

2005 No. 585

FAMILY PROCEEDINGS

MAGISTRATES' COURTS, ENGLAND AND WALES

**The Family Proceedings Courts (Children Act 1989)
(Amendment No 3) Rules 2005**

<i>Made</i> - - - -	<i>9th March 2005</i>
<i>Laid before Parliament</i>	<i>10th March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Lord Chancellor, in exercise of the powers conferred upon him by section 144 of the Magistrates' Courts Act 1980(a), after consultation with the Rule Committee appointed under that section, hereby makes the following rules:

Citation, commencement and interpretation

1.—(1) These rules may be cited as the Family Proceedings Courts (Children Act 1989) (Amendment No3) Rules 2005 and shall come into force on 1st April 2005.

(2) In these rules a reference to a rule by number alone means the rule so numbered in the Family Proceedings Courts (Children Act 1989) Rules 1991 (“the 1991 Rules”)(b).

Amendments to the 1991 Rules

2. The 1991 Rules shall be amended in accordance with the provisions of these rules.

3. In rule 1—

- (a) in the definition of “children and family reporter”, after “officer of the service” insert “or a Welsh family proceedings officer”;
- (b) in the definition of “children’s guardian” in sub-paragraph (a), after “officer of the service” insert “or a Welsh family proceedings officer”; and
- (c) after the definition of “welfare officer” insert—
““Welsh family proceedings officer” has the same meaning as in the Children Act 2004(c).”.

4. In rule 11—

- (a) in the heading after “officers of the service” insert “and Welsh family proceedings officers”;

(a) 1980 c.43.

(b) S.I. 1991/1395, amended by S.I. 2001/818.

(c) 2004 c.31.

- (b) in paragraphs (1) to (4), after “the officer of the service”, wherever it appears, insert “or the Welsh family proceedings officer”; and
- (c) in paragraph (1), for ““officer of the service”” substitute ““officer of the service or Welsh family proceedings officer””.

5. In rule 11A(5), after “the officer of the service” insert “or the Welsh family proceedings officer”.

6. In rules 21A and 22A, after “an officer of the service”, wherever it appears, insert “or a Welsh family proceedings officer”.

7. In rule 23—

(a) For paragraph (3) substitute—

“(3) Nothing in this rule shall prevent the disclosure of a document prepared by an officer of the service or a Welsh family proceedings officer for the purpose of—

- (a) enabling a person to perform functions required under section 62(3A) of the Justices of the Peace Act 1997^(a);
 - (b) enabling a person to perform functions required under section 38(1) of the Children Act 2004; or
 - (c) assisting an officer of the service or a Welsh family proceedings officer who is appointed by the court under any enactment to perform his functions.”; and
- (b) In paragraph 4, for “an officer of the service to any other officer of the service” substitute “an officer of the service or a Welsh family proceedings officer to any other officer of the service or Welsh family proceedings officer”.

Transitional provisions

8.—(1) Where—

- (a) before the coming into force of these rules a person has been appointed by the court for a child ordinarily resident in Wales under section 41(1) of the Children Act 1989^(b);
- (b) the proceedings in which he was appointed are still continuing; and
- (c) that person has become a Welsh family proceedings officer,

then for the purposes of the 1991 Rules that person’s appointment shall continue notwithstanding that he is no longer an officer of the service.

9.—(1) Where—

- (a) before the coming into force of these rules a person had been asked to prepare a welfare report in accordance with section 7(1)(a) of the Children Act 1989;
- (b) in relation to a child ordinarily resident in Wales;
- (c) the proceedings in which the report was requested are still continuing; and
- (d) that person has become a Welsh family proceedings officer,

then for the purposes of the 1991 Rules the request shall continue to have effect notwithstanding that the person is no longer an officer of the service.

Falconer of Thoroton, C

9th March 2005

(a) 1997 c.25.
 (b) 1989 c.41

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Courts (Children Act 1989) Rules 1991 (“the 1991 Rules”) to provide that functions previously performed by an officer of the Children and Family Court Advisory and Support Service (“CAFCASS”) are to be performed, in relation to children ordinarily resident in Wales, by a Welsh family proceedings officer. The amendment follows the transfer of functions from CAFCASS to the National Assembly for Wales by section 35 of the Children Act 2004 for children ordinarily resident in Wales.

A Welsh family proceedings officer is defined in subsection (4) of that section as any member of the staff of the National Assembly for Wales (“the Assembly”) appointed to exercise the functions of a Welsh family proceedings officer, and any other individual exercising those functions by virtue of section 36(2) or (4) of that Act (which allow the Assembly to make arrangements with organisations and individuals to perform the functions of Welsh family proceedings officers).

STATUTORY INSTRUMENTS

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£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's
Stationery Office and Queen's Printer of Acts of Parliament.

E0429 3/2005 150429T 19585

ISBN 0-11-072463-1



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