

**1985 No. 846 (L. 8)****SUPREME COURT OF ENGLAND AND WALES****The Rules of the Supreme Court (Amendment No. 2) 1985**

<i>Made</i> - - - - -	<i>3rd June 1985</i>
<i>Laid before Parliament</i> -	<i>10th June 1985</i>
<i>Coming into Operation—</i>	
— <i>as to Rules 1 to 4 and</i>	
12 to 14 - - - -	<i>1st July 1985</i>
<i>as to Rules 5 to 11</i> - -	<i>1st December 1985</i>

We, the Supreme Court Rule Committee, having power under section 84 of the Supreme Court Act 1981(a) to make rules of court for the purpose of regulating and prescribing the practice and procedure to be followed in the Supreme Court, hereby exercise those powers as follows:—

*Citation and commencement*

1.— (1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 2) 1985 and shall come into operation on 1st July 1985, except for Rules 5 to 11, which shall come into operation on 1st December 1985.

(2) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b) and, unless the context otherwise requires, a form referred to by number means the form so numbered in Appendix A to those Rules.

*Provisional Damages*

2. The Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 shall be amended by substituting for the title to Order 37 the words “Damages: assessment after judgment and orders for provisional damages”.

3. Order 18, rule 8(3) shall be amended by inserting, after the words “claim for exemplary damages”, the words “or for provisional damages”.

(a) 1981 c.54.

(b) S.I. 1965/1776; the relevant amending instruments are 1971/1269, 1955, 1972/813, 1898, 1973/2046, 1974/1115, 1976/2097, 1977/532, 1978/579, 1979/402, 1542, 1716, 1980/1010, 2000, 1983/1181, 1984/1051.

4. Order 37 shall be amended as follows:—

- (1) there shall be substituted, for the title, the words  
“DAMAGES: ASSESSMENT AFTER JUDGMENT AND ORDERS  
FOR PROVISIONAL DAMAGES”;
- (2) immediately before rule 1 there shall be inserted the words  
“I. ASSESSMENT OF DAMAGES AFTER JUDGMENT”;
- (3) after rule 6 there shall be added the following Part:—  
“II. ORDERS FOR PROVISIONAL DAMAGES FOR PERSONAL  
INJURIES

*Application and Interpretation*

7.— (1) This Part of this Order applies to actions to which section 32A of the Act<sup>(a)</sup> (in this Part of this Order referred to as “section 32A”) applies.

(2) In this Part of this Order “award of provisional damages” means an award of damages for personal injuries under which—

- (a) damages are assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in section 32A; and
- (b) the injured person is entitled to apply for further damages at a future date if he develops the disease or suffers the deterioration.

*Order for provisional damages*

8.— (1) The Court may on such terms as it thinks just and subject to the provisions of this rule make an award of provisional damages if—

- (a) the plaintiff has pleaded a claim for provisional damages, and
- (b) the Court is satisfied that the action is one to which section 32A applies.

(2) An order for an award of provisional damages shall specify the disease or type of deterioration in respect of which an application may be made at a future date, and shall also, unless the Court otherwise determines, specify the period within which such application may be made.

(3) The Court may, on the application of the plaintiff made within the period, if any, specified in paragraph (2), by order extend that period if it thinks it just to do so, and the plaintiff may make more than one such application.

(4) An order for an award of provisional damages may be made in respect of more than one disease or type of deterioration and may in respect of each disease or deterioration specify a different period within which an application may be made at a future date.

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(a) S.32A inserted by s.6 of the Administration of Justice Act 1982 (c.53).

(5) Orders 13 and 19 shall not apply in relation to an action in which the plaintiff claims provisional damages.

*Offer to submit to an award*

9.— (1) Where an application is made for an award of provisional damages, any defendant may at any time (whether or not he makes a payment into court) make a written offer to the plaintiff—

- (a) to tender a sum of money (which may include an amount, to be specified, in respect of interest) in satisfaction of the plaintiff's claim for damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in section 32A; and
- (b) to agree to the making of an award of provisional damages.

(2) Any offer made under paragraph (1) shall not be brought to the attention of the Court until after the Court has determined the claim for an award of provisional damages.

