

2018 No. 440 (L. 4)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment) Rules 2018

<i>Made</i> - - - -	<i>27th March 2018</i>
<i>Laid before Parliament</i>	<i>28th March 2018</i>
<i>Coming into force</i> - -	<i>4th June 2018</i>

The Family Procedure Rule Committee makes the following Rules in exercise of the powers conferred by sections 75 and 79(2) of the Courts Act 2003(a), after consulting in accordance with section 79(1) of that Act:

Citation and commencement

1. These Rules may be cited as the Family Procedure (Amendment) Rules 2018 and come into force on 4th June 2018.

Amendment of the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(b) are amended in accordance with rules 3 to 11.

Amendment of rule 4.1

3. In rule 4.1 (the court's general powers of management)—

(a) in paragraph (3)—

(i) after sub-paragraph (b) insert—

“(bb) direct that any proceedings in the High Court be heard by a Divisional Court of the High Court;”; and

(ii) at the end of the paragraph, following the words in parentheses insert—

“(Rule 37.15(6)(b) makes specific provision in relation to Divisional Courts.)”; and

(b) after paragraph (4) insert—

(a) 2003 c. 39. Section 75 was amended by paragraphs 308 and 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c. 4) and by paragraphs 83 and 91 of Schedule 10 to the Crime and Courts Act 2013 (c. 22).

(b) S.I. 2010/2955. Relevant amending instruments are S.I. 2011/1328, 2012/679 and 2806, 2013/3204, 2014/667 and 2016/901.

“(4A) Where the court has made a direction in accordance with paragraph (3)(bb) the proceedings shall be heard by a Divisional Court of the High Court and not by a single judge.”.

Amendment of rule 9.3

4. In rule 9.3(1) (interpretation)—

- (a) after the definition of “the Board” insert—
 ““fast-track procedure” means the procedure set out in Chapter 5;” and
- (b) after the definition of “relevant valuation” insert—
 ““standard procedure” means the procedure set out in Chapter 4;”.

Insertion of new rule 9.9B

5. After rule 9.9A (application to set aside a financial remedy order) insert—

“Standard and fast-track procedures for financial remedy proceedings

9.9B.—(1) In this rule “order for periodical payments” means an order under—

- (a) section 23(1)(a), (b), (d) or (e) of the 1973 Act;
- (b) section 27(5) or (6)(a), (b), (d) or (e) of the 1973 Act;
- (c) paragraph 1(2)(a) or (b), 2(2)(a) or 9 of Schedule 1 to the 1989 Act;
- (d) paragraph 2(1)(a), (b), (d) or (e) of Schedule 5 to the 2004 Act;
- (e) paragraph 40 or 41(1)(a), (b), (d) or (e) of Schedule 5 to the 2004 Act.

(2) Subject to paragraph (3), an application for a financial remedy must be dealt with under the standard procedure.

(3) The fast-track procedure applies to—

- (a) any application where the financial remedy sought is only for an order for periodical payments;
- (b) any application made under—
 - (i) the 1978 Act;
 - (ii) Schedule 6 to the 2004 Act;
 - (iii) Article 56 of the Maintenance Regulation; or
 - (iv) Article 10 of the 2007 Hague Convention;
- (c) any application for the variation of an order for periodical payments, except where the applicant seeks the dismissal (immediate or otherwise) of the periodical payments order and its substitution with one or more of a lump sum order, a property adjustment order, a pension sharing order or a pension compensation sharing order.

(4) At any stage in the proceedings the court may order that an application proceeding under the fast-track procedure must proceed under the standard procedure.

(Rule 9.18A provides for specific occasions when the court may direct that a case should proceed under the standard procedure.)”.

Amendment of the heading to Chapter 4 of Part 9

6. For the heading to Chapter 4 of Part 9 (procedure after filing an application) substitute—

“STANDARD PROCEDURE”.

Amendment of the heading to Chapter 5 of Part 9

7. For the heading to Chapter 5 of Part 9 (procedure after filing particular applications) substitute—

“FAST-TRACK PROCEDURE”.

Amendment of rule 9.18

8. In rule 9.18 (duties of the court and the applicant upon filing an application)—

(a) for paragraph (A1) substitute—

“(A1) This Chapter applies where, in accordance with rule 9.9B, the fast-track procedure applies to an application for a financial remedy.”;

(b) in paragraph (1)—

(i) in sub-paragraph (a) for “4 weeks and not more than 8” substitute “6 weeks and not more than 10”;

(ii) in sub-paragraph (b)—

(aa) at the end of paragraph (i) insert “and”;

(bb) in paragraph (ii) for “; and” substitute “.”; and

(cc) omit paragraph (iii);

(c) in paragraph (2)(c)—

(i) at the end of paragraph (i) insert “and”; and

(ii) omit paragraph (ii); and

(d) omit paragraph (4).

