
S T A T U T O R Y I N S T R U M E N T S

2000 No. 2267 (L.19)

**FAMILY PROCEEDINGS (ENGLAND AND WALES)
SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Family Proceedings (Amendment) Rules 2000

Made - - - - - 17th August 2000

Laid before Parliament 24th August 2000

*Coming into force in
accordance with rule 1(2)*

We, the authority having the power under section 40(1) of the Matrimonial and Family Proceedings Act 1984(a) 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 section 40 make the following rules:

Citation and commencement

1.—(1) These rules may be cited as the Family Proceedings (Amendment) Rules 2000.

(2) Rules 3, 4 and 10 and this rule shall come into force on 2nd October 2000, and the remainder of these Rules shall come into force on 1st December 2000.

Transitional provisions

2.—(1) Subject to paragraphs (2) and (3), the Family Proceedings Rules 1991(b), as amended by these rules, shall apply to all proceedings for divorce, nullity of marriage or judicial separation, whether commenced before, on or after 1st December 2000.

(2) This paragraph applies where before 1st December 2000—

(a) an application for ancillary relief has been made, or notice of intention to proceed with the application has been given, in Form A; and

(b) that application or notice specified that the relief sought includes provision to be made under section 25B or 25C of the Matrimonial Causes Act 1973(c), or a request for such provision has been added to the application.

(3) Where paragraph (2) applies:—

(a) the Family Proceedings Rules 1991 shall have effect as if rules 4(a), 5 to 9 and 11 of these Rules had not come into force; but

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

(b) S.I. 1991/1247; the relevant amending instruments are S.I. 1996/1674, 1996/1778, 1997/637, 1997/1056 and 1999/1012 and 3491.

(c) 1973 c. 18: section 24B was inserted by paragraph 4 of Schedule 3 to the Welfare Reform and Pensions Act 1999 (c. 30), and sections 25B and 25C were inserted by section 166(1) of the Pensions Act 1995 (c. 26) and amended by Schedule 4 to the Welfare Reform and Pensions Act 1999.

- (b) in rule 2.70(5) and (6), any reference to an affidavit in support of an application shall be construed as referring to paragraph 2.16 of the statement in Form E, and any reference to an affidavit in reply shall be construed as meaning a statement in reply.

Interpretation

3. A reference to a rule by number alone refers to the rule so numbered in the Family Proceedings Rules 1991, and a reference to a Form by letter refers to the Form identified by that letter in Appendix 1A to those Rules.

Amendments to the Family Proceedings Rules 1991

4. In the Arrangement of Rules, after the entry for rule 10.25 there shall be inserted:—
“10.26 Human Rights Act 1998”.
- 5.—(1) In rule 1.2(1), in the definition of “ancillary relief”:—
(a) in sub-paragraph (d), the word “or” shall be omitted; and
(b) after sub-paragraph (e) there shall be inserted:—
“,or
“(f) a pension sharing order;”.
- (2) In rule 2.53(1), after sub-paragraph (c) there shall be inserted:—
“(d) a pension sharing order”.
6. In paragraph (1)(dd) of rule 2.61:—
(a) for the words from “imposes” to “section” there shall be substituted “includes provision to be made under section 24B,”;
(b) for “those trustees or managers have been served with notice of the application” there shall be substituted “the person responsible for the pension arrangement in question has been served with the documents required by rule 2.70(11)”;
(c) for “them” there shall be substituted “that person”.
7. In paragraph (3) of rule 2.61A, before “25B” there shall be inserted “24B,”.
8. In rule 2.61B:—
(a) in paragraph (3)(a), the word “and” shall be omitted;
(b) after paragraph (3)(b), there shall be inserted:—
“;and
(c) any documents furnished to the party producing the form by a person responsible for a pension arrangement, either following a request under rule 2.70(2) or as part of a “relevant valuation” as defined in rule 2.70(4).”;
(c) paragraph (8) shall be omitted.
9. For rule 2.70 there shall be substituted the following:—

“Pensions

2.70—(1) This rule applies where an application for ancillary relief has been made, or notice of intention to proceed with the application has been given, in Form A, or an application has been made in Form B, and the applicant or respondent has or is likely to have any benefits under a pension arrangement.