(3) Where an offer is made under paragraph (1), the plaintiff may, within 21 days after receipt of the offer, give written notice to the defendant of his acceptance of the offer and shall on such acceptance make an application to the Court for an order in accordance with the provisions of rule 8(2).

*Application for award of further damages*

10.— (1) This rule applies where the plaintiff, pursuant to an award of provisional damages, claims further damages.

(2) No application for further damages may be made after the expiration of the period, if any, specified under rule 8(2), or of such period as extended under rule 8(3).

(3) The plaintiff shall give not less than three months' written notice to the defendant of his intention to apply for further damages and, if the defendant is to the plaintiff's knowledge insured in respect of the plaintiff's claim, to the insurers.

(4) The plaintiff must take out a summons for directions as to the future conduct of the action within 21 days after the expiry of the period of notice referred to in paragraph (3).

(5) On the hearing of the summons for directions the Court shall give such directions as may be appropriate for the future conduct of the action, including, but not limited to, the disclosure of medical reports and the place, mode and date of the hearing of the application for further damages.

(6) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the order for the award of provisional damages.

(7) The provisions of Order 29 with regard to the making of interim payments shall, with the necessary modifications, apply where an application is made under this rule.

(8) The Court may include in an award of further damages simple interest at such rate as it thinks fit on all or any part thereof for all or any part of the period between the date of notification of the plaintiff's intention to apply for further damages and the date of the award.”.

*Proceedings under Part II of the Children Act 1975(a)*

5. Order 90, rule 2 shall be amended by substituting, for the words “rules 3, 5 and 17”, the words “rules 3, 5 and 30”.

6. For Order 90, rule 5 there shall be substituted the following new rule:—

“5.— (1) Where there is pending any proceeding by reason of which a minor is a ward of court, any application under the Guardianship of Minors Act 1971(b) or the Guardianship Act 1973(c) (in this Order referred to as “the Guardianship Acts”) with respect to that minor may be by summons in that proceeding.

(2) Where there is pending a proceeding under Part II of the Children Act 1975 relating to a minor who is the subject of a custodianship order under that Act, any application under section 3(3) or 4(3A) of the Guardianship Act 1973 or under section 12C(5) of the Guardianship of Minors Act 1971 (as applied by section 4(3D) of the said Act of 1973) must be made by summons in that proceeding.

(3) Subject to paragraphs (1) and (2) any application under the Guardianship Acts must be made by originating summons issued out of the Principal Registry or out of a district registry as defined by the matrimonial causes rules.”.

7. Order 90, rule 9(2) shall be amended by substituting, for the words “Rule 16 of this Order”, the words “Rule 29 of this Order”.

8. Order 90, rule 9(3) shall be amended by substituting, for the words “rule 16(8) of this Order”, the words “rule 29(8) of this Order”.

9. Order 90 shall be amended by inserting, after rule 12, the following

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(a) 1975 c.72, amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22) and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41).

(b) 1971 c.3.

(c) 1973 c.29.

Part:—

### “III. CUSTODIANSHIP ORDERS

#### *Interpretation*

**13.** In this Part of this Order, unless the context otherwise requires—

- (a) “the Act” means the Children Act 1975;
- (b) references to the mother or father of a minor in relation to applications and orders under section 34(1) of the Act include any person in relation to whom the minor was treated as a child of the family as defined in section 52(1) of the Matrimonial Causes Act 1973(a).

#### *Applications under Part II of the Act*

**14.—** (1) Every application to the High Court under section 33(1) of the Act for a custodianship order must be made by originating summons.

(2) Every other application to the High Court under Part II of the Act must—

- (a) where proceedings in the High Court for the grant of a custodianship order are pending or have been determined by the making of a custodianship order, be made by summons in those proceedings and
- (b) in any other case be made by originating summons.

