
STATUTORY INSTRUMENTS

2014 No. 3296

The Family Procedure (Amendment No. 4) Rules 2014

Amendments to the Family Procedure Rules 2010

14. After Part 37, insert—

“PART 38

RECOGNITION AND ENFORCEMENT OF PROTECTION MEASURES

CHAPTER 1

SCOPE AND INTERPRETATION OF THIS PART

Scope and interpretation

38.1.—(1) This Part contains rules about the mutual recognition and enforcement of protection measures between England and Wales and Member States of the European Union other than the United Kingdom and Denmark.

(2) In this Part—

“Article 5 certificate” means a certificate issued under Article 5 of the Protection Measures Regulation;

“Article 8 notice” means the notification required by Article 8 of the Protection Measures Regulation;

“Article 11 notice” means the notification required by Article 11 of the Protection Measures Regulation;

“Article 14 certificate” means a certificate issued under Article 14 of the Protection Measures Regulation;

“outgoing protection measure” means any protection measure included in any of—

- (a) a non-molestation order made under section 42 of the 1996 Act⁽¹⁾;
- (b) an occupation order made under any of sections 33, 35, 36, 37 or 38 of the 1996 Act⁽²⁾;
- (c) an undertaking accepted by the court under section 46 of the 1996 Act⁽³⁾;

(1) The Family Law Act 1996 (c.27). Section 42 was amended by paragraph 36 of Schedule 10 to, and by Schedule 11 to, the Domestic Violence, Crime and Victims Act 2004 (c.28) and by paragraph 9 of Schedule 9 to the Civil Partnership Act 2004 (c.33).

(2) Section 33 was amended by paragraph 4 of Schedule 9 to the Civil Partnership Act 2004. Section 35 was amended by paragraph 6 of Schedule 9 to the Civil Partnership Act 2004. Section 36 was amended by paragraph 34 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 and by paragraph 7 of Schedule 9 to the Civil Partnership Act 2004. Section 37 was amended by paragraph 8 of Schedule 9 to the Civil Partnership Act 2004 and section 38 was amended by paragraph 35 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004.

(3) Section 46 was amended by paragraph 37 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004 and by paragraph 131 of Schedule 11 to the Crime and Courts Act 2013 (c.22).

- (d) an order that has been varied under section 49 of the 1996 Act⁽⁴⁾;
- (e) a forced marriage protection order made under section 63A of the 1996 Act⁽⁵⁾;
- (f) an undertaking accepted by the court under section 63E of the 1996 Act⁽⁶⁾;
- (g) an order that has been varied under section 63G of the 1996 Act⁽⁷⁾;
- (h) any other order of the family court or the High Court in family proceedings; or
- (i) any other undertaking accepted by the family court or the High Court in family proceedings;

“person causing the risk” has the meaning given to it in the Protection Measures Regulation; and

“protected person” has the meaning given to it in the Protection Measures Regulation.

CHAPTER 2

CERTIFICATES FOR OUTGOING PROTECTION MEASURES

Application for an Article 5 certificate

38.2.—(1) A protected person may apply for an Article 5 certificate—

- (a) at the time of application for an order containing an outgoing protection measure; or
- (b) at any time after such application, provided either—
 - (i) the order or the undertaking containing the outgoing protection measure has not yet been made or accepted, as the case may be; or
 - (ii) the outgoing protection measure is still in force.

(2) An application for an Article 5 certificate may be made without notice.

The court to which an application for an Article 5 certificate must be made

38.3. An application for an Article 5 certificate must be made—

- (a) where the outgoing protection measure has not yet been ordered or accepted—
 - (i) to the family court if the proceedings relating to the outgoing protection measure are before the family court;
 - (ii) to the High Court if the proceedings relating to the outgoing protection measure are before the High Court;
- (b) where the outgoing protection measure has been ordered or accepted—
 - (i) to the family court if that court made the order or accepted the undertaking as the case may be, unless there are proceedings relating to that order or undertaking before the High Court, in which case the application must be made to the High Court;
 - (ii) to the High Court if that court made the order or accepted the undertaking as the case may be, unless there are proceedings relating to that order or

(4) Section 49 was amended by Schedule 11 to the Domestic Violence, Crime and Victims Act 2004 and by paragraph 11 of Schedule 9 to the Civil Partnership Act 2004.

