
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 2

APPLICATION AND INTERPRETATION OF THE RULES

Application of these Rules

- 2.1.**—(1) Unless the context otherwise requires, these rules apply to family proceedings in—
- (a) the High Court;
 - (b) a county court; and
 - (c) a magistrates' court.
- (2) Nothing in these rules is to be construed as—
- (a) purporting to apply to proceedings in a magistrates' court which are not family proceedings within the meaning of section 65 of the Magistrates' Courts Act 1980 ^{M1} or
 - (b) conferring upon a magistrate a function which a magistrate is not permitted by statute to perform.

Marginal Citations

M1 1980 c.43.

The glossary

2.2.—(1) The glossary at the end of these rules is a guide to the meaning of certain legal expressions used in the rules, but is not to be taken as giving those expressions any meaning in the rules which they do not have in the law generally.

(2) Subject to paragraph (3), words in these rules which are included in the glossary are followed by “GL”.

(3) The word “service”, which appears frequently in the rules, is included in the glossary but is not followed by “GL”.

Interpretation

2.3.—(1) In these rules—

[^{F1}“the 1958 Act” means the Maintenance Orders Act 1958;]

“the 1973 Act” means the Matrimonial Causes Act 1973 ^{M2};

“the 1978 Act” means the Domestic Proceedings and Magistrates' Courts Act 1978 ^{M3};

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“the 1980 Hague Convention” means the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25 October 1980;

“the 1984 Act” means the Matrimonial and Family Proceedings Act 1984 ^{M4};

“the 1986 Act” means the Family Law Act 1986 ^{M5};

“the 1989 Act” means the Children Act 1989;

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990 ^{M6};

“the 1991 Act” means the Child Support Act 1991 ^{M7};

“the 1996 Act” means the Family Law Act 1996 ^{M8};

“the 1996 Hague Convention” means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in Respect of Parental Responsibility and Measures for the Protection of Children;

“the 2002 Act” means the Adoption and Children Act 2002;

“the 2004 Act” means the Civil Partnership Act 2004;

“the 2005 Act” means the Mental Capacity Act 2005 ^{M9};

[^{F2}“the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23 November 2007;]

“the 2008 Act” means the Human Fertilisation and Embryology Act 2008 ^{M10};

“adoption proceedings” means proceedings for an adoption order under the 2002 Act;

“Allocation Order” means any order made by the Lord Chancellor under Part 1 of Schedule 11 to the 1989 Act;

“alternative dispute resolution” means methods of resolving a dispute, including mediation, other than through the normal court process;

“application form” means a document in which the applicant states his intention to seek a court order other than in accordance with the Part 18 procedure;

“application notice” means a document in which the applicant states his intention to seek a court order in accordance with the Part 18 procedure;

[^{F3}“Article 11 form” means a form published by the Permanent Bureau of the Hague Conference under Article 11(4) of the 2007 Hague Convention for use in relation to an application under Article 10 of that Convention, and includes a Financial Circumstances Form as defined in rule 9.3(1) which accompanies such an application;]

“Assembly” means the National Assembly for Wales;

“bank holiday” means a bank holiday under the Banking and Financial Dealings Act 1971 ^{M11} —

(a) for the purpose of service of a document within the United Kingdom, in the part of the United Kingdom where service is to take place; and

(b) for all other purposes, in England and Wales.

“business day” means any day other than—

(a) a Saturday, Sunday, Christmas Day or Good Friday; or

(b) a bank holiday;

“care order” has the meaning assigned to it by section 31(11) of the 1989 Act;

“CCR” means the County Court Rules 1981, as they appear in Schedule 2 to the CPR [^{F4}subject to paragraph (4)];

“child” means a person under the age of 18 years who is the subject of the proceedings; except that—

- (a) in adoption proceedings, it also includes a person who has attained the age of 18 years before the proceedings are concluded; and
- (b) in proceedings brought under the Council Regulation, the 1980 Hague Convention or the European Convention, it means a person under the age of 16 years who is the subject of the proceedings;

“child of the family” has the meaning given to it by section 105(1) of the 1989 Act;