#### *Jurisdiction of Registrars*

**15.—** (1) A registrar may hear and determine any of the following applications—

- (a) an application under section 34(1) of the Act for an order relating to the maintenance of a minor or to access to a minor, where the only question for determination is the extent to which access is to be given;
- (b) an application under section 35(3) or (4) of the Act for the revocation or variation of an order made under section 34(1);
- (c) an application under section 35(4A) of the Act for the variation of an order made under section 34(1)(b) of the Act;
- (d) an application under section 35(10) of the Act for the revival of an order made under section 34(1)(b) of the Act; and
- (e) an application under section 43A of the Act for an order restricting the removal of a minor from England and Wales, or for the variation or revocation of such an order, where the application is unopposed, or where the application is for the temporary removal of the minor, unless it is opposed on the ground that the minor may not be duly returned.

(2) Every other application under Part II of the Act shall be heard and determined by a judge.

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(a) 1973 c.18.

*Defendants*

**16.—** (1) The defendants to an application under section 33(1) of the Act shall be—

- (a) the mother and father, or guardian (not being a plaintiff), of the minor,
- (b) any local authority—
  - (i) having the powers and duties of a parent or guardian of the minor by virtue of section 10 of the Child Care Act 1980(a), or
  - (ii) in which the parental rights and duties in respect of the minor are vested, whether jointly or not, by virtue of section 3 of the said Act of 1980, or
  - (iii) which has received the minor into its care under section 2 of the said Act of 1980, or
  - (iv) which has the minor in its care by virtue of any other enactment, or
  - (v) in whose area the minor resides,
- (c) any voluntary organisation in whom the parental rights and duties in respect of the minor are vested, whether jointly or not, by virtue of section 64 of the said Act of 1980,
- (d) any person liable by virtue of any order of any court or agreement to contribute to the maintenance of the minor, and
- (e) any other person (not being a plaintiff) who has actual or legal custody of the minor.

(2) The defendant to an application under section 34(1)(a) or (d) of the Act shall, where the application is made in pending proceedings under section 33(1) of the Act, be the plaintiff in the pending proceedings and shall, where a custodianship order is in force, be the custodian.

(3) The defendant to an application under section 34(1)(b) or (c) of the Act shall be the mother or father of the minor.

(4) The defendant to an application under section 34(1)(e) of the Act shall, where the applicant is the mother or father of the minor, be the applicant for a custodianship order or the custodian and shall, where the applicant is the applicant for a custodianship order or the custodian, be the mother or father.

(5) The defendants to an application under section 35(1) of the Act for the revocation of a custodianship order shall be—

- (a) any person or body (not being the applicant) who would be a defendant to an application under section 33(1) of the Act,
- (b) the person who would have legal custody of the minor if the custodianship order were revoked, where he is not the applicant, and
- (c) the custodian, where he is not the applicant.

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(a) 1980 c.5.

(6) The defendant to an application under section 35(3) of the Act shall be the parent or grandparent against whom or in favour of whom the order sought to be varied or revoked was made.

(7) The defendant to an application under section 35(4) of the Act shall be the custodian.

(8) The defendant to an application under section 35(4A) of the Act shall be the mother or father against whom the order sought to be varied was made.

(9) The defendant to an application under section 35(10) of the Act shall, where the application is to revive or vary an order made under section 34(1)(b), be the mother or father against whom the order was made and shall, where the application is to vary or revoke an order made under section 34(1)(b) which has been revived, be the person in whose favour the order was made.

(10) The defendant to an application under section 38 of the Act for the resolution of a dispute between joint custodians shall be the other joint custodian.

(11) The defendants to an application under section 41 of the Act for leave to remove a minor from the actual custody of an applicant under section 33(1) of the Act shall be the plaintiff in the proceedings under section 33(1) and the defendants (other than the applicant under section 41) to those proceedings.

(12) The defendants to an application under section 42(1) of the Act for the return of a minor removed in breach of section 41 shall be the person who has allegedly removed the minor and the defendants to the application under section 33(1) of the Act.

(13) The defendants to an application under section 42(2) of the Act for an order directing a person not to remove a minor from the actual custody of the applicant in breach of section 41 shall be the person believed to be intending to remove the minor and the defendants to the application under section 33(1) of the Act.

