
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 29

MISCELLANEOUS

Applications for relief which is precluded by the 1991 Act

29.8.—(1) This rule applies where an application is made for an order which, in the opinion of the court, it would be prevented from making under section 8 or 9 of the 1991 Act and in this rule, “the matter” means the question of whether or not the court would be so prevented.

(2) The court will consider the matter without holding a hearing.

(3) Where the court officer receives the opinion of the court, as mentioned in paragraph (1), the court officer must send a notice to the applicant of that opinion.

(4) Paragraphs (5) to (11) apply where the court officer sends a notice under paragraph (3).

(5) Subject to paragraph (6), no requirement of these rules apply except the requirements—

(a) of this rule;

(b) as to service of the application by the court officer; and

(c) as to any procedural step to be taken following the making of an application of the type in question.

(6) The court may direct that the requirements of these rules apply, or apply to such extent or with such modifications as are set out in the direction.

(7) If the applicant informs the court officer, within 14 days of the date of the notice, that the applicant wishes to persist with the application, the court will give appropriate directions for the matter to be heard and determined and may provide for the hearing to be without notice.

(8) Where directions are given in accordance with paragraph (7), the court officer must—

(a) inform the applicant of the directions;

(b) send a copy of the application to the other parties;

(c) if the hearing is to be without notice, inform the other parties briefly—

(i) of the nature and effect of the notice given to the applicant under paragraph (3);

(ii) that the matter is being resolved without a hearing on notice; and

(iii) that they will be notified of the result; and

(d) if the hearing is to be on notice, inform the other parties of—

(i) the circumstances which led to the directions being given; and

(ii) the directions.

(9) If the applicant does not inform the court officer as mentioned in paragraph (7), the application shall be treated as having been withdrawn.

(10) Where—

- (a) the matter is heard in accordance with directions given under paragraph (7); and
- (b) the court determines that it would be prevented, under section 8 or 9 of the 1991 Act, from making the order sought by the applicant,

the court will dismiss the application.

(11) Where the court dismisses the application—

- (a) the court must give its reasons in writing; and
- (b) the court officer must send a copy of the reasons to the parties.