“children and family reporter” means an officer of the Service or a Welsh family proceedings officer who has been asked to prepare a welfare report under section 7(1)(a) of the 1989 ^{M12} Act or section 102(3)(b) of the 2002 Act;

“children's guardian” means—

- (a) in relation to a child who is the subject of and a party to specified proceedings or proceedings to which Part 14 applies, the person appointed in accordance with rule 16.3(1); and
- (b) in any other case, the person appointed in accordance with rule 16.4;

“civil partnership order” means one of the orders mentioned in section 37 of the 2004 Act;

“civil partnership proceedings” means proceedings for a civil partnership order;

“civil partnership proceedings county court” means a county court so designated by the Lord Chancellor under section 36A of the 1984 Act ^{M13};

“civil restraint order” means an order restraining a party—

- (a) from making any further applications in current proceedings (a limited civil restraint order);
- (b) from making certain applications in specified courts (an extended civil restraint order); or
- (c) from making any application in specified courts (a general civil restraint order);

^{F5}
...

“consent order” means an order in the terms applied for to which the respondent agrees;

“contact order” has the meaning assigned to it by section 8(1) of the 1989 Act;

“the Council Regulation” means Council Regulation (EC) No 2201/2003 of 27 November 2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility;

“court” means, subject to any rule or other enactment which provides otherwise, the High Court, a county court or a magistrates' court;
(rule 2.5 relates to the power to perform functions of the court.)

“court of trial” means—

- (a) in proceedings under the 1973 Act, a divorce county court designated by the Lord Chancellor as a court of trial pursuant to section 33(1) of the 1984 Act ^{M14}; or
- (b) in proceedings under the 2004 Act, a civil partnership proceedings county court designated by the Lord Chancellor as a court of trial pursuant to section 36A(1)(b) of the 1984 Act; and

in proceedings under the 1973 Act pending in a divorce county court or proceedings under the 2004 Act pending in a civil partnership proceedings county court, the principal registry is treated as a court of trial having its place of sitting at the Royal Courts of Justice;

“court officer” means—

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- (a) in the High Court or in a county court, a member of court staff; and
- (b) in a magistrates' court, the designated officer; (“designated officer” is defined in section 37(1) of the Courts Act 2003.)

“CPR” means the Civil Procedure Rules 1998;

“deputy” has the meaning given in section 16(2)(b) of the 2005 Act;

“designated county court” means a court designated as—

- (a) a divorce county court;
- (b) a civil partnership proceedings county court; or
- (c) both a divorce county court and a civil partnership proceedings county court;

“detailed assessment proceedings” means the procedure by which the amount of costs is decided in accordance with Part 47 of the CPR;

“directions appointment” means a hearing for directions;

“district judge”—

- (a) in relation to proceedings in the High Court, includes a district judge of the principal registry and in relation to proceedings in a county court, includes a district judge of the principal registry when the principal registry is treated as if it were a county court;
- (b) in relation to proceedings in a district registry or a county court, means the district judge or one of the district judges of that registry or county court, as the case may be;

“district registry” means—

- (a) in proceedings under the 1973 Act, any district registry having a divorce county court within its district;
- (b) in proceedings under the 2004 Act, any district registry having a civil partnership proceedings county court within its district; and
- (c) in any other case, any district registry having a designated county court within its district;

“divorce county court” means a county court so designated by the Lord Chancellor pursuant to section 33(1) of the 1984 Act, including the principal registry when it is treated as a divorce county court;

“the European Convention” means the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on the Restoration of Custody of Children which was signed in Luxembourg on 20 May 1980;

“filing”, in relation to a document, means delivering it, by post or otherwise, to the court office;

“financial order” means—

- (a) an avoidance of disposition order;
- (b) an order for maintenance pending suit;
- (c) an order for maintenance pending outcome of proceedings;
- (d) an order for periodical payments or lump sum provision as mentioned in section 21(1) of the 1973 Act ^{M15}, except an order under section 27(6) of that Act ^{M16};
- (e) an order for periodical payments or lump sum provision as mentioned in paragraph 2(1) of Schedule 5 to the 2004 Act, made under Part 1 of Schedule 5 to that Act;
- (f) a property adjustment order;
- (g) a variation order;
- (h) a pension sharing order; or

- (i) a pension compensation sharing order; (“variation order”, “pension compensation sharing order” and “pension sharing order” are defined in rule 9.3.)