(14) The defendants to an application under section 43A(1) or (2) of the Act shall, where the applicant is the mother or father of the minor, be the custodian or the person with custody under an interim order under section 34(5) and, where the applicant is the custodian, be the mother and father and guardian of the minor.

*Parties to applications made in pending proceedings*

17. Where an application under Part II of the Act is made in pending proceedings a party to the application who is not a party to the pending proceedings shall not, unless the Court otherwise orders, be joined as a party to those proceedings.

*Representation of minors*

18. Without prejudice to Order 80, the provisions of Rule 115(1) to (4) of the matrimonial causes rules relating to the representation of minors shall

apply, with the necessary modifications, to proceedings under Part II of the Act, and, where an order appointing a guardian ad litem of a minor is made, the minor shall be joined as a party to the proceedings.

*Applications to be in Chambers*

19. Applications under Part II of the Act shall be dealt with in chambers unless the Court otherwise directs.

*Form and contents of Originating Summons*

20.— (1) The originating summons by which an application under section 33(1) of the Act is made shall be in Form No. 11B in Appendix A.

(2) On issuing such originating summons the plaintiff must file—

- (a) medical certificates by a registered medical practitioner made not more than 3 months before the issue of the originating summons on the health of the minor and, save where the plaintiff is a step-parent of the minor, on the plaintiff, which shall be in Form No. 113 in Appendix A; and
- (b) the consent to the application, where it is required by section 33(3)(a) or (b) of the Act, of the person with sole legal custody or of at least one of the persons with joint legal custody of the minor, which consent shall be in Form No. 114 in Appendix A.

(3) Without prejudice to Order 7, rule 3 the originating summons by which any other application under Part II of the Act is made shall state—

- (a) the name and address of the minor and of the custodian, and
- (b) details of the custodianship order or, where the application is to vary or revoke any other order, that order, including, in either case, the date of the order and the Court which made it.

*Applications to be treated as Applications for Custodianship Orders*

21.— (1) Where an application for leave under section 41(1) of the Act is granted or an application under section 42(1) or (2) of the Act is refused, the Court may thereupon treat the hearing of the application as the hearing of the application for a custodianship order and refuse a custodianship order accordingly.

(2) Where an application is made under section 9 of the Guardianship of Minors Act 1971 by the mother or father of a minor, and the Court is of opinion that legal custody of the minor should be given to a person other than the applicant, the Court may—

- (a) treat the application as an application for a custodianship order by that other person, and
- (b) order that that person, where he is not a party to the proceedings, be added as a plaintiff, if he consents thereto, and the registrar shall, on the making of such an order, send a copy of the originating summons to the person so added.



(3) Where the Court, pursuant to section 37(1) to (3) of the Act, treats an application for an adoption order as an application for a custodianship order, it may order that any person not a party to the proceedings who would have been a defendant under rule 16(1) shall be added as a defendant and Order 15, rule 8 shall apply to any such order as it applies to any order made under Order 15, rules 6 or 7.

*Dispensing with Service*

22. The Court may dispense with service of any summons (whether originating or ordinary) in any proceedings under Part II of the Act.

*Consent to Custodianship Applications*

23. A document signifying the consent of a person having legal custody of a minor to an application for a custodianship order shall be witnessed—

- (a) if executed in England and Wales, by
  - (i) a justice of the peace, or
  - (ii) an officer of a county court appointed for the purposes of section 58 of the County Courts Act 1984(a), or
  - (iii) a justices' clerk;
- (b) if executed in Scotland, by a justice of the peace or a sheriff;
- (c) if executed in Northern Ireland, by a justice of the peace; and
- (d) if executed outside the United Kingdom, by
  - (i) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal process; or
  - (ii) a British Consular officer; or
  - (iii) a notary public; or
  - (iv) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

*Reports by Local Authorities and Probation Officers*

24.— (1) The plaintiff, upon notifying the local authority in whose area the minor resides of his application for a custodianship order in accordance with section 40(1) of the Act, shall serve the local authority with a copy of the originating summons together with any documents filed therewith.

(2) The local authority in whose area the minor resides shall, within 6 weeks of service of the originating summons, lodge with the Court a report in accordance with section 40 of the Act.

