

2012 No. 679 (L. 3)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

MAGISTRATES' COURTS, ENGLAND AND WALES

The Family Procedure (Amendment) Rules 2012

<i>Made</i> - - - -	<i>1st March 2012</i>
<i>Laid before Parliament</i>	<i>6th March 2012</i>
<i>Coming into force</i> - -	<i>6th April 2012</i>

The Family Procedure Rule Committee makes the following rules in exercise of the powers conferred by sections 12 and 48 of the Civil Jurisdiction and Judgments Act 1982(a), sections 102 and 141(1) of the Adoption and Children Act 2002(b) and sections 75 and 76 of the Courts Act 2003(c), after consulting in accordance with section 79 of the Courts Act 2003.

Citation and commencement

1. These Rules may be cited as the Family Procedure (Amendment) Rules 2012 and come into force on 6th April 2012.

Amendments to the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(d) are amended in accordance with rules 3 to 29.

3. In rule 2.3(1)(e)—

(a) in the definition of “financial remedy”—

(i) in sub-paragraph (c), after “Act” insert “except an application under section 13 of the 1984 Act for permission to apply for a financial remedy”; and

(a) 1982 c.27.

(b) 2002 c.38. Section 102 was amended by section 40 of and paragraphs 15 and 16 of Schedule 3 to the Children Act 2004 (c.31). Section 141(1) was amended by section 109(1) of and paragraph 413 of Schedule 8 to the Courts Act 2003.

(c) 2003 c.39. Section 75 was amended by sections 15(1) and 146 of and paragraphs 308 and 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c.4). Section 76 was amended by section 26(7) of the Children Act 2004, section 261(1) of and paragraph 172 of Schedule 27 to the Civil Partnership Act 2004 (c.33), section 12(2) of and paragraph 29 of Part 2 of Schedule 1 to the Constitutional Reform Act 2005 and section 25 of and paragraph 14 of Part 2 of Schedule 3 to the Children, Schools and Families Act 2010 (c.26).

(d) S.I. 2010/2955.

(e) Rule 2.3(1) was amended by S.I. 2011/1328.

- (ii) in sub-paragraph (d), after “Act” insert “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”; and
 - (b) in the definition of “professional acting in furtherance of the protection of children”—
 - (i) in sub-paragraph (c), for “; or” substitute “;”;
 - (ii) in sub-paragraph (d), after “;” insert “or”; and
 - (iii) after sub-paragraph (d), insert—
 - “(e) a member or employee of the Independent Safeguarding Authority, being the body established under section 1 of the Safeguarding Vulnerable Groups Act 2006(a);”.
- 4.** In rule 4.1(8), after “which” insert “an application for”.
- 5.** In rule 5.1(b), after paragraph (5) insert—
 - “(6) Nothing in this rule requires a party to reveal any particulars referred to in rule 29.1(1) if notice of those particulars is given to the court in accordance with rule 29.1(2).”.
- 6.** In rule 6.15(2)(b), for “affidavit” substitute “statement”.
- 7.** In rule 7.6—
 - (a) the existing paragraph shall stand as paragraph (1); and
 - (b) after paragraph (1) insert—
 - “(2) This rule applies to an application for—
 - (a) a decree of divorce made under section 1 of the 1973 Act;
 - (b) a decree of judicial separation made under section 17 of the 1973 Act;
 - (c) a dissolution order as mentioned in section 37(1)(a) of the 2004 Act; or
 - (d) a separation order as mentioned in section 37(1)(d) of the 2004 Act.”.
- 8.** In rule 7.10(4), for “a party” substitute “the co-respondent”.
- 9.** In rule 7.12, after paragraph (14) insert—
 - “(15) In paragraphs (3)(c), (8), (9) and (10), any reference to a respondent is to be read as including a reference to a co-respondent where the context so requires.”.
- 10.** In rule 7.19—
 - (a) in paragraph (4)—
 - (i) for “neither” substitute “no”;
 - (ii) for “the other’s” substitute “another party’s”; and
 - (iii) for “an affidavit” substitute “a statement”;
 - (b) in paragraph (4)(c), after “the other party” insert “to the marriage or civil partnership”; and
 - (c) after paragraph (4), insert—
 - “(5) A statement under paragraph (4) must be verified by a statement of truth.”.
- 11.** In rule 7.20—
 - (a) in paragraph (5), after “an affidavit” insert “or a statement of truth”; and
 - (b) after paragraph (7) insert—
 - “(8) Where a decree or order is made in accordance with a certificate under paragraph (2)(a), any person may, within 14 days after the making of the decree or order, inspect the

(a) 2006 c.47.

(b) Rule 5.1 was amended by S.I. 2011/1328.

certificate and the evidence filed under rule 7.19(4) (except any statement of arrangements for children) and may obtain copies.

(9) Paragraph (8) does not apply to a certificate which relates to—

(a) a decree of nullity of marriage under section 12(g) of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act; or

(b) an order for nullity of civil partnership under section 50(1)(d) of the 2004 Act, unless the court has given permission.”.