“financial remedy” means—

- (a) a financial order;
- (b) an order under Schedule 1 to the 1989 Act;
- (c) an order under Part 3 of the 1984 Act [^{F6}except an application under section 13 of the 1984 Act for permission to apply for a financial remedy] ;
- (d) an order under Schedule 7 to the 2004 Act [^{F7}except an application under paragraph 4 of Schedule 7 to the 2004 Act for permission to apply for an order under paragraph 9 or 13 of that Schedule] ;
- (e) an order under section 27 of the 1973 Act;
- (f) an order under Part 9 of Schedule 5 to the 2004 Act;
- (g) an order under section 35 of the 1973 Act ^{M17};
- (h) an order under paragraph 69 of Schedule 5 to the 2004 Act;
- (i) an order under Part 1 of the 1978 Act;
- (j) an order under Schedule 6 to the 2004 Act;
- (k) an order under section 10(2) of the 1973 Act ^{M18}; or
- (l) an order under section 48(2) of the 2004 Act;

“hearing” includes a directions appointment;

“hearsay” means a statement made, otherwise than by a person while giving oral evidence in proceedings, which is tendered as evidence of the matters stated, and references to hearsay include hearsay of whatever degree;

“inherent jurisdiction” means the High Court's power to make any order or determine any issue in respect of a child, including in wardship proceedings, where it would be just and equitable to do so unless restricted by legislation or case law;
(Practice Direction 12D (Inherent Jurisdiction (including Wardship Proceedings)) provides examples of inherent jurisdiction proceedings.)

“judge”, in the High Court or a county court, means, unless the context requires otherwise, a judge, district judge or a person authorised to act as such;

“jurisdiction” means, unless the context requires otherwise, England and Wales and any part of the territorial waters of the United Kingdom adjoining England and Wales;

“justices' clerk” has the meaning assigned to it by section 27(1) of the Courts Act 2003 ^{M19};

“legal representative” means a—

- (a) barrister;
- (b) solicitor;
- (c) solicitor's employee;
- (d) manager of a body recognised under section 9 of the Administration of Justice Act 1985 ^{M20}; or
- (e) person who, for the purposes of the Legal Services Act 2007 ^{M21}, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of the Act),

who has been instructed to act for a party in relation to proceedings;

“litigation friend” has the meaning given—

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- (a) in relation to a protected party, by Part 15; and
- (b) in relation to a child, by Part 16;

[^{F8}“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 of 18th December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations, including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;]

“matrimonial cause” means proceedings for a matrimonial order;

“matrimonial order” means—

- (a) a decree of divorce made under section 1 of the 1973 Act ^{M22};
- (b) a decree of nullity made on one of the grounds set out in sections 11 or 12 of the 1973 Act ^{M23};
- (c) a decree of judicial separation made under section 17 of the 1973 Act ^{M24};

“note” includes a record made by mechanical means;

“officer of the Service” has the meaning given by section 11(3) of the Criminal Justice and Court Services Act 2000;

“order” includes directions of the court;

“order for maintenance pending outcome of proceedings” means an order under paragraph 38 of Schedule 5 to the 2004 Act;

“order for maintenance pending suit” means an order under section 22 of the 1973 Act ^{M25};

“parental order proceedings” has the meaning assigned to it by rule 13.1;

“parental responsibility” has the meaning assigned to it by section 3 of the 1989 Act;

“placement proceedings” means proceedings for the making, varying or revoking of a placement order under the 2002 Act;

“principal registry” means the principal registry of the Family Division of the High Court;

“proceedings” means, unless the context requires otherwise, family proceedings as defined in section 75(3) of the Courts Act 2003;