(3) Where the Court requests a local authority or probation officer to make to the Court a report under section 36(4) of the Act on the desirability of the child returning to the legal custody of any individual or under section

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(a) 1984 c.28.

39 of the Act on any matter specified by the Court, the local authority or probation officer, as the case may be, shall make such report to or lodge such report with the Court within 6 weeks of the request.

(4) The registrar shall, on the making of such a request as is mentioned in paragraph (3), send to the local authority or probation officer a copy of any documents filed with the originating summons.

(5) The registrar shall, upon receiving any written report mentioned in paragraphs (2) and (3), notify the parties that they may inspect it and take copies of it.

#### *Representation of Local Authority*

25. In proceedings under Part II of the Act a local authority may be represented by its director of social services or other officer employed by it for the purposes of its social services functions under the Local Authority Social Services Act 1970(a).

#### *Care Orders*

26.— (1) Before the Court may make an order under section 36(2) or (3)(a) of the Act or under section 2(2)(b) of the Guardianship Act 1973 committing the care of a minor to a specified local authority, the authority (whether or not it is a party) may make representations to the Court either—

- (a) when the Court indicates that it proposes to make such an order, or
- (b) at a date, time and place fixed by the registrar, who shall notify the authority not less than 14 days before the date so fixed.

(2) If the local authority wishes to represent that, in the event of an order being made under the said section 36(3)(a) or the said section 2(2)(b), the Court should make a periodical payments order in favour of the minor, the authority shall, within seven days after being notified by the registrar, file an affidavit setting out such facts as are known to the authority which are relevant to the property and income of the person against whom the periodical payments order is sought and shall at the same time serve a copy of the affidavit on that person.

(3) A person on whom a copy of the local authority's affidavit is served under paragraph (2) shall within 14 days after service file an affidavit containing full particulars of his property and income and shall at the same time serve a copy of the affidavit on the local authority.

#### *Orders*

27.— (1) The provisions of the matrimonial causes rules relating to the drawing up and service of orders shall apply to proceedings under this Part of this Order as if they were proceedings under those rules.

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(a) 1970 c.42.

(2) Where the Court makes an order in proceedings under Part II of the Act or under the Guardianship Acts relating to a minor who is the subject of a custodianship order made by another court, the registrar shall send a copy of the order to that other court.”.

10. The existing Part III of Order 90 shall be re-numbered IV and rules 13 and 16 to 18 shall be re-numbered 28 to 31.

11. Appendix A shall be amended as follows:—

(1) the following new form shall be inserted after Form No. 11A:—

“ No. 11B

[Royal Arms]

Originating Summons for Custodianship Order

(0.90 r.20)

In the High Court of Justice  
Family Division

No. of 19

In the Matter of the Children Act 1975 and  
In the Matter of

a Minor

Let  
Royal Courts of Justice, Strand, London WC2 on  
the  
hearing of the application of

attend at the  
for

(and

of  
) for

an order:—

1. Making a custodianship order in respect of the said minor in favour of the applicant(s), and
2. Providing for the costs of the application.

I/We .....

(and.....)

wish to apply for a custodianship order in respect of.....  
and give the following information in support of my/our application.

**PART 1 Particulars of the applicant(s)**

**1. Name and address**

Name of (first) applicant in full.....

.....

Address .....

.....

Relationship (if any) to the minor.....

(Name of (second) applicant in full .....

.....

Address .....

.....

Relationship (if any) to the minor .....

#### *Notes*

Paragraph 1—Enter the address where the applicant has his/her home, and the place (if different) where documents may be received.

#### PART 2 Particulars of the Minor

##### 2. Identity

The minor is of the ..... sex and

was born on the ..... day of..... 19.....

##### 3. Parentage

The minor is the child of.....

whose address is.....  
(or deceased)

(and .....

whose address is.....)  
(or deceased)

##### 4. Guardian

The guardian(s) of the minor (other than the mother or father of the minor)

is/are.....

of .....

(and .....

of.....)]

##### 5\*(a). Consent of person having legal custody

.....

of .....

(and .....

of.....)

consent to the making of a custodianship order in my/our favour.