(2) When the court fixes a first appointment as required by rule 2.61A(4)(a), the party with pension rights shall, within seven days after receiving notification of the date of that appointment, request the person responsible for each pension arrangement under which he has or is likely to have benefits to furnish the information referred to in regulation 2(2) and (3)(b) to (f) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000(a).

(3) Within seven days of receiving information under paragraph (2) the party with pension rights shall send a copy of it to the other party, together with the name and address of the person responsible for each pension arrangement.

(a) S.I. 2000/1048.

(4) A request under paragraph (2) above need not be made where the party with pension rights is in possession of, or has requested, a relevant valuation of the pension rights or benefits accrued under the pension arrangement in question.

(5) In this rule, a relevant valuation means a valuation of pension rights or benefits as at a date not more than twelve months earlier than the date fixed for the first appointment which has been furnished or requested pursuant to any of the following provisions:—

- (a) the Pensions on Divorce etc. (Provision of Information) Regulations 2000;
- (b) regulation 5 of and Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(a) and regulation 11 of and Schedule 1 to the Occupational Pension Schemes (Transfer Value) Regulations 1996(b);
- (c) section 93A or 94(1)(a) or (aa) of the Pension Schemes Act 1993(c);
- (d) section 94(1)(b) of the Pension Schemes Act 1993 or paragraph 2(a) (or, where applicable, 2(b)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987(d).

(6) Upon making or giving notice of intention to proceed with an application for ancillary relief including provision to be made under section 24B (pension sharing) of the Act of 1973, or upon adding a request for such provision to an existing application for ancillary relief, the applicant shall send to the person responsible for the pension arrangement concerned a copy of Form A.

(7) Upon making or giving notice of intention to proceed with an application for ancillary relief including provision to be made under section 25B or 25C (pension attachment) of the Act of 1973, or upon adding a request for such provision to an existing application for ancillary relief, the applicant shall send to the person responsible for the pension arrangement concerned—

- (a) a copy of Form A;
- (b) an address to which any notice which the person responsible is required to serve on the applicant under the Divorce etc. (Pensions) Regulations 2000(e) is to be sent;
- (c) an address to which any payment which the person responsible is required to make to the applicant is to be sent; and
- (d) where the address in sub-paragraph (c) is that of a bank, a building society or the Department of National Savings, sufficient details to enable payment to be made into the account of the applicant.

(8) A person responsible for a pension arrangement on whom a copy of a notice under paragraph (7) is served may, within 21 days after service, require the applicant to provide him with a copy of section 2.16 of the statement in Form E supporting his application; and the applicant must then provide that person with the copy of that section of the statement within the time limited for filing it by rule 2.61B(2), or 21 days after being required to do so, whichever is the later.

(9) A person responsible for a pension arrangement who receives a copy of section 2.16 of Form E as required pursuant to paragraph (8) may within 21 days after receipt send to the court, the applicant and the respondent a statement in answer.

(10) A person responsible for a pension arrangement who files a statement in answer pursuant to paragraph (9) shall be entitled to be represented at the first appointment, and the court must within 4 days of the date of filing of the statement in answer give the person notice of the date of the first appointment.

(11) Where the parties have agreed on the terms of an order including provision under section 25B or 25C (pension attachment) of the Act of 1973, then unless service has already been effected under paragraph (7), they shall serve on the person responsible for the pension arrangement concerned—

- (a) the notice of application for a consent order under rule 2.61(1);

(a) S.I. 1996/1655, as amended by S.I. 1997/786 and 3038.

(b) S.I. 1996/1847.

(c) 1993 c. 48; section 93A was inserted by section 153 of the Pensions Act 1995 (c. 26).

(d) S.I. 1987/1110.

(e) S.I. 2000/1123.