“professional acting in furtherance of the protection of children” includes—

- (a) an officer of a local authority exercising child protection functions;
- (b) a police officer who is—
 - (i) exercising powers under section 46 of the Act of 1989; or
 - (ii) serving in a child protection unit or a paedophile unit of a police force;
- (c) any professional person attending a child protection conference or review in relation to a child who is the subject of the proceedings to which the information regarding the proceedings held in private relates [^{F9}];
- (d) an officer of the National Society for the Prevention of Cruelty to Children; [^{F10}or]
- (e) [^{F11}a member or employee of the [^{F12}Disclosure and Barring Service], being the body established under [^{F13}section 87(1) of the Protection of Freedoms Act 2012];]

“professional legal adviser” means a—

- (a) barrister;
- (b) solicitor;
- (c) solicitor's employee;

- (d) manager of a body recognised under section 9 of the Administration of Justice Act 1985;
or
- (e) person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act),

who is providing advice to a party but is not instructed to represent that party in the proceedings;
“property adjustment order” means—

- (a) in proceedings under the 1973 Act, any of the orders mentioned in section 21(2) of that Act;
- (b) in proceedings under the 1984 Act, an order under section 17(1)(a)(ii) of that Act;
- (c) in proceedings under Schedule 5 to the 2004 Act, any of the orders mentioned in paragraph 7(1); or
- (d) in proceedings under Schedule 7 to the 2004 Act, an order for property adjustment under paragraph 9(2) or (3);

“protected party” means a party, or an intended party, who lacks capacity (within the meaning of the 2005 Act) to conduct proceedings;

“reporting officer” means an officer of the Service or a Welsh family proceedings officer appointed to witness the documents which signify a parent's or guardian's consent to the placing of the child for adoption or to the making of an adoption order or a section 84 order;

“risk assessment” has the meaning assigned to it by section 16A(3) of the 1989 Act;

“Royal Courts of Justice”, in relation to matrimonial proceedings pending in a divorce county court or civil partnership proceedings pending in a civil partnership proceedings county court, means such place as may be specified in directions given by the Lord Chancellor pursuant to section 42(2)(a) ^{M26} of the 1984 Act;

“RSC” means the Rules of the Supreme Court 1965 as they appear in Schedule 1 to the CPR [^{F14}subject to paragraph (4)];

“section 8 order” has the meaning assigned to it by section 8(2) of the 1989 Act;

“section 84 order” means an order made by the High Court under section 84 of the 2002 Act giving parental responsibility prior to adoption abroad;

“section 89 order” means an order made by the High Court under section 89 of the 2002 Act—

- (a) annulling a Convention adoption or Convention adoption order;
- (b) providing for an overseas adoption or determination under section 91 of the 2002 Act to cease to be valid; or
- (c) deciding the extent, if any, to which a determination under section 91 of the 2002 Act has been affected by a subsequent determination under that section;

“Service” has the meaning given by section 11 of the Criminal Justice and Court Services Act 2000;

“the Service Regulation” means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents), and repealing Council Regulation (EC) No. 1348/2000, as amended from time to time and as applied by the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil and commercial matters;

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“specified proceedings” has the meaning assigned to it by section 41(6) of the 1989 Act and rule 12.27;

“welfare officer” means a person who has been asked to prepare a report under section 7(1)(b) of the 1989 Act ^{M27};

“Welsh family proceedings officer” has the meaning given by section 35(4) of the Children Act 2004.

(2) In these rules a reference to —

(a) an application for a matrimonial order or a civil partnership order is to be read as a reference to a petition for—

(i) a matrimonial order;

(ii) a decree of presumption of death and dissolution of marriage made under section 19 of the 1973 Act ^{M28}; or

(iii) a civil partnership order,

and includes a petition by a respondent asking for such an order;

(b) “financial order” in matrimonial proceedings is to be read as a reference to “ancillary relief”;

(c) “matrimonial proceedings” is to be read as a reference to a matrimonial cause or proceedings for an application for a decree of presumption of death and dissolution of marriage made under section 19 of the 1973 Act.

(3) ^{F15}Subject to paragraph (4), where] these rules apply the CPR, they apply the CPR as amended from time to time.

^{F16}(4) Where these Rules apply RSC Order 52 and CCR Order 29, they apply those rules as they appeared in Schedule 1 and Schedule 2 to the CPR on 30 September 2012.]