12. In rule 7.27(1)(c), after “2003” insert “ought to be determined by the court”.

13. In rule 7.32(4), after “file an affidavit verifying the explanation” insert “or to verify the explanation with a statement of truth”.

14. In rule 7.36 in paragraphs (2) and (3) omit “, on payment of the prescribed fee,”.

15. In the table following rule 8.20(1), in the row relating to applications for declarations of parentage, for the words in column 2 (Respondent), substitute—

“(i) The person whose parentage is in issue; and

(ii) any person who is or is alleged to be the parent of the person whose parentage is in issue,

except where that person is the applicant.”.

16. In rule 9.14(a)—

(a) in paragraph (2)(a), for “an affidavit” substitute “a statement of truth”; and

(b) in paragraph (2A), for “affidavit” substitute “statement of truth”.

17. In rule 9.19(b)—

(a) in paragraph (2)(a), for “an affidavit” substitute “a statement of truth”; and

(b) in paragraph (2A), for “affidavit” substitute “statement of truth”.

18. After rule 9.26A(c), insert—

“Adding or removing parties

9.26B.—(1) The court may direct that a person or body be added as a party to proceedings for a financial remedy if—

(a) it is desirable to add the new party so that the court can resolve all the matters in dispute in the proceedings; or

(b) there is an issue involving the new party and an existing party which is connected to the matters in dispute in the proceedings, and it is desirable to add the new party so that the court can resolve that issue.

(2) The court may direct that any person or body be removed as a party if it is not desirable for that person or body to be a party to the proceedings.

(3) If the court makes a direction for the addition or removal of a party under this rule, it may give consequential directions about—

(a) the service of a copy of the application form or other relevant documents on the new party; and

(b) the management of the proceedings.

(a) Rule 9.14 was amended by S.I. 2011/1328.

(b) Rule 9.19 was amended by S.I. 2011/1328.

(c) Rule 9.26A was inserted by S.I. 2011/1328.

(4) The power of the court under this rule to direct that a party be added or removed may be exercised either on the court’s own initiative or on the application of an existing party or a person or body who wishes to become a party.

(5) An application for an order under this rule must be made in accordance with the Part 18 procedure and, unless the court directs otherwise, must be supported by evidence setting out the proposed new party’s interest in or connection with the proceedings or, in the case of removal of a party, the reasons for removal.”

19. In rule 9.36(5)—

- (a) for “paragraph (1)” substitute “paragraph (4)”; and
- (b) in sub-paragraphs (a)(i) and (b)(i) after “pension attachment order” insert “, or any order varying or discharging such an order,”.

20. In rule 11.4(1), for “(4A)” substitute “(5)”.

21. In rule 11.9, for “(whether under rule 11.7 or 11.8)” substitute “of a type referred to in rule 11.7 or 11.8”.

22. Rule 12.72(1) shall be renumbered as rule 12.72.

23. In rule 16.36(1), after “In” insert “specified proceedings (except where paragraph (2) applies),”.

24. In rule 20.7(2)(a)(ii)(a)—

- (a) for “a Lugano Contracting State or” substitute “a State bound by the Lugano Convention,”;
- (b) after “a Regulation State” insert “or a Maintenance Regulation State”; and
- (c) omit “the Maintenance Regulation”.

25. For rule 29.12, substitute—

“Access to and inspection of documents retained in court

29.12.—(1) Except as provided by this rule or by any other rule or Practice Direction, no document filed or lodged in the court office shall be open to inspection by any person without the permission of the court, and no copy of any such document shall be taken by, or issued to, any person without such permission.

(2) A copy of an order made in open court will be issued to any person who requests it.

(3) Subject to rules 14.24 and 29.1(2) and to any direction given by the court, a party to any family proceedings, or the legal representative, children’s guardian or litigation friend for a party in any family proceedings, may have a search made for, and may inspect, and obtain a copy of, any document filed or lodged in the court office in those proceedings.

(4) Any person who intends to make an application in relation to a child under the 1980 Hague Convention in a Contracting State (as defined in rule 12.44) other than the United Kingdom shall, if the court is satisfied that that person intends to make such an application, be entitled to obtain a copy bearing the seal^(GL) of the court of any order made in relation to the child under the 1989 Act or under the inherent jurisdiction, whether or not that person was a party to the proceedings in which the order was made.”

26. In rule 32.1(4)(a), for “Hight” substitute “High”.

27. In rule 34.3(a)(b), omit “and sign”.

(a) Rule 20.7(2)(a)(ii) was amended by S.I. 2011/1328.
(b) Rule 34.3 was amended by S.I. 2011/1328.

28. In rule 34.28A(1)(a)—

(a) in sub-paragraph (b), for “.” substitute “;”;

(b) after sub-paragraph (b), insert—

“(c) “the 1968 Convention” has the meaning given in the 1982 Act.”; and

(c) in the words in parentheses at the end of the rule, after “Section 1” insert “of Chapter IV”.