- (b) a draft of the proposed order under rule 2.61(1), complying with paragraph (13) below; and
 - (c) the particulars set out in sub-paragraphs (b), (c) and (d) of paragraph (7) above.
- (12) No consent order under paragraph (11) shall be made unless either—
- (a) the person responsible has not made any objection within 21 days after the service on him of such notice; or
 - (b) the court has considered any such objection

and for the purpose of considering any objection the court may make such direction as it sees fit for the person responsible to attend before it or to furnish written details of his objection.

(13) An order for ancillary relief, whether by consent or not, including provision under section 24B (pension sharing), 25B or 25C (pension attachment) of the Act of 1973, shall—

- (a) in the body of the order, state that there is to be provision by way of pension sharing or pension attachment in accordance with the annex or annexes to the order; and
- (b) be accompanied by an annex containing the information set out in paragraph (14) or paragraph (15) as the case may require; and if provision is made in relation to more than one pension arrangement there shall be one annex for each pension arrangement.

(14) Where provision is made under section 24B (pension sharing) of the Act of 1973, the annex shall state—

- (a) the name of the court making the order, together with the case number and the title of the proceedings;
- (b) that it is a pension sharing order made under Part IV of the Welfare Reform and Pensions Act 1999;
- (c) the names of the transferor and the transferee;
- (d) the national insurance number of the transferor;
- (e) sufficient details to identify the pension arrangement concerned and the transferor's rights or benefits from it (for example a policy reference number);
- (f) the specified percentage, or where appropriate the specified amount, required in order to calculate the appropriate amount for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (creation of pension debits and credits);
- (g) how the pension sharing charges are to be apportioned between the parties or alternatively that they are to be paid in full by the transferor;
- (h) that the person responsible for the pension arrangement has furnished the information required by regulation 4 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 and that it appears from that information that there is power to make an order including provision under section 24B (pension sharing) of the Act of 1973;
- (i) the day on which the order or provision takes effect; and
- (j) that the person responsible for the pension arrangement concerned must discharge his liability in respect of the pension credit within a period of 4 months beginning with the day on which the order or provision takes effect or, if later, with the first day on which the person responsible for the pension arrangement concerned is in receipt of—
 - (i) the order for ancillary relief, including the annex;
 - (ii) the decree of divorce or nullity of marriage; and
 - (iii) the information prescribed by regulation 5 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000;

provided that if the court knows that the implementation period is different from that stated in sub-paragraph (j) by reason of regulations under section 34(4) or 41(2)(a) of the Welfare Reform and Pensions Act 1999, the annex shall contain details of the implementation period as determined by those regulations instead of the statement in sub-paragraph (j).

(15) Where provision is made under section 25B or 25C (pension attachment) of the Act of 1973, the annex shall state—

- (a) the name of the court making the order, together with the case number and the title of the proceedings;
 - (b) that it is an order making provision under section 25B or 25C, as the case may be, of the Act of 1973;
 - (c) the names of the party with pension rights and the other party;
 - (d) the national insurance number of the party with pension rights;
 - (e) sufficient details to identify the pension arrangement concerned and the rights or benefits from it to which the party with pension rights is or may become entitled (for example a policy reference number);
 - (f) in the case of an order including provision under section 25B(4) of the Act of 1973, what percentage of any payment due to the party with pension rights is to be paid for the benefit of the other party;
 - (g) in the case of an order including any other provision under section 25B or 25C of the Act of 1973, what the person responsible for the pension arrangement is required to do;
 - (h) the address to which any notice which the person responsible for the pension arrangement is required to serve on the other party under the Divorce etc. (Pensions) Regulations 2000 is to be sent, if not notified under paragraph (7)(b);
 - (i) an address to which any payment which the person responsible for the pension arrangement is required to make to the other party is to be sent, if not notified under paragraph (7)(c);
 - (j) where the address in sub-paragraph (i) is that of a bank, a building society or the Department of National Savings, sufficient details to enable payment to be made into the account of the other party, if not notified under paragraph (7)(d); and
 - (k) where the order is made by consent, that no objection has been made by the person responsible for the pension arrangement, or that an objection has been received and considered by the court, as the case may be.
- (16) A court which makes, varies or discharges an order including provision under section 24B (pension sharing), 25B or 25C (pension attachment) of the Act of 1973, shall send to the person responsible for the pension arrangement concerned—
- (a) a copy of the decree of divorce, nullity of marriage or judicial separation;
 - (b) in the case of divorce or nullity of marriage, a copy of the certificate under rule 2.51 that the decree has been made absolute; and
 - (c) a copy of that order, or as the case may be of the order varying or discharging that order, including any annex to that order relating to that pension arrangement but no other annex to that order.
- (17) The documents referred to in paragraph (16) shall be sent within 7 days after the making of the relevant order, or within 7 days after the decree absolute of divorce or nullity or decree of judicial separation, whichever is the later.
- (18) In this rule—
- (a) all words and phrases defined in sections 25D(3) and (4) of the Act of 1973 have the meanings assigned by those subsections;
 - (b) all words and phrases defined in section 46 of the Welfare Reform and Pensions Act 1999 have the meanings assigned by that section.”.

