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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART I**

**PRELIMINARY**

**Citation and commencement**

**1.1** These rules may be cited as the Family Proceedings Rules 1991 and shall come into force on 14th October 1991.

**Interpretation**

**1.2.—(1)** In these rules, unless the context otherwise requires—

“the Act of 1973” means the Matrimonial Causes Act 1973**(1)**;

“the Act of 1984” means the Matrimonial and Family Proceedings Act 1984**(2)**;

“the Act of 1986” means the Family Law Act 1986**(3)**;

“the Act of 1989” means the Children Act 1989**(4)**;

“ancillary relief” means—

- (a) an avoidance of disposition order,
- (b) a financial provision order,
- (c) an order for maintenance pending suit,
- (d) a property adjustment order, or
- (e) a variation order;

“avoidance of disposition order” means an order under section 37(2)(b) or (c) of the Act of 1973;

“business day” has the meaning assigned to it by rule 1.5(6);

“cause” means a matrimonial cause as defined by section 32 of the Act of 1984 or proceedings under section 19 of the Act of 1973**(5)** (presumption of death and dissolution of marriage);

“child” and “child of the family” have, except in Part IV, the meanings respectively assigned to them by section 52(1) of the Act of 1973**(6)**;

“consent order” means an order under section 33A of the Act of 1973**(7)**;

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(1) 1973 c. 18.

(2) 1984 c. 42.

(3) 1986 c. 55.

(4) 1989 c. 41.

(5) Section 19 was repealed in part by the Domicile and Matrimonial Proceedings Act 1973 (c. 45), section 17(2) and Schedule 6.

(6) Section 52(1) was applied by section 27 of the Matrimonial and Family Proceedings Act 1984 (c. 42). No other applications, or any other repeals or amendments are relevant to these rules.

(7) Section 33A was inserted by section 7 of the Matrimonial and Family Proceedings Act 1984 (c. 42).

- “court” means a judge or the district judge;
- “court of trial” means a divorce county court designated by the Lord Chancellor as a court of trial pursuant to section 33(1) of the Act of 1984 and, in relation to matrimonial proceedings pending in a divorce county court, the principal registry shall be treated as a court of trial having its place of sitting at the Royal Courts of Justice;
- “defended cause” means a cause not being an undefended cause;
- “district judge”, in relation to proceedings in the principal registry, a district registry or a county court, means the district judge or one of the district judges of that registry or county court, as the case may be;
- “district registry” means any district registry having a divorce county court within its district;
- “divorce county court” means a county court so designated by the Lord Chancellor pursuant to section 33(1) of the Act of 1984;
- “divorce town”, in relation to any matrimonial proceedings, means a place at which sittings of the High Court are authorised to be held outside the Royal Courts of Justice for the hearing of such proceedings or proceedings of the class to which they belong;
- “document exchange” means any document exchange for the time being approved by the Lord Chancellor;
- “family proceedings” has the meaning assigned to it by section 32 of the Act of 1984;
- “financial provision order” means any of the orders mentioned in section 21(1) of the Act of 1973 except an order under section 27(6) of that Act<sup>(8)</sup>;
- “financial relief” has the same meaning as in section 37 of the Act of 1973;
- “judge” does not include a district judge;
- “notice of intention to defend” has the meaning assigned to it by rule 10.8;
- “order for maintenance pending suit” means an order under section 22 of the Act of 1973;
- “person named” includes a person described as “passing under the name of A.B.”;
- “the President” means the President of the Family Division or, in the case of his absence or incapacity through illness or otherwise or of a vacancy in the office of President, the senior puisne judge of that Division;
- “principal registry” means the Principal Registry of the Family Division;
- “proper officer” means—
- (a) in relation to the principal registry, the chief clerk of the family proceedings department, and
  - (b) in relation to any other court or registry, the chief clerk,
- or other officer of the court or registry acting on his behalf in accordance with directions given by the Lord Chancellor;
- “property adjustment order” means any of the orders mentioned in section 21(2) of the Act of 1973;
- “registry for the divorce town” shall be construed in accordance with rule 2.32(6);
- “Royal Courts of Justice”, in relation to matrimonial proceedings pending in a divorce county court, means such place, being the Royal Courts of Justice or elsewhere, as may be specified in directions given by the Lord Chancellor pursuant to section 42(2)(a) of the Act of 1984;
- “senior district judge” means the senior district judge of the Family Division or, in his absence from the principal registry, the senior of the district judges in attendance at the registry;

