 3.73 word inserted by S.S.I. 2006/75 rule 2(5) rule 3.74 word inserted by S.S.I. 2006/75 rule 2(5) rule 3.65 words inserted by S.S.I. 2006/75 rule 2(2) rule 3.65 words omitted by S.S.I. 2013/172 para. 3(58) rule 3.66 words omitted by S.S.I. 2015/419 para. 8(4)(d) rule 3.06 words substituted by S.S.I. 2013/172 para. 3(9)(a) rule 3.06 words substituted by S.S.I. 2013/172 para. 3(9)(b) rule 3.66 words substituted by S.S.I. 2013/172 para. 3(59) rule 3.75 heading words substituted by S.S.I. 2013/172 para. 3(60)(c) rule 3.76 heading words substituted by S.S.I. 2013/172 para. 3(61)(c) _ rule 3.32(b)(c) substituted for rule 3.32(b) by S.S.I. 2013/172 para. 3(25) rule 3.08(f) inserted by S.S.I. 2013/172 para. 3(10)(b) rule 3.47(A1) inserted by S.S.I. 2013/172 para. 3(35)(a)

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rule 3.59(A1) inserted by S.S.I. 2013/172 para. 3(50)(a)
      rule 3.57(1) rule 3.57 renumbered as rule 3.57(1) by S.S.I. 2013/172 para. 3(46)(b)
     rule 3.45(1)-(1C) substituted for rule 3.45(1) by S.S.I. 2013/172 para. 3(32)(a)
      rule 3.53(1)-(1B) substituted for rule 3.53(1) by S.S.I. 2013/172 para. 3(42)(a)
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      rule 3.55(1)(1A) substituted for rule 3.55(1) by S.S.I. 2013/172 para. 3(44)
      rule 3.75(1) word inserted by S.S.I. 2006/75 rule 2(5)
      rule 3.01(1) words inserted by S.S.I. 2013/172 para. 3(3)(a)(i)
      rule 3.01(1) words omitted by S.S.I. 2013/172 para. 3(3)(a)(ii)
      rule 3.68(1) words omitted by S.S.I. 2013/172 para. 3(63)(a)
      rule 3.71(1) words omitted by S.S.I. 2013/172 para. 3(63)(c)
      rule 3.78(1) words omitted by S.S.I. 2013/172 para. 3(63)(d)
      rule 3.05(1) words substituted by S.S.I. 2013/172 para. 3(7)(a)(i)
      rule 3.07(1) words substituted by S.S.I. 2013/172 para. 3(10)(a)
      rule 3.75(1) words substituted by S.S.I. 2013/172 para. 3(60)(a)
      rule 3.76(1) words substituted by S.S.I. 2013/172 para. 3(61)(a)
      rule 3.78(1) words substituted by S.S.I. 2013/172 para. 3(64)
      rule 3.79(1)(a) substituted by S.S.I. 2013/172 para. 3(65)(a)
      rule 3.05(1)(b) substituted by S.S.I. 2013/172 para. 3(7)(a)(ii)
      rule 3.04(1)(b) word substituted by S.S.I. 2013/172 para. 3(6)(a)
      rule 3.04(1)(e) omitted by S.S.I. 2013/172 para. 3(6)(b)
      rule 3.54(1)(f) inserted by S.S.I. 2013/172 para. 3(43)(a)(iv)
      rule 3.12(1)(f)(g) substituted for rule 3.12(1)(f) by S.S.I. 2013/172 para. 3(15)(a)(ii)
      rule 3.04(1)(f)-(h) substituted for rule 3.4(1)(f) by S.S.I. 2013/172 para. 3(6)(c)
      rule 3.57(2) inserted by S.S.I. 2013/172 para. 3(46)(c)
      rule 3.07(2) substituted by S.S.I. 2013/172 para. 3(10)(b)
      rule 3.01(2)-(4) substituted for rule 3.1(2) by S.S.I. 2013/172 para. 3(3)(b)
      rule 3.72(2) word substituted by S.S.I. 2006/75 rule 2(4)
      rule 3.75(2) words substituted by S.S.I. 2013/172 para. 3(60)(b)
      rule 3.76(2) words substituted by S.S.I. 2013/172 para. 3(61)(b)
      rule 3.59(2)(a)-(e) substituted for rule 3.59(2)(a)-(c) by S.S.I. 2013/172 para. 3(50)
      (c)(ii)
      rule 3.05(2)(c) word omitted by S.S.I. 2013/172 para. 3(7)(b)(ii)
      rule 3.05(2)(c) words omitted by S.S.I. 2013/172 para. 3(7)(b)(i)
      rule 3.51(2)(e) and word inserted by S.S.I. 2013/172 para. 3(39)(b)
      rule 3.13(2)(aa) inserted by S.S.I. 2015/424 para. 3(6)
      rule 3.05(2)(ca) inserted by S.S.I. 2013/172 para. 3(7)(c)
      rule 3.45(3)-(9) inserted by S.S.I. 2013/172 para. 3(32)(c)
      rule 3.2(3) inserted by S.S.I. 2015/424 para. 3(3)
      rule 3.63(3)(4) substituted for rule 3.63(3) by S.S.I. 2013/172 para. 3(55)(c)
      rule 3.1(3) words substituted by S.S.I. 2015/424 para. 3(2)(c)
      rule 3.53(4)-(6) inserted by S.S.I. 2013/172 para. 3(42)(c)
      rule 3.47(4)(4A) substituted for rule 3.47(4) by S.S.I. 2013/172 para. 3(35)(e)
      rule 3.58(5) inserted by S.S.I. 2013/172 para. 3(47)(d)
      rule 3.3A(1) substituted by S.S.I. 2015/424 para. 3(4)
      rule 5.2(6)(7) inserted by S.S.I. 2011/386 para. 9(3)
      rule 5.2(8) inserted by S.S.I. 2014/201 rule 4(3)
      Form 65A words substituted by S.S.I. 2014/201 rule 5(3)
      Form 77para. 6 substituted by S.S.I. 2006/75 rule 2(6)(b)(ii)
      Form 77para. 3 word substituted by S.S.I. 2006/75 rule 2(6)(b)(i)
      Form 78 word substituted by S.S.I. 2006/75 rule 2(6)(c)
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