10. After rule 10.25 there shall be inserted the following:—

“Human Rights Act 1998

10.26—(1) In this rule:—

“originating document” means a petition, application, originating application, originating summons or other originating process;

“answer” means an answer or other document filed or served by a party in reply to an originating document (but not an acknowledgement of service);

“Convention right” has the same meaning as in the Human Rights Act 1998(a);

“declaration of incompatibility” means a declaration of incompatibility under section 4 of the Human Rights Act 1998.

(a) 1998 c. 42.

(2) A party who seeks to rely on any provision of or right arising under the Human Rights Act 1998 or seeks a remedy available under that Act—

- (a) shall state that fact in his originating document or (as the case may be) answer; and
- (b) shall in his originating document or (as the case may be) answer:—
 - (i) give precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
 - (ii) specify the relief sought;
 - (iii) state if the relief sought includes a declaration of incompatibility.

(3) A party who seeks to amend his originating document or (as the case may be) answer to include the matters referred to in paragraph (2) shall, unless the court orders otherwise, do so as soon as possible and in any event not less than 28 days before the hearing.

(4) The court shall not make a declaration of incompatibility unless 21 days' notice, or such other period of notice as the court directs, has been given to the Crown.

(5) Where notice has been given to the Crown a Minister, or other person permitted by the Human Rights Act 1998, shall be joined as a party on giving notice to the court.

(6) Where a party has included in his originating document or (as the case may be) answer:

- (a) a claim for a declaration of incompatibility, or
- (b) an issue for the court to decide which may lead to the court considering making a declaration of incompatibility,

then the court may at any time consider whether notice should be given to the Crown as required by the Human Rights Act 1998 and give directions for the content and service of the notice.

(7) In the case of an appeal for which permission to appeal is required, the court shall, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (6) when deciding whether to give such permission.

(8) If paragraph (7) does not apply, and a hearing for directions would, but for this rule, be held, the court shall, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (6) at the hearing for directions.

(9) If neither paragraph (7) nor paragraph (8) applies, the court shall consider the issues and give the directions referred to in paragraph (6) when it considers it appropriate to do so, and may fix a hearing for this purpose.

(10) Where a party amends his originating document or (as the case may be) answer to include any matter referred to in paragraph (6)(a), then the court will consider whether notice should be given to the Crown and give directions for the content and service of the notice.

(11) In paragraphs (12) to (16), “notice” means the notice given under paragraph (4).

(12) The notice shall be served on the person named in the list published under section 17 of the Crown Proceedings Act 1947.

(13) The notice shall be in the form directed by the court.

(14) Unless the court orders otherwise, the notice shall be accompanied by the directions given by the court and the originating document and any answers in the proceedings.

(15) Copies of the notice shall be served on all the parties.

(16) The court may require the parties to assist in the preparation of the notice.