(5) Section 63A was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 (c.20).

(6) Section 63E was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 and amended by section 120 of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).

(7) Section 63G was inserted by section 1 of the Forced Marriage (Civil Protection) Act 2007 and amended by section 120 of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).

undertaking before the family court, in which case the application must be made to the family court.

When a request for a translation of an Article 5 certificate may be made

38.4. A protected person may request a translation of an Article 5 certificate—

- (a) at the time of the application for the Article 5 certificate; or
- (b) at any time after such application, provided the Article 5 certificate—
 - (i) has not yet been issued; or
 - (ii) if issued, is still in force.

The court to which a request for translation of an Article 5 certificate must be made

38.5. A request for a translation of an Article 5 certificate must be made—

- (a) if the certificate has not yet been issued, to—
 - (i) the family court, if the application for the certificate is before the family court; or
 - (ii) the High Court, if the application for the certificate is before the High Court; or
- (b) if the certificate has been issued, to—
 - (i) the family court, if the family court issued it;
 - (ii) the High Court, if the High Court issued it.

Service requirements under Article 6

38.6.—(1) Where the outgoing protection measure is included in an order, the court may only issue an Article 5 certificate if satisfied that the order has been served upon the person causing the risk in accordance with the requirements specified in rule 37.5, unless the court has dispensed with service of the order in accordance with the requirements specified in rule 37.8.

(2) Where the protected person is responsible for serving the order on the person causing the risk, any application for an Article 5 certificate must be accompanied by a certificate of service.

Notification of the certificate under Article 8

38.7.—(1) Subject to paragraph (2), the court officer must give Article 8 notice to the person causing the risk by serving it in accordance with Chapter 3 of Part 6 and the rules in that Chapter shall apply to service of the notice as they apply to any other document served by a court officer.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, the court officer must give Article 8 notice by sending it by registered letter with acknowledgement of receipt or confirmation of delivery or equivalent to the last known place of residence of that person.

Rectification of an Article 5 certificate

38.8.—(1) An application pursuant to Article 9 of the Protection Measures Regulation for rectification of an Article 5 certificate must be made to—

- (a) the family court if the family court issued the certificate;
 - (b) the High Court if the High Court issued the certificate.
- (2) An application for such rectification may be made by—
- (a) the protected person; or
 - (b) the person causing the risk.
- (3) An Article 5 certificate may be rectified pursuant to Article 9(1)(a) of the Protection Measures Regulation by the court—
- (a) on application under this rule; or
 - (b) on its own initiative.

Withdrawal of an Article 5 certificate

- 38.9.**—(1) An application pursuant to Article 9 of the Protection Measures Regulation for withdrawal of an Article 5 certificate must be made to—
- (a) the family court if the family court issued the certificate; or
 - (b) the High Court if the High Court issued the certificate.
- (2) An application for such withdrawal may be made by—
- (a) the protected person; or
 - (b) the person causing the risk.
- (3) An Article 5 certificate may be withdrawn pursuant to Article 9(1)(b) of the Protection Measures Regulation by the court—
- (a) on application under this rule; or
 - (b) on its own initiative.

