

2005 No. 2804

FAMILY PROCEEDINGS, ENGLAND AND WALES

The Courts Act 2003 (Revocations, Savings and Transitional Provisions) Order 2005

<i>Made</i> - - - -	<i>10th October 2005</i>
<i>Laid before Parliament</i>	<i>12th October 2005</i>
<i>Coming into force</i> - -	<i>30th December 2005</i>

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 108(6) and 109(4) and (5) of the Courts Act 2003(a).

Citation, commencement and interpretation

1. This Order may be cited as the Courts Act 2003 (Revocations, Savings and Transitional Provisions) Order 2005 and shall come into force on 30th December 2005.

2.—(1) In this Order, “the appointed day” means 30th December 2005.

(2) A reference to a section by number alone means the section so numbered in the Adoption Act 1976(b).

Revocations

3. Subject to the following articles the instruments listed in column (1) of the Schedule to this Order (which have the references listed in column (2)) are revoked to the extent indicated in column (3) of that Schedule.

Savings

4. Notwithstanding their revocation, the following rules shall continue to apply—

- (a) rule 53(1) and (4) of the Adoption Rules 1984(c); and
- (b) rule 32(1), (3) and (6) of the Magistrates’ Courts (Adoption) Rules 1984(d).

(a) 2003 c.39, amended by section 15(1) of, and paragraphs 308, 348 and 349 of Schedule 4 to, the Constitutional Reform Act 2005 (c.4), from a date to be appointed.

(b) 1976 c.36, section 20 was amended by section 88 of, and Schedule 10, paragraph 8(1) and (2) to, the Children Act 1989 (c.41) and by section 139(2) of, and paragraph 7(2) of Schedule 4 to, the Adoption and Children Act 2002 (c.38). Sections 12, 18 and 55 were amended, and sections 21 and 29(1) and (2) were substituted, by section 88 of, and Schedule 10, paragraph 3, 6, 9, 15 and 22 to, the Children Act 1989. Section 53 was amended by sections 6(1) and (2), 15(2) and 17 of, and Schedule 3 to, the Adoption (Intercountry Aspects) Act 1999 (c.18). The whole Act is repealed by section 139(3) of, and Schedule 5 to, the Adoption and Children Act 2002 (c.38) from a date to be appointed.

(c) S.I. 1984/265, amended by S.I. 1991/1880, 1999/1477, 2001/819, 2003/183. These Rules are revoked by section 139(3) of, and Schedule 5 to, the Adoption and Children Act 2002 (c.38), with effect from 30 December 2005.

(d) S.I. 1984/611, amended by S.I. 1989/384, 1991/1991, 1992/709, 2001/820, 2001/615, 2005/617.

Transitional provisions

5. Notwithstanding their revocation, the Adoption Rules 1984 and the Magistrates' Courts (Adoption) Rules 1984 shall continue to apply to an application under—

- (a) section 12 (adoption order);
- (b) section 18 (freeing for adoption);
- (c) section 20 (revocation of a section 18 order);
- (d) section 21 (variation of a section 18 order so as to substitute one adoption agency for another);
- (e) section 27(1) or (2) (restriction on removal of child where adoption pending or application made under section 18);
- (f) section 29 (return of child taken away in breach of section 27);
- (g) section 53 (annulment etc. of overseas adoptions); and
- (h) section 55 (adoption of children abroad).

6. While section 19 has effect, rule 32(2) (requirement to record declaration that parent of a child prefers not to be involved in future questions concerning adoption of child in court register) of the Magistrates' Courts (Adoption) Rules 1984 shall continue to apply.

7.—(1) The Family Procedure (Adoption) Rules 2005(a) shall apply, so far as practicable, to—

- (a) any appeal in relation to proceedings under the Adoption Act 1976 where an appeal notice has been filed and the appeal has not been disposed of immediately before the appointed day; or
- (b) (i) any application in proceedings under the Adoption Act 1976 to which article 5 does not apply; or
- (ii) any application for enforcement of an order made in proceedings under that Act in the High Court or county court

which has been made and has not been disposed of immediately before the appointed day.

(2) Where, by reason of paragraph (1), the Family Procedure (Adoption) Rules 2005 do not apply to particular proceedings which have been made and have not been disposed of immediately before the appointed day, the rules in force immediately before that day shall continue to apply to those proceedings.

10th October 2005

Falconer of Thoroton, C.

(a) S.I. 2005/2795 (L. 22)

SCHEDULE

Article 3

(1) <i>Instruments revoked</i>	(2) <i>Reference</i>	(3) <i>Extent of revocation</i>
The Magistrates' Courts (Adoption) Rules 1984	S.I. 1984/611	The whole Rules.
The Magistrates' Courts (Family Law Reform Act 1987) (Miscellaneous Amendments) Rules 1989	S.I. 1989/384	Rules 2 and 3, in so far as they relate to the Magistrates' Courts (Adoption) Rules 1984, and paragraphs 21 to 27 of the Schedule.
The Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991	S.I. 1991/1991	Rule 26, in so far as it relates to the Magistrates' Courts (Adoption) Rules 1984, and paragraph 4 of Schedule 2.
The Transfer of Functions (Magistrates' Courts and Family Law) Order 1992	S.I. 1992/709	Article 3(2) and Schedule 2, in so far as they relate to the Magistrates' Courts (Adoption) Rules 1984.
The Magistrates' Courts (Adoption) (Amendment) Rules 2001	S.I. 2001/820	The whole Rules.
The Magistrates' Courts (Transfer of Justices' Clerks Functions) (Miscellaneous Amendments) Rules 2001	S.I. 2001/615	Rule 2(xi) and paragraphs 71 to 75 of the Schedule.
The Courts Act 2003 (Consequential Provisions) (No 2) Order 2005	S.I. 2005/617	Article 2, in so far as it relates to the Magistrates' Courts (Adoption) Rules 1984, and paragraphs 91 to 94 of the Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 3 of this Order revokes the Magistrates' Court (Adoption) Rules 1984 (S.I. 1984/611), and parts of other instruments to the extent that they have amended those Rules, with effect from 30th December 2005. The Adoption Rules 1984 (S.I. 1984/265) are revoked with effect from 30th December 2005 by virtue of the repeal of the Adoption Act 1976 by section 139(3) of, and Schedule 5 to, the Adoption and Children Act 2002 (c.38).

Articles 4 to 7 of this Order set out the circumstances in which the Magistrates' Courts (Adoption) Rules 1984 and the Adoption Rules 1984 will continue to apply, despite their revocation.

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