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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 12**

**PROCEEDINGS RELATING TO CHILDREN EXCEPT PARENTAL  
ORDER PROCEEDINGS AND PROCEEDINGS FOR APPLICATIONS  
IN ADOPTION, PLACEMENT AND RELATED PROCEEDINGS**

**CHAPTER 3**

**SPECIAL PROVISIONS ABOUT PUBLIC LAW PROCEEDINGS**

**Application of rules 12.23 to 12.26**

**12.22.** Rules 12.23 to 12.26 apply to care and supervision proceedings and in so far as practicable other public law proceedings.

**Timetable for the Child**

**12.23.**—(1) The court will set the timetable for the proceedings in accordance with the Timetable for the Child.

(2) The “Timetable for the Child” means the timetable set by the court in accordance with its duties under section 1 and 32 of the 1989 Act<sup>M1</sup> and will—

- (a) take into account dates of the significant steps in the life of the child who is the subject of the proceedings; and
- (b) be appropriate for that child.

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**Marginal Citations**

**M1** [Section 1](#) was amended by section 115(2) and (3) of the Adoption and Children Act 2002.

**Directions**

**12.24.** The court will direct the parties to—

- (a) monitor compliance with the court's directions; and
- (b) tell the court or court officer about—
  - (i) any failure to comply with a direction of the court; and
  - (ii) any other delay in the proceedings.

### **First Appointment, Case Management Conference and Issues Resolution Hearing**

**12.25.**—(1) The court may set the date for the First Appointment, Case Management Conference and Issues Resolution Hearing at the times and in the circumstances referred to in Practice Direction 12A.

(2) The matters which the court will consider at the hearings referred to in paragraph (1) are set out in Practice Direction 12A.

### **Discussion between advocates**

**12.26.**—(1) When setting a date for a Case Management Conference or an Issues Resolution Hearing the court will direct a discussion between the parties' advocates to—

- (a) discuss the provisions of a draft of the Case Management Order; and
- (b) consider any other matter set out in Practice Direction 12A.

(2) Where there is a litigant in person the court will give directions about how that person may take part in the discussions between the parties' advocates.

(3) The court will direct that following a discussion between advocates they must prepare or amend a draft of the Case Management Order for the court to consider.

(4) Where it is not possible for the advocates to agree the terms of a draft of the Case Management Order, the advocates should specify on a draft of the Case Management Order or on a separate document if more practicable—

- (a) those provisions on which they agree; and
- (b) those provisions on which they disagree.

(5) Unless the court directs otherwise—

- (a) any discussion between advocates must take place no later than 2 days; and
- (b) a draft of the Case Management Order must be filed with the court no later than 1 day,

before the Case Management Conference or the Issues Resolution Hearing whichever may be appropriate.

(6) For the purposes of this rule “advocate” includes a litigant in person.

### **Matters prescribed for the purposes of the Act**

**12.27.**—(1) Proceedings for an order under any of the following provisions of the 1989 Act—

- (a) a secure accommodation order under section 25;
- (b) an order giving permission to change a child's surname or remove a child from the United Kingdom under section 33(7);
- (c) an order permitting the local authority to arrange for any child in its care to live outside England and Wales under paragraph 19(1) of Schedule 2;
- (d) the extension or further extension of a supervision order under paragraph 6(3) of Schedule 3;
- (e) appeals against the determination of proceedings of a kind set out in sub-paragraphs (a) to (d);

are specified for the purposes of section 41 of that Act in accordance with section 41(6)(i) of that Act.

(2) The persons listed as applicants in the table set out in rule 12.3 to proceedings for the variation of directions made with interim care or interim supervision orders under section 38(8) of the 1989 Act are the prescribed class of persons for the purposes of that section.

(3) The persons listed as applicants in the table set out in rule 12.3 to proceedings for the variation of a direction made under section 44(6) of the 1989 Act in an emergency protection order are the prescribed class of persons for the purposes of section 44(9) of that Act.