Textual Amendments

- F1** Words in rule 2.3(1) inserted (18.6.2011) by [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), rules 1, **4(a)**
- F2** Words in rule 2.3(1) inserted (20.12.2012) by [The Family Procedure \(Amendment No. 4\) Rules 2012 \(S.I. 2012/2806\)](#), rules 1, **4(a)**
- F3** Words in rule 2.3(1) inserted (20.12.2012) by [The Family Procedure \(Amendment No. 4\) Rules 2012 \(S.I. 2012/2806\)](#), rules 1, **4(b)**
- F4** Words in rule 2.3(1) inserted (30.9.2012) by [The Family Procedure \(Amendment No. 3\) Rules 2012 \(S.I. 2012/2046\)](#), rules 1, **3(a)(i)**
- F5** Words in rule 2.3(1) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission: Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 125(a)**
- F6** Words in rule 2.3(1) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **3(a)(i)** (with rule 30)
- F7** Words in rule 2.3(1) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **3(a)(ii)** (with rule 30)
- F8** Words in rule 2.3(1) inserted (18.6.2011) by [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), rules 1, **4(b)**
- F9** Words in rule 2.3(1) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **3(b)(i)** (with rule 30)
- F10** Word in rule 2.3(1) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **3(b)(ii)** (with rule 30)

- F11** Words in rule 2.3(1) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **3(b)(iii)** (with rule 30)
- F12** Words in rule 2.3(1) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **30(2)(a)** (with Pt. 4)
- F13** Words in rule 2.3(1) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), **30(2)(b)** (with Pt. 4)
- F14** Words in rule 2.3(1) inserted (30.9.2012) by [The Family Procedure \(Amendment No. 3\) Rules 2012 \(S.I. 2012/2046\)](#), rules 1, **3(a)(ii)**
- F15** Words in rule 2.3(3) substituted (30.9.2012) by [The Family Procedure \(Amendment No. 3\) Rules 2012 \(S.I. 2012/2046\)](#), rules 1, **3(b)**
- F16** Rule 2.3(4) inserted (30.9.2012) by [The Family Procedure \(Amendment No. 3\) Rules 2012 \(S.I. 2012/2046\)](#), rules 1, **3(c)**

Marginal Citations

- M2** 1973 c.18.
- M3** 1978 c.22.
- M4** 1984 c.42.
- M5** 1986 c.55.
- M6** 1990 c.37.
- M7** 1991 c.48.
- M8** 1996 c.27.
- M9** 2005 c.9.
- M10** 2008 c.22.
- M11** 1971 c.80.
- M12** Section 7(1)(a) was amended by section 74 of and paragraphs 87 and 88(a) of Schedule 7 to the [Criminal Justice and Court Services Act 2000 \(c.43\)](#) and section 40 of and paragraphs 5 and 6 of Schedule 3 to the [Children Act 2004](#).
- M13** Section 36A was amended by article 2 of and paragraphs 5, 6(1) and (2) of Schedule 1 to the [Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#).
- M14** Section 33(1) was amended by section 15 of and paragraphs 171 and 172(1) and (2) of Schedule 4 to the [Constitutional Reform Act 2005](#).
- M15** Section 21(1) was amended by section 15 of and paragraph 2 of Schedule 2 to the [Family Law Act 1996](#) as amended by the section 84(1) of and paragraphs 64 and 65(1) to (8) of Schedule 12 to the [Welfare Reform and Pensions Act 1999 \(c.30\)](#).
- M16** Section 27(6) was amended by section 63(3) of the [Domestic Proceedings and Magistrates' Courts Act 1978](#).
- M17** Section 35 was amended by section 46(1) of and paragraph 13 of Schedule 1 to the [Matrimonial and Family Proceedings Act 1984](#) and section 261(1) of and paragraph 44 of Schedule 27 to the [Civil Partnership Act 2004](#) and section 66(1) of and paragraph 20 of Schedule 8 to the [Family Law Act 1996](#).
- M18** Section 10(2) has been prospectively repealed with savings by section 66(3) of and Schedule 10 to the [Family Law Act 1996](#).
- M19** Section 27(1) was amended by section 15(1) of and paragraphs 308 and 326(1) and (2) of Schedule 4 to the [Constitutional Reform Act 2005](#).
- M20** 1985 c.61.
- M21** 2007 c.29.
- M22** Section 1 has been prospectively repealed by section 66(3) of and Schedule 10 to the [Family Law Act 1996](#).
- M23** Section 11 was amended by section 2(4) of the [Marriage Act 1983 \(c.32\)](#) and section 6(4) of the [Marriage \(Prohibited Degrees of Relationship\) Act 1986 \(c.16\)](#) and section 261(1) of and paragraph 40 of Schedule 27 to the [Civil Partnership Act 2004](#) and section 12 was amended by section 148 of and paragraph 34 of Schedule 4 to the [Mental Health Act 1983 \(c.20\)](#) and sections 4(4) and 11 of and