\*(b) No-one has legal custody of the minor.

\*(c) I, ....., have legal custody of the minor.

\*(d) The person who has legal custody of the minor cannot be found.

## [6. Care

The minor is in the care of.....  
 (who has/have the powers and duties of a parent or guardian of the minor)  
 (or has/have parental rights and duties in respect of the minor).]

## [7. Local Authority

The name and address of the local authority in whose area the minor resides is  
 of ]

## [8. Maintenance

Under a court order made on the ..... day of..... 19....  
 at.....

(or by an agreement dated the ..... day of..... 19 )

.....  
 of.....  
 .....  
 is obliged to pay maintenance for the minor.]

*Notes*

Paragraph 3—If the minor is illegitimate give details of the putative father. If he has legal custody of the minor by virtue of a court order give details of that order under paragraph 10.

Paragraph 4—Cross out this paragraph if the minor has no guardian. Do not include the person who has custody of the minor only.

Paragraph 5—\*Cross out the paragraphs which do not apply.  
 No consent is required where:  
 (a) the minor has lived with the applicant(s) for a period or periods which amount to 3 years including the 3 months before the application is made or  
 (b) the applicant is either a relative or step-parent with whom the minor has lived for 3 months before the application is made, or a person with whom the minor has lived for a period or periods which amount to 1 year including the 3 months before the application is made AND (in both cases) no person has legal custody of the minor, the applicant has legal custody of the minor or the person having legal custody of the minor cannot be found.

Paragraph 6—Cross out this paragraph unless the minor is in the care of a local authority or a voluntary organisation.

Paragraph 7—If paragraph 6 is crossed out, this paragraph must be completed.

Paragraph 8—Cross out this paragraph unless some person or body has to pay maintenance for the minor under a court order or agreement.

**PART THREE General**

9. The minor has lived with me/us continuously since the ..... day of ..... 19.... / for the following periods.....  
 and has therefore lived with me/us for ..... months/years including the three months immediately before the making of this application.

10. No proceedings about the minor have been commenced or completed in any court in England and Wales or elsewhere (except .....)

.....)

11. For the purpose of this application reference may be made to ..... of ..... and ..... of .....

12. I/We apply for a custodianship order for the minor.

13. I/We also intend to apply to the court for an order that .....

Signed.....

Signed.....

Dated the ..... day of ..... 19....

#### Notes

Paragraph 9—Give details of the period or periods during which the minor has lived with the applicant(s); these must include the three months immediately before the application is issued.

Paragraph 10—Give details of the proceedings and the date and effect of any order.

Paragraph 11—No referee is required where the applicant or one of the applicants is either a step-parent or relative of the minor.

Paragraph 12—Notice of this application must be given to the local authority within 7 days of its issue, unless that period has been extended by that authority or the Court under section 40(1) of the 1975 Act.”

(2) the following new forms shall be added at the end of Appendix A:—

“ No. 113

Medical Certificate for Minor or Plaintiff in Application for Custodianship Order

(O.90, r.20)

[Heading as in Form No. 11B]

I examined (the above-mentioned minor) (the plaintiff ..... ) on ..... day of ..... 19 .....

I have formed the opinion that he/she is not suffering from any chronic illness or serious disability.

or

He/she is suffering from .....

Signed

Date

Qualifications

Address

*Note* Where the person being examined has a chronic illness or serious disability give details of its nature and extent and its likely prognosis.

No. 114

Consent to Application for Custodianship Order

(O.90, r.20)

[Heading as in Form No. 11B]

If you are in any doubt about your legal rights you should obtain legal advice before signing this form.

1. An application is to be made

by .....

(and .....) )

for a custodianship order in respect of

..... a minor

2. I .....

of .....

(being a parent/guardian of the minor)

(an authorised officer of .....

..... which has legal custody of the minor)

state as follows:

3. I understand that if an order is made in favour of the applicant(s) he/she/they will have transferred to to him/her/them all the rights and duties in respect of the minor that by law a mother and father have in relation to a legitimate child, until he/she attains the age of 18 years or until the court revokes the order if this happens before the minor's 18th birthday, except the right to arrange for his/her emigration from the United Kingdom, to withhold agreement to the minor's adoption, to administer the minor's property, to change the minor's name and to change the minor's religion.