(17) Unless the court orders otherwise, the Minister or other person permitted by the Human Rights Act 1998 to be joined as a party shall, if he wishes to be joined, give notice of his intention to be joined as a party to the court and every other party, and where the Minister has nominated a person to be joined as a party the notice must be accompanied by the written nomination.

(18) Where a claim is made under section 9(3) of the Human Rights Act 1998 in respect of a judicial act the procedure in paragraphs (6) to (17) shall also apply, but the notice to be given to the Crown:

- (a) shall be given to the Lord Chancellor and shall be served on the Treasury Solicitor on his behalf; and
- (b) shall also give details of the judicial act which is the subject of the claim and of the court that made it.

(19) Where in any appeal a claim is made in respect of a judicial act to which sections 9(3) and (4) of that Act applies—

- (a) that claim must be set out in the notice of appeal; and
- (b) notice must be given to the Crown in accordance with paragraph (18).

(20) The appellant must in a notice of appeal to which paragraph (19)(a) applies—

- (a) state that a claim is being made under section 9(3) of the Human Rights Act 1998; and
- (b) give details of—
 - (i) the Convention right which it is alleged has been infringed;
 - (ii) the infringement;
 - (iii) the judicial act complained of; and
 - (iv) the court which made it.

(21) Where paragraph (19) applies and the appropriate person (as defined in section 9(5) of the Human Rights Act 1998) has not applied within 21 days, or such other period as the court directs, after the notice is served to be joined as a party, the court may join the appropriate person as a party.

(22) On any application or appeal concerning—

- (a) a committal order;
- (b) a refusal to grant habeas corpus; or
- (c) a secure accommodation order made under section 25 of the Act of 1989,

if the court ordering the release of the person concludes that his Convention rights have been infringed by the making of the order to which the application or appeal relates, the judgment or order should so state, but if the court does not do so, that failure will not prevent another court from deciding the matter.”.

11.—(1) For Form A there shall be substituted the form contained in Schedule 1 to these Rules.

(2) In Form E:—

- (a) on the first page, after the words “before an Officer of the Court” there shall be inserted “, a solicitor”;
- (b) in paragraph 2.16, beneath the box with the words “Name and address of scheme, plan or policy” there shall be inserted a box with the words “Your national insurance number”.

12. For Forms H and I there shall be substituted the forms contained in Schedule 2 to these Rules.

*Irvine of Lairg, C.
Elizabeth Butler-Sloss, P.
Joyanne Bracewell
Donald Hamilton
A. N. Fricker
Rachel A. Evans
Jennifer M. Roberts
I. M. Robertson
David Hodson*

Dated 17th August 2000

SCHEDULE 1

Notice of [intention to proceed with] an Application for Ancillary Relief

Respondents (Solicitor(s))
name and address

Postcode

In the *[County Court] *[Principal Registry of the Family Division]	
Case No. <i>Always quote this</i>	
Applicant's Solicitor's reference	
Respondent's Solicitor's reference	

(*delete as appropriate)

The marriage of _____ and _____

Take Notice that

the Applicant intends; ***to apply** to the Court for

***to proceed** with the application in the [petition][answer] for

*delete as appropriate

***to apply to vary:**

- | | |
|--|---|
| <input type="checkbox"/> an order for maintenance pending suit
<input type="checkbox"/> a secured provision order
<input type="checkbox"/> a property adjustment order <i>(please provide address)</i> | <input type="checkbox"/> a periodical payments order
<input type="checkbox"/> a lump sum order
<input type="checkbox"/> an order under Section 24B, 25B or 25C of the Act of 1973 |
|--|---|

If an application is made for any periodical payments or secured periodical payments for children:

- and there is a written agreement made before 5 April 1993 about maintenance for the benefit of children, **tick this box**
- and there is a written agreement made on or after 5 April 1993 about maintenance for the benefit of children, **tick this box**
- but there is no agreement, tick any of the boxes below to show if you are applying for payment:
 - for a stepchild or stepchildren
 - in addition to child support maintenance already paid under a Child Support Agency assessment
 - to meet expenses arising from a child's disability
 - to meet expenses incurred by a child in being educated or training for work
 - when either the child **or** the person with care of the child **or** the absent parent of the child is not habitually resident in the United Kingdom
 - Other *(please state)*

Signed: _____
[Applicant/Solicitor for the Applicant]

Dated: _____

The court office at

is open between 10 am and 4 pm (4.30pm at the Principal Registry of the Family Division) Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the case number. If you do not do so, your correspondence may be returned.