Amendment of rule 9.18A

9. For rule 9.18A (request for change of procedure) substitute—

“**9.18A.**—(1) Paragraph (2) applies where the applicant wishes to seek a direction from the court that the standard procedure should apply to an application to which the fast-track procedure would otherwise apply.

(2) Where this paragraph applies, a request for a direction—

(a) must be made with the application for a financial remedy; and

(b) must state—

(i) that the applicant seeks a direction that the standard procedure should apply; and

(ii) the applicant’s reasons for seeking such a direction.

(3) Paragraph (4) applies where—

(a) a respondent wishes to seek a direction from the court that the standard procedure should apply to an application to which the fast-track procedure would otherwise apply; or

(b) a respondent wishes to make representations on an application made by the applicant to which paragraph (1) applies.

(4) Where this paragraph applies, the respondent’s request or representations—

(a) must be filed with the court within 7 days of service of the application for a financial remedy; and

(b) must state—

- (i) which procedure (standard or fast-track) the respondent wishes the court to direct should apply to the application for a financial remedy; and
 - (ii) the respondent’s reasons for seeking such a direction.
- (5) Where a request or representations referred to in this rule have been made, the court must—
- (a) determine without notice to the parties and before the first hearing whether the standard procedure or the fast-track procedure should apply to the application for a financial remedy; and
 - (b) notify the parties of its determination and any directions made in consequence of that determination.”.

Amendment of rule 9.19

10. In rule 9.19 (procedure before the first hearing), in paragraph (1) for “14” substitute “21”.

Amendment of rule 9.20

11. For rule 9.20 (power of the court to direct filing of evidence and set dates for further hearings), including the heading to the rule, substitute—

“Consideration of the application at the first hearing

9.20.—(1) If the court is able to determine the application at the first hearing, it must do so unless it considers that there are good reasons not to do so.

(2) Paragraphs (3) to (7) apply where the court does not determine the application at the first hearing.

(3) The court may give directions relating to—

- (a) the filing of further evidence;
- (b) the production of further documents;
- (c) any other matter required for the fair determination of the matter.

(4) The court may use the first hearing or part of it as a FDR appointment.

(5) Where the court uses the first hearing or part of it as a FDR appointment, rule 9.17 applies with these modifications—

(a) for paragraph (3) substitute—

“(3) At the first hearing, the applicant must produce to the court all offers and proposals and responses to them.”; and

(b) paragraphs (7) and (9) do not apply.

(6) The court may direct that the application be referred to a FDR appointment.

(7) If the court decides that a referral to a FDR appointment is not appropriate it must direct one or more of the following—

- (a) that a further directions appointment be fixed;
- (b) that an appointment be fixed for the making of an interim order;
- (c) that the case be fixed for a final hearing and, where that direction is given, the court must determine the judicial level at which the case should be heard.

(Under Part 3 the court may also direct that the case be adjourned if it considers that non-court dispute resolution is appropriate.)”.

Transitional provision

12. The amendments made by rules 4, 5, 6, 7, 8, 9 and 10 apply only in relation to financial remedy proceedings issued on or after 4th June 2018.

*Richard Burton
Paul Carr
Robert Edwards
William Godwin
Jane Harris
Dylan Jones
Lord Justice McFarlane
Hannah Perry
HHJ Alison Raeside
Katherine Suh*

I allow these Rules

Lucy Frazer
Parliamentary Under Secretary of State
Ministry of Justice

27th March 2018

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 (S.I. 2010/2955) (“FPR 2010”).

Rule 3 amends the FPR 2010 to put beyond doubt the fact that the High Court may direct that proceedings may be heard by a Divisional Court of the High Court.

Rules 4 to 10 amend the FPR 2010 to make provision in relation to the “fast-track” and “standard” procedures for resolution of certain applications for a financial remedy. Rule 4 amends the FPR 2010 to insert new defined terms. The amendments made by rule 5 specify to which cases the fast-track procedure applies. Rules 6 and 7 make consequential amendments to two Chapter headings in the FPR 2010. The amendments made by rules 8 and 10 make changes to the timescales for completion of procedural steps in the fast-track procedure. Rule 9 inserts a new rule into the FPR 2010 to make provision in relation to requests for a change of procedure. Rule 11 inserts a new rule in relation to conduct of the first hearing in a case to which the fast-track procedure applies.

Transitional provision is made in rule 12.

No impact assessment has been produced for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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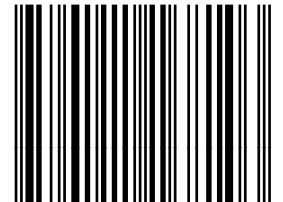
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