
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) (the 2018 Act) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular paragraph g of section 8(2)) arising from the withdrawal of the United Kingdom from the European Union.

The changes made by these Regulations are consequential on provision made in a number of other statutory instruments made under the 2018 Act. The Family Procedure Rules 2010 and the Court of Protection Rules 2017 make provision in a number of places to govern the procedure for proceedings under or related to certain EU instruments. Those EU instruments, as retained EU law under the 2018 Act, are being revoked or amended by other Regulations made under the 2018 Act, and it is accordingly necessary in consequence to remove or amend the corresponding provisions in the Rules. Those other Regulations include transitional and saving provisions the effect of which is that in some circumstances the operation of EU legislation which the Rules supplement is preserved. Therefore these Regulations include transitional and saving provision to preserve the operation of the corresponding provision in the Rules for those purposes.

The amendments made by these Regulations to the Family Procedure Rules 2010 are as follows:

<i>Part of the Rules</i>	<i>Amendment</i>
Part 2	There are omitted or amended definitions of, or other references to, EU instruments, in consequence of the revocation or amendment of those instruments as part of retained EU law. The EU instruments in question are Regulation (EC) No. 2201/2003 (referred to in the Rules as “the Council Regulation” but also known as “Brussels IIa”); Regulation (EC) No. 4/2009 (known as “the Maintenance Regulation”); Regulation (EC) No. 1393/2007 (known as “the Service Regulation”) and Regulation (EU) No. 606/2013 (known as “the Protection Measures Regulation”). They are revoked or amended by the Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/494), the Service of Documents and Taking of Evidence in Civil and Commercial Matters (Revocation and Saving Provision) EU Exit Regulations 2018 (S.I. 2018/1257) and the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/493).
Part 3A	There is omitted provision referring to the Council Regulation, in consequence of that instrument’s revocation.
Part 5	There is omitted provision referring to the Maintenance Regulation, in consequence of that instrument’s revocation.

Status: This is the original version (as it was originally made).

<i>Part of the Rules</i>	<i>Amendment</i>
Part 6	There are omitted provisions relating to litigants providing as an address for service the address of a European lawyer in an EEA State (which fall away on Exit) and provisions relating to service under the Service Regulation, consequential on the revocation of that instrument.
Part 7	There are omitted provisions in relation to stay of proceedings which operate by reference to provisions of the Council Regulation, in consequence of that instrument's revocation.
Part 9	There are omitted provisions governing procedure for proceedings under the Maintenance Regulation, and other references to that Regulation, in consequence of its revocation.
Part 12	There are omitted provisions governing procedure for proceedings under the Council Regulation, and other references to that Regulation, in consequence of its revocation.
Part 14	There is omitted a reference to the Service Regulation, in consequence of that instrument's revocation.
Part 17	There are omitted references to the Maintenance Regulation, in consequence of that instrument's revocation.
Part 20	There are omitted references to States which are parties to or bound by EU instruments, consequential on the revocation of those instruments.
Part 21	There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
Part 22	There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
Part 23	There is omitted a cross-reference to provisions in Part 35 which are themselves omitted.
Part 24	There are omitted provisions governing procedure for requests under the EU Taking of Evidence Regulation (Regulation (EC) No. 1206/2001), and certain cross-references, in consequence of the revocation of the Taking of Evidence Regulation by the Service of Documents and Taking of Evidence in Civil and Commercial Matters (Revocation and Saving Provision) EU Exit) Regulations

<i>Part of the Rules</i>	<i>Amendment</i>
	2018. There is also omitted a cross-reference to provisions in Part 35 which are themselves omitted.
Part 27	There is omitted a reference to provision of “a European regulation” relating to stay of proceedings, in consequence of the revocation of the Council Regulation and Maintenance Regulation.
Part 31	There are omitted references to the Council Regulation in consequence of its revocation, and provisions relating to other provision based on the Council Regulation which is no longer applicable.
Part 34	There are omitted provisions governing procedure for proceedings under the Maintenance Regulation, and other references to that Regulation, in consequence of its revocation, and similarly there are omitted provisions relating to maintenance proceedings under the Brussels and Lugano Conventions and the “Brussels I” Regulation, consequential on the revocation of those EU instruments by the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/479).
Part 35	Part 35 makes provision for the procedure relating to proceedings under or in relation to the EU Mediation Directive (Directive 2008/52/EC), which will cease to be applicable on Exit; and is revoked accordingly. There are also amendments, and provisions omitted, in relation to the EU Protection Measures Regulation (Regulation (EU) 606/2013), consequential on the provision made by the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/493); and in relation to the EU European Enforcement Orders Regulation (Regulation (EC) No. 805/2004) consequential on the provision made in the European Enforcement Order, European Order for Payment and European Small Claims Procedure (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1311).
Part 38	There are amendments, and provisions omitted, in relation to the EU Protection Measures Regulation (Regulation (EU) 606/2013), consequential on the provision made by the Mutual Recognition of Protection Measures in Civil Matters (Amendment) (EU Exit) Regulations 2019.

The amendments made by these Regulations to the Court of Protection Rules 2017 are as follows.

<i>Part of the Rules</i>	<i>Amendment</i>
Part 6	There are omitted provisions relating to service under the Service Regulation, consequential on the revocation of that instrument.

Status: This is the original version (as it was originally made).

<i>Part of the Rules</i>	<i>Amendment</i>
Part 10	There are omitted references to States which are parties to or bound by EU instruments, consequential on the revocation of those instruments.
Part 14	There are omitted provisions governing procedure for requests under the EU Taking of Evidence Regulation (and certain cross-references), consequential on the revocation of that instrument.

An impact assessment has not been produced for this instrument as it has no or minimal impact on business, the voluntary sector and the public sector.