29. In rule 34.39(3)(c)(b), for “Contracting State or Member State of the European Union” substitute “State”.

Savings and transitional provisions

30.—(1) In this rule, “the FPR” means the Family Procedure Rules 2010.

(2) In any case where a court has, before the date on which these Rules come into force, extended the period within which an application for a section 89 order (within the meaning given in the FPR) can be made, the FPR will apply as if rule 4 of these Rules had not been made.

(3) The FPR as amended by rules 3(b), 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19(b), 23, 24, 25, 27, 28 and 29 of these Rules shall apply so far as is practicable to a given case which was commenced but not disposed of before these Rules came into force.

(4) Where by reason of paragraph (3) the FPR as amended by these Rules do not apply to a given case, the FPR shall apply to that case as if rule 3(b), 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19(b), 23, 24, 25, 27, 28 or 29, as applicable, of these Rules had not been made.

*Tim Becker
Richard Burton
Paul Carr
Chris Darbyshire
Bruce Edgington
Ruth Lindley-Glover
David Salter
Philip Waller
John Wilson*

I allow these Rules

Signed by authority of the Lord Chancellor

1st March 2012

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

(a) Rule 34.28A was inserted by S.I. 2011/1328.

(b) Rule 34.39(3)(c) was amended by S.I. 2011/1328.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 (“the FPR”).

Rule 2.3(1) of the FPR defines various terms. Rule 3(a) of these Rules amends the definition of “financial remedy” in the FPR to exclude certain applications for permission to apply for particular types of financial remedy. Rule 3(b) amends the definition of “professional acting in furtherance of the protection of children” to include members and employees of the Independent Safeguarding Authority.

Rule 4 amends rule 4.1(8) of the FPR to clarify that a court may not grant an extension of the time period within which an application for a “section 89 order” (as defined in the FPR) may be made.

Rule 5 amends rule 5.1 of the FPR to make clear that that rule is subject to rule 29.1 of the FPR.

Rules 6, 10(a)(iii) and (c), 11(a), 13, 16 and 17 amend the FPR so that certain matters previously verified by affidavit are to be verified by a statement of truth.

Rule 7 amends rule 7.6 of the FPR to specify the proceedings in which a statement of reconciliation is required.

Rule 8 amends rule 7.10(4) of the FPR to provide that where a person is named in an application for a matrimonial or civil partnership order as having had an improper association with the other party to the marriage or civil partnership, the court may direct that that named person be a co-respondent to the application.

Rule 9 amends rule 7.12 of the FPR to ensure that various specific provisions apply to a co-respondent to an application as they already apply to a respondent. Rule 10(a)(i) and (ii) and (b) makes amendments consequential upon those made by rule 9.

Rule 11(b) amends rule 7.20 of the FPR to make provision for access to documents following the making of a decree or order under r7.20(2)(a) FPR.

Rule 12 amends rule 7.27(1)(c) of the FPR, which relates to the staying of certain proceedings. The amendment clarifies the intention of the provision.

Rule 14 amends rule 7.36 of the FPR to remove references to payment of prescribed fees. This amendment makes rule 7.36 of the FPR consistent with other provisions in the FPR (where no references to fees being payable are included, as provision for fees is made in other statutory instruments).

Rule 15 amends rule 8.20(1) of the FPR to make clear who should be a respondent to an application for a declaration of parentage under section 55A of the Family Law Act 1986.

Rule 18 inserts a new rule 9.26B in the FPR to make provision for the addition or removal of parties in proceedings for a financial remedy.

Rules 19(a), 20, 21, 22, 26, 28(c) and 29 make minor, technical or tidying amendments various provisions of the FPR.

Rule 19(b) amends rule 9.36(5) of the FPR to clarify the starting point of the time limit within which certain documents must be sent to specified persons when a court varies or discharges a pension sharing order or a pension attachment order.

Rule 23 amends rule 16.36(1) of the FPR to apply the provision on who may not be appointed as a children’s guardian, reporting officer or a children and family reporter to certain “specified proceedings” (as defined in the FPR).

Rule 24 amends rule 20.7(2)(a)(ii) of the FPR to ensure that the intended meaning is clear, that the provision reads properly and that it cross-refers to the appropriate terms in the Civil Jurisdiction and Judgments Act 1982.

Rule 25 substitutes a new rule 29.12 in the FPR to make detailed provision for the access to and inspection of documents retained in court.

Rule 27 amends rule 34.3(a) of the FPR to remove the requirement to “sign” a memorandum entered in the magistrates’ court register.

Rule 28(b) amends rule 34.28A of the FPR to insert a definition of “the 1968 Convention” to apply to the whole of Chapter 3 of Part 34 of the FPR.

Saving and transitional provisions are made in rule 30.

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STATUTORY INSTRUMENTS

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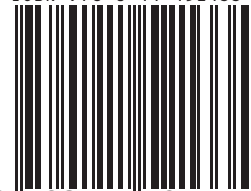
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