When an application for an Article 14 certificate may be made

- 38.10.** A protected person or person causing the risk may apply for an Article 14 certificate—
- (a) at the time of application for variation or discharge of the order containing the outgoing protection measure, or for acceptance of a variation or discharge of the undertaking containing the outgoing protection measure, as the case may be;
 - (b) at any time after the variation or discharge of the order containing the outgoing protection measure has been ordered or the variation or discharge of the undertaking containing the outgoing protection measure has been accepted, as the case may be;
 - (c) at the time of application under Article 9 of the Protection Measures Regulation for withdrawal of an Article 5 certificate;
 - (d) at any time after an Article 5 certificate has been withdrawn under Article 9 of the Protection Measures Regulation;
 - (e) at the time of application for an order staying or suspending enforcement of the order or undertaking containing the outgoing protection measure; or
 - (f) any time after, the making of an order staying or suspending enforcement of the order or undertaking containing the outgoing protection measure.

The court to which an application for an Article 14 certificate must be made

38.11. An application for an Article 14 certificate must be made—

- (a) if the order containing the outgoing protection measure has not yet been varied or discharged or a variation or discharge of the undertaking containing the protection measure has not yet been accepted, as the case may be, to—
 - (i) the family court if the application for such variation or discharge is before the family court; or
 - (ii) the High Court if the application for such variation or discharge is before the High Court;
- (b) if there has been an application under Article 9 of the Protection Measures Regulation for withdrawal of the Article 5 certificate, and that application has not yet been decided, to—
 - (i) the family court if the application for such withdrawal is before the family court; or
 - (ii) the High Court if the application for such withdrawal is before the High Court;
- (c) if the order containing the outgoing protection measure has been varied or discharged or the variation or discharge of the undertaking containing the outgoing protection measure has been accepted, as the case may be, to—
 - (i) the family court if the family court ordered or accepted such variation or discharge, as the case may be; or
 - (ii) the High Court if the High Court ordered or accepted such variation or discharge, as the case may be;
- (d) if an Article 5 certificate has been withdrawn under Article 9, to—
 - (i) the family court if the family court ordered such withdrawal; or
 - (ii) the High Court if the High Court ordered such withdrawal;
- (e) where enforcement of the order has been stayed or suspended, to—
 - (i) the family court if the family court made the order for the stay or suspension; or
 - (ii) the High Court if the High Court made the order for the stay or suspension.

CHAPTER 3

INCOMING PROTECTION MEASURES

Application for adjustment under Article 11

38.12. A protected person may apply to the court under Article 11 of the Protection Measures Regulation to adjust the factual elements of an incoming protection measure.

Notification of the adjustment under Article 11

38.13.—(1) Subject to paragraph (2), the court officer must give Article 11 notice to the person causing the risk by serving it in accordance with Chapter 3 of Part 6 and the rules in that Chapter apply to service of the notice as they apply to any other document to be served by a court officer.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, the court officer must

give Article 11 notice by sending it by registered letter with acknowledgment of receipt or other confirmation of delivery or equivalent to the last known place of residence of that person.

Application for refusal of recognition or enforcement under Article 13

38.14. An application by a person causing the risk for refusal of recognition or enforcement under Article 13 of the Protection Measures Regulation must be made to—

- (a) the family court if—
 - (i) there are proceedings relating to the same protection measure before the family court; or
 - (ii) proceedings relating to the same protection measure were dealt with by the family court;
- (b) the High Court if—
 - (i) there are proceedings relating to the same protection measure before the High Court; or
 - (ii) proceedings relating to the same protection measure were dealt with by the High Court; or
- (c) the family court, unless, applying rule 5.4, the application should be made to the High Court.

Application under Article 14(2)

38.15.—(1) This rule applies where an Article 14 certificate has been issued in a Member State of the European Union other than the United Kingdom or Denmark.

(2) A protected person or person causing the risk may apply to the court to stay, suspend or withdraw the effects of recognition or, where applicable, the enforcement of the protection measure.

(3) An application under this rule must include a copy of the Article 14 certificate issued in the other Member State.

(4) On an application under this rule, the court must make such orders or give such directions as may be necessary to give effect to the Article 14 certificate.”.

Commencement Information

II Rule 14 in force at 11.1.2015, see [rule 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Family Procedure (Amendment No. 4) Rules 2014, Section 14.