4. (I understand that I may apply to the court for an order for access to the minor.)

5. I understand that the court cannot make a custodianship order without my consent.

6. I understand that when the application for a custodianship order is heard this document may be used as evidence unless I inform the court on or before the hearing of the application.

7. I consent to the making of a custodianship order.

If you are in any doubt about your legal rights you should obtain legal advice before signing this form.

Signed.....

This form was signed by.....

before me at.....

on the ..... day of..... 19.....

Signed (witness).....

Address.....

Description.....

*Notes*

Paragraph 2—Insert either the name of the parent or guardian, or the name of the authorised officer of the local authority or voluntary body in whose care the minor is.

Paragraph 3—“Rights and duties” includes making decisions about the minor’s care and upbringing and about the place and manner in which the minor’s time is spent.

Paragraph 4—Cross out this paragraph if the person giving consent is not a parent or guardian. An application for access may be made on notice under Section 34 1(a) of the 1975 Act.

Paragraph 6—Notice of the time, date and place of hearing will be sent to you.

**Witness Statement**

This form should be witnessed by:—

—in England and Wales an authorised officer of a county court, a justice’s clerk or a justice of the peace;

—in Scotland a justice of the peace or a sheriff;

—in Northern Ireland a justice of the peace;

—outside the United Kingdom a British Consular officer, a notary public, any person for the time being authorised by law, in the place where the form is signed, to administer an oath for any judicial or other legal process, or if the person signing the form is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.”.

*Local Government Finance Act 1982*

**12.** The Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 shall be amended by substituting, for the title to Order 98, the words “Local Government Finance Act 1982, Part III”(a).

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(a) 1982 c.32.



13. Order 98 shall be amended as follows:—

(1) For the title there shall be substituted the following title “LOCAL GOVERNMENT FINANCE ACT 1982, PART III”.

(2) In rule 1 for the words “Local Government Act 1972”(a) there shall be substituted the words “Local Government Finance Act 1982”.

(3) For the heading to rule 2 there shall be substituted the heading “*Application by auditor for declaration*”.

(4) In rule 2(1) for the words “under section 161(1)” there shall be substituted the words “under section 19(1)”.

(5) In rule 2(2) for the words “under section 161(2)” there shall be substituted the words “under section 19(2)”.

(6) In rule 3(1) for the words “section 161(6)”, “a district auditor”, “the district auditor” and “section 161(4)” there shall be substituted the words “section 19(4) or section 20(3)”, “auditor”, “the auditor” and “section 20(1)” respectively.

(7) In rule 3(2) for the words “district auditor’s” and “section 161(5)” there shall be substituted the words “auditor’s” and “section 19(4) or section 20(2)” respectively.

(8) In rule 3(3) for the words “district auditor”, “district auditor’s” and “section 161(2)” there shall be substituted the words “auditor”, “auditor’s” and “section 19(2)” respectively.

(9) In rule 4(1) for the words “by section 161” there shall be substituted the words “by section 19 or section 20”.

14. Nothing in Rule 13 shall apply to accounts for any period beginning before 1st April 1983.

*Hailsham of St. Marylebone, C.  
Lane, C.J.,  
John F. Donaldson, M.R.,  
John Arnold, P.,  
R. E. Megarry, V-C.,  
Oliver, L.J.,  
Lloyd, L.J.,  
Hirst, J.,  
John R. Cherryman,  
R. J. P. Aikens,  
Harvey M. Crush.*

Dated 3rd June 1985.

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(a) 1972 c.70.

## EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

These Rules amend the Rules of the Supreme Court 1965 so as—

- (a) to give effect to section 32A of the Supreme Court Act 1981 (orders for provisional damages for personal injuries) (Rules 2 to 4);
- (b) to give effect to Part II of the Children Act 1975 (custodianship orders) (Rules 5 to 11);
- (c) to effect minor amendments to Order 98 in the light of the provisions of the Local Government Finance Act 1982 (Rules 12 to 14).

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