### **Exclusion requirements: interim care orders and emergency protection orders**

**12.28.**—(1) This rule applies where the court includes an exclusion requirement in an interim care order or an emergency protection order.

(2) The applicant for an interim care order or emergency protection order must—

- (a) prepare a separate statement of the evidence in support of the application for an exclusion requirement;
- (b) serve the statement personally on the relevant person with a copy of the order containing the exclusion requirement (and of any power of arrest which is attached to it);
- (c) inform the relevant person of that person's right to apply to vary or discharge the exclusion requirement.

(3) Where a power of arrest is attached to an exclusion requirement in an interim care order or an emergency protection order, the applicant will deliver—

- (a) a copy of the order; and
- (b) a statement showing that the relevant person has been served with the order or informed of its terms (whether by being present when the order was made or by telephone or otherwise),

to the officer for the time being in charge of the police station for the area in which the dwelling-house in which the child lives is situated (or such other police station as the court may specify).

(4) Rules 10.6(2) and 10.10 to 10.17 will apply, with the necessary modifications, for the service, variation, discharge and enforcement of any exclusion requirement to which a power of arrest is attached as they apply to an order made on an application under Part 4 of the 1996 Act.

(5) The relevant person must serve the parties to the proceedings with any application which that person makes for the variation or discharge of the exclusion requirement.

(6) Where an exclusion requirement ceases to have effect whether—

- (a) as a result of the removal of a child under section 38A(10) or 44A(10) of the 1989 Act<sup>M2</sup>;
- (b) because of the discharge of the interim care order or emergency protection order; or
- (c) otherwise,

the applicant must inform—

- (i) the relevant person;
- (ii) the parties to the proceedings;
- (iii) any officer to whom a copy of the order was delivered under paragraph (3); and
- (iv) (where necessary) the court.

(7) Where the court includes an exclusion requirement in an interim care order or an emergency protection order of its own motion, paragraph (2) will apply with the omission of any reference to the statement of the evidence.

(8) In this rule, “the relevant person” has the meaning assigned to it by sections 38A(2) and 44A(2) of the 1989 Act.

*Status: Point in time view as at 06/04/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Family Procedure Rules 2010, CHAPTER 3. (See end of Document for details)*

#### **Marginal Citations**

**M2** Sections 38A(10) and 44A(10) were inserted by section 52 of and paragraphs 1 and 3 of Schedule 6 to the Family Law Act 1996.

#### **Notification of consent**

**12.29.**—(1) Consent for the purposes of the following provisions of the 1989 Act—

- (a) section 16(3) <sup>M3</sup>;
- (b) section 38A(2)(b)(ii) or 44A(2)(b)(ii); or
- (c) paragraph 19(3)(c) or (d) of Schedule 2,

must be given either—

- (i) orally to the court; or
- (ii) in writing to the court signed by the person giving consent.

(2) Any written consent for the purposes of section 38A(2) or 44A(2) of the 1989 Act must include a statement that the person giving consent—

- (a) is able and willing to give to the child the care which it would be reasonable to expect a parent to give; and
- (b) understands that the giving of consent could lead to the exclusion of the relevant person from the dwelling-house in which the child lives.

#### **Marginal Citations**

**M3** Paragraph (a) was repealed by sections 6(1), (2), 15(2) of and Schedule 3 to the Children and Adoption Act 2006.

#### **Proceedings for secure accommodation orders: copies of reports**

**12.30.** In proceedings under section 25 of the 1989 Act, the court will, if practicable, arrange for copies of all written reports filed in the case to be made available before the hearing to—

- (a) the applicant;
- (b) the parent or guardian of the child to whom the application relates;
- (c) any legal representative of the child;
- (d) the children's guardian; and
- (e) the child, unless the court directs otherwise,

and copies of the reports may, if the court considers it desirable, be shown to any person who is entitled to notice of any hearing in accordance with Practice Direction 12C.

**Status:**

Point in time view as at 06/04/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the The Family Procedure Rules 2010, CHAPTER 3.