Form A Notice of [Intention to proceed with] an Application for Ancillary Relief (12.00)

Printed on behalf of The Court Service

SCHEDULE 2

Ancillary Relief
Costs Estimate of
***[Applicant]**
***[Respondent]**

In the	
*[County Court]	
*[Principal Registry of the Family Division]	
Case No. <i>Always quote this</i>	
Applicant's Solicitor's reference	
Respondent's Solicitor's reference	

(*delete as appropriate)

PART 1 **The marriage of** **and**

	Prescribed rates for publicly funded services £	Indemnity Rate £
1. Ancillary relief solicitor's costs (<i>including VAT</i>) including costs of the current hearing, and any previous solicitor's costs.		
2. Disbursements (<i>include VAT, if appropriate, and any incurred by previous solicitors</i>)		
3. All Counsel's fees (<i>including VAT</i>)		
TOTAL		

PART 2

4. Add any private client costs previously incurred (<i>In publicly funded cases only</i>)		
5. GRAND TOTAL		

PART 3

6. State what has been paid towards the total at 5 above		
7. Amount of any contributions paid by the funded client towards their publicly funded services		

NB. If you are publicly funded and might be seeking an order for costs against the other party complete both rates.

Dated

The court office at

is open between 10 am and 4 pm (4.30pm at the Principal Registry of the Family Division) Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the case number. If you do not do so, your correspondence may be returned.

Form H Costs Estimate (12.00)

Printed on behalf of The Court Service

Notice of Request for Periodical Payments Order at same rate as Order for Maintenance Pending Suit

In the	
*[County Court]	
*[Principal Registry of the Family Division]	
Case No. <i>Always quote this</i>	
Applicant's Solicitor's reference	
Respondent's Solicitor's reference	

(*delete as appropriate)

The marriage of

and

Take Notice that

On 1999 [20] the Applicant obtained an Order for you to pay maintenance pending suit at the rate of £ .

The Applicant having applied in his/her petition (answer) for a Periodical Payments Order for himself/ herself has requested the Court to make such an Order at the same rate as above.

What to do if you object to this Order being made.

If you object to the making of such a Periodical Payments Order, you must notify the District Judge and the Applicant/Respondent of your objections within 14 days of this notice being served on you. If you do not do so, the District Judge may make an Order without notifying you further.

The court office at

is open between 10 am and 4 pm (4.30pm at the Principal Registry of the Family Division) Monday to Friday. When corresponding with the court, please address forms or letters to the Court Manager and quote the case number. If you do not do so, your correspondence may be returned.

Form 1 Notice of Request for Periodical Payments Order at same rate as Order for Maintenance Pending Suit (12.00) Printed on behalf of The Court Service

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules 1991 in two main respects.

Rule 10 inserts a new rule 10.26, providing a procedural code for cases concerning the Human Rights Act 1998.

Rule 9 substitutes a new rule 2.70, concerning applications for ancillary relief in cases where one or both parties have pension rights; the new rule provides a procedural code for applications for pension sharing and pension attachment orders. The remaining rules make other amendments concerned with ancillary relief and pensions.

Rule 10 comes into force on 2nd October 2000, to coincide with the commencement of the Human Rights Act 1998; the remainder of these Rules comes into force on 1st December 2000, to coincide with the introduction of pension sharing.

S T A T U T O R Y I N S T R U M E N T S

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SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES****The Family Proceedings (Amendment) Rules 2000**

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