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paragraphs 1 and 2 of Schedule 2 and paragraphs 4 and 5 of Schedule 4 to the [Gender Recognition Act 2004 \(c.7\)](#).

M24 [Section 17](#) has been prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.

M25 [Section 22](#) has been prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.

M26 [Section 42\(2\)\(a\)](#) was amended by section 15(1) of and paragraphs 171, 174(1) and (2) of Schedule 4 to the Constitutional Reform Act 2005.

M27 [Section 7\(1\)\(b\)](#) was amended by section 40 of and paragraphs 5 and 6 of Schedule 3 to the Children Act 2004.

M28 [Section 19](#) was amended by section 6(4) and 17(2) of and Schedule 6 to the [Domicile and Matrimonial Proceedings Act 1973 \(c. 45\)](#) and subsection (4) has been prospectively repealed by section 66(1) of and paragraph 7 of Schedule 8 to the Family Law Act 1996.

Modification of rules in application to serial numbers etc.

2.4. If a serial number has been assigned under rule 14.2 or the name or other contact details of a party is not being revealed in accordance with rule 29.1—

- (a) any rule requiring any party to serve any document will not apply; and
- (b) the court will give directions about serving any document on the other parties.

Power to perform functions conferred on the court by these rules and practice directions

2.5.—(1) Where these rules or a practice direction provide for the court to perform any function then, except where any rule or practice direction, any other enactment or any directions made by the President of the Family Division under section 9 of the Courts and Legal Services Act 1990 ^{M29}, provides otherwise, that function may be performed—

- (a) in relation to proceedings in the High Court or in a district registry, by any judge or district judge of that Court including a district judge of the principal registry;
- (b) in relation to proceedings in a county court, by any judge or district judge including a district judge of the principal registry when the principal registry is treated as if it were a county court; and
- (c) in relation to proceedings in a magistrates' court—
 - (i) by any family proceedings court constituted in accordance with sections 66 and 67 of the Magistrates' Courts Act 1980 ^{M30}; or
 - (ii) by a single justice of the peace who is a member of the family panel in accordance with Practice Direction 2A.

(The Justices' Clerks Rules 2005 make provision for a justices' clerk or assistant clerk to carry out certain functions of a single justice of the peace.)

(2) A deputy High Court judge and a district judge, including a district judge of the principal registry, may not try a claim for a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998 ^{M31}.

Modifications etc. (not altering text)

- C1** Rule 2.5 excluded (18.6.2011) by [The Magistrates' Courts \(Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions\) Rules 2011 \(S.I. 2011/1329\)](#), rules 1, 17 (with rule 3(2))

Marginal Citations

- M29** 1990 c.41. Section 9 was amended by section 15(1) of and paragraphs 211 and 213 of Schedule 4 to the Constitutional Reform Act 2005.
- M30** Section 66 was substituted by section 78(2) of and paragraphs 26 and 27 of Schedule 11 to the Access to Justice Act 1999 (c.22) and section 109(1) of and paragraphs 215 of Schedule 8 to the Courts Act 2003. Section 67 was substituted by section 49(1) of the Courts Act 2003 and amended by section 15(1) of and paragraphs 99, 101(1), (2), (3), (4) and (5) of the Constitutional Reform Act 2005.
- M31** 1998 c.42. Section 4 was amended by section 40(4) of and paragraphs 66(1) and (2) of Schedule 9 to the Constitutional Reform Act 2005 and section 378(1) of and paragraph 156 of Schedule 16 to the Armed Forces Act 2006 (c.52) and section 67(1) of and paragraph 43 of Schedule 6 to the Mental Capacity Act 2005.