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(8) The only relevant amendment is made by section 63(3) of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

“special procedure list” has the meaning assigned to it by rule 2.24(3);

“undefended cause” means—

- (i) a cause in which no answer has been filed or any answer filed has been struck out, or
- (ii) a cause which is proceeding only on the respondent’s answer and in which no reply or answer to the respondent’s answer has been filed or any such reply or answer has been struck out, or
- (iii) a cause to which rule 2.12(4) applies and in which no notice has been given under that rule or any notice so given has been withdrawn, or
- (iv) a cause in which an answer has been filed claiming relief but in which no pleading has been filed opposing the grant of a decree on the petition or answer or any pleading or part of a pleading opposing the grant of such relief has been struck out, or
- (v) any cause not within (i) to (iv) above in which a decree has been pronounced;

“variation order” means an order under section 31 of the Act of 1973(9).

(2) Unless the context otherwise requires, a cause begun by petition shall be treated as pending for the purposes of these rules notwithstanding that a final decree or order has been made on the petition.

(3) Unless the context otherwise requires, a rule or Part referred to by number means the rule or Part so numbered in these rules.

(4) In these rules a form referred to by number means the form so numbered in Appendix 1 to these rules with such variation as the circumstances of the particular case may require.

(5) In these rules any reference to an Order and rule is—

- (a) if prefixed by the letters “CCR”, a reference to that Order and rule in the County Court Rules 1981(10), and
- (b) if prefixed by the letters “RSC”, a reference to that Order and rule in the Rules of the Supreme Court 1965(11).

(6) References in these rules to a county court shall, in relation to matrimonial proceedings, be construed as references to a divorce county court.

(7) In this rule and in rule 1.4, “matrimonial proceedings” means proceedings of a kind with respect to which divorce county courts have jurisdiction by or under section 33, 34 or 35 of the Act of 1984.

### **Application of other rules**

**1.3.**—(1) Subject to the provisions of these rules and of any enactment the County Court Rules 1981 and the Rules of the Supreme Court 1965 shall apply, with the necessary modifications, to family proceedings in a county court and the High Court respectively.

(2) For the purposes of paragraph (1) any provision of these rules authorising or requiring anything to be done in family proceedings shall be treated as if it were, in the case of proceedings pending in a county court, a provision of the County Court Rules 1981 and, in the case of proceedings pending in the High Court, a provision of the Rules of the Supreme Court 1965.

### **County court proceedings in principal registry**

**1.4.**—(1) Subject to the provisions of these rules, matrimonial proceedings pending at any time in the principal registry which, if they had been begun in a divorce county court, would be pending

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(9) Section 31 was amended by section 8(2) of the Matrimonial Homes and Property Act 1981 (c. 24), section 51 of the Administration of Justice Act 1982 (c. 53) and section 6 of the Matrimonial and Family Proceedings Act 1984 (c. 42).

(10) S.I.1981/1687.

(11) S.I. 1965/1776.

at that time in such a court, shall be treated, for the purposes of these rules and of any provision of the County Court Rules 1981 and the County Courts Act 1984<sup>(12)</sup>, as pending in a divorce county court and not in the High Court.

(2) Unless the context otherwise requires, any reference to a divorce county court in any provision of these rules which relates to the commencement or prosecution of proceedings in a divorce county court, or the transfer of proceedings to or from such a court, includes a reference to the principal registry.

### **Computation of time**

**1.5.**—(1) Any period of time fixed by these rules, or by any rules applied by these rules, or by any decree, judgment, order or direction for doing any act shall be reckoned in accordance with the following provisions of this rule.

(2) Where the act is required to be done not less than a specified period before a specified date, the period starts immediately after the date on which the act is done and ends immediately before the specified date.

(3) Where the act is required to be done within a specified period after or from a specified date, the period starts immediately after that date.

(4) Where, apart from this paragraph, the period in question, being a period of seven days or less, would include a day which is not a business day, that day shall be excluded.

(5) Where the time so fixed for doing an act in the court office expires on a day on which the office is closed, and for that reason the act cannot be done on that day, the act shall be in time if done on the next day on which the office is open.

(6) In these rules “business day” means any day other than—

- (a) a Saturday, Sunday, Christmas Day or Good Friday; or
- (b) a bank holiday under the Banking and Financial Dealings Act 1971<sup>(13)</sup>, in England and Wales.

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<sup>(12)</sup> 1984 c. 28.

<sup>(13)</sup> 1971 c. 80.