Powers of the single justice to perform functions under the 1989 Act, the 1996 Act, the 2002 Act and the Childcare Act 2006

2.6.—(1) A single justice who is a member of the family panel may perform the functions of a magistrates' court—

- (a) where an application without notice is made under sections 10, 44(1), 48(9), 50(4) and 102(1) of the 1989 Act ^{M32};
- (b) subject to paragraph (2), under sections 11(3) or 38(1) of the 1989 Act;
- (c) under sections 4(3)(b), 4A(3)(b), 4ZA(6)(b), 7, 34(3)(b), 41, 44(9)(b) and (11)(b)(iii), 48(4), 91(15) or (17) or paragraph 11(4) of Schedule 14 of the 1989 Act;
- (d) in accordance with the Allocation Order;
- (e) where an application without notice is made under section 41(2) of the 2002 Act (recovery orders);
- (f) where an application without notice is made for an occupation order or a non molestation order under Part 4 of the 1996 Act; or
- (g) where an application is made for a warrant under section 79 of the Childcare Act 2006;

(2) A single justice of the peace may make an order under section 11(3) or 38(1) of the 1989 Act where—

- (a) a previous such order has been made in the same proceedings;
- (b) the terms of the order sought are the same as those of the last such order made; and
- (c) a written request for such an order has been made and —
 - (i) the other parties and any children's guardian consent to the request and they or their legal representatives have signed the request; or
 - (ii) at least one of the other parties and any children's guardian consent to the request and they or their legal representatives have signed the request, and the remaining parties have not indicated that they either consent to or oppose the making of the order.

(3) The proceedings referred to in paragraph (1)(a), (c) and (d) are proceedings which are prescribed for the purposes of section 93(2)(i) of the 1989 Act.

Marginal Citations

- M32** Section 10 was amended by section 139(1) of and paragraphs 54 and 56(a) (b) and (c) of Schedule 3 to the Adoption and Children Act 2002 and section 77 of the Civil Partnership Act 2004 and section 36 of the Children and Young Persons Act 2008 (c. 23).

Status: Point in time view as at 20/12/2012.

*Changes to legislation: There are currently no known outstanding effects for the
The Family Procedure Rules 2010, PART 2. (See end of Document for details)*

Single justice's power to refer to a magistrates' court

2.7. Where a single justice —

- (a) is performing the function of a magistrates' court in accordance with rules 2.5(1)(c)(ii) and 2.6(1) and (2); and
- (b) considers, for whatever reason, that it is inappropriate to perform the function,

the single justice must refer the matter to a magistrates' court which may perform the function.

Court's discretion as to where it deals with cases

2.8. The court may deal with a case at any place that it considers appropriate.

Computation of time

2.9.—(1) This rule shows how to calculate any period of time for doing any act which is specified—

- (a) by these rules;
- (b) by a practice direction; or
- (c) by a direction or order of the court.

(2) A period of time expressed as a number of days must be computed as clear days.

(3) In this rule “clear days” means that in computing the numbers of days—

- (a) the day on which the period begins; and
- (b) if the end of the period is defined by reference to an event, the day on which that event occurs,

are not included.

(4) Where the specified period is 7 days or less and includes a day which is not a business day, that day does not count.

(5) When the period specified—

- (a) by these rules or a practice direction; or
- (b) by any direction or order of the court,

for doing any act at the court office ends on a day on which the office is closed, that act will be in time if done on the next day on which the court office is open.

Dates for compliance to be calendar dates and to include time of day

2.10.—(1) Where the court makes an order or gives a direction which imposes a time limit for doing any act, the last date for compliance must, wherever practicable—

- (a) be expressed as a calendar date; and
- (b) include the time of day by which the act must be done.

(2) Where the date by which an act must be done is inserted in any document, the date must, wherever practicable, be expressed as a calendar date.

(3) Where “month” occurs in any order, direction or other document, it means a calendar month.

Status:

Point in time view as at 20/12/2012.

Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure Rules 2010, PART 2.