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STATUTORY INSTRUMENTS

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**1992 No. 2067**

**The Family Proceedings (Amendment No. 2) Rules 1992**

**Citation, commencement, transitional provision and interpretation**

1.—(1) These rules may be cited as the Family Proceedings (Amendment No. 2) Rules 1992 and shall come into force on 5th October 1992.

(2) Rule 12 shall not have effect in relation to a written report the making of which was directed before the commencement of that rule.

2. The Family Proceedings Rules 1991(1) shall be amended in accordance with the following provisions of these Rules and, in those provisions, any reference to a rule or Appendix by number alone shall be construed as a reference to the rule or Appendix so numbered in the said Rules of 1991.

**Children Act 1989: appeals**

3. In rule 1.2(1), in the definition of “district registry”, after “district registry” there shall be inserted “,except in rule 4.22(2A),”.

4. In rule 4.22, after paragraph (2) there shall be inserted the following new paragraph:—

“(2A) In relation to an appeal to the High Court under section 94, the documents required to be filed by paragraph (2) shall,—

(a) where the care centre listed in column (ii) of Schedule 2 to the Children (Allocation of Proceedings) Order 1991(2) against the entry in column (i) relating to the petty sessions area or London commission area in which the court below is situated—

(i) is the principal registry, or

(ii) has a district registry in the same place,

be filed in that registry, and

(b) in any other case, be filed in the district registry, being in the same place as a care centre within the meaning of article 2(c) of the said Order, which is nearest to the court below.”.

**Written offers “without prejudice save as to costs” in ancillary relief proceedings**

5. After rule 2.68, there shall be inserted the following new rule:—

**“Written offers “without prejudice save as to costs”**

2.69 CCR Order 11, rule 10 (written offers “without prejudice save as to costs”) shall apply to proceedings for ancillary relief in a county court as if for the words from “A party who” to “but the offer” in paragraph (2) there were substituted the words “Where an offer is made under paragraph (1), the fact that such an offer has been made”.”.

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(1) S.I.1991/1247, amended by S.I. 1991/2113, 1992/456.

(2) S.I. 1991/1677.

### Appendix 3

6. In rule 4.4(3), for “column (iii)” there shall be substituted “column (iv)”.
7. In rule 4.7(1), for “column (iv)” there shall be substituted “column (iii)”.
8. For Appendix 3 there shall be substituted the pages contained in Schedule 1 to these Rules.

### Ex parte section 8 orders

9. In rule 4.4(4), for the words “prohibited steps order, or a specific issue order, under section 8” there shall in both places where they occur be substituted the words “section 8 order”.
10. In rule 4.21(7), for the words “prohibited steps order or specific issue order under section 8” there shall be substituted the words “section 8 order”.
11. In Appendix 1, for Form CHA7 there shall be substituted the form contained in Schedule 2 to these Rules.

### Welfare officer in Part IV proceedings

12. For rule 4.13, there shall be substituted the following:—

#### “Welfare officer

4.13.—(1) Where the court has directed that a written report be made by a welfare officer, the report shall be filed at or by such time as the court directs or, in the absence of such a direction, at least 14 days before a relevant hearing; and the proper officer shall, as soon as practicable, serve a copy of the report on the parties and any guardian ad litem.

(2) In paragraph (1), a hearing is relevant if the proper officer has given the welfare officer notice that his report is to be considered at it.

(3) After the filing of a report by a welfare officer, the court may direct that the welfare officer attend any hearing at which the report is to be considered; and

- (a) except where such a direction is given at a hearing attended by the welfare officer, the proper officer shall inform the welfare officer of the direction; and
- (b) at the hearing at which the report is considered any party may question the welfare officer about his report.

(4) This rule is without prejudice to any power to give directions under rule 4.14.”

### Attachment of penal notice to section 8 order

13. After rule 4.21 there shall be inserted the following new rule:—

#### “Attachment of penal notice to section 8 order

4.21A CCR Order 29, rule 1 (committal for breach of order or undertaking) shall apply to section 8 orders as if for paragraph (3) of that rule there were substituted the following:—

“(3) In the case of a section 8 order (within the meaning of section 8(2) of the Children Act 1989(3)) enforceable by committal order under paragraph (1), the judge or the district judge may, on the application of the person entitled to enforce the order, direct that the proper officer issue a copy of the order, indorsed with or incorporating a notice as to the consequences of disobedience, for service in accordance with paragraph (2); and no

copy of the order shall be issued with any such notice indorsed or incorporated save in accordance with such a direction.”.

#### **Consolidation of rules 6.14 and 10.20**

**14.** Rule 6.14 shall be revoked.

**15.** In rule 10.20(2), for the words “district judge” there shall be substituted the word “court”.

#### **Application for registration of maintenance order in magistrates' court**

**16.** In rule 7.23(1)(ii), for “No. 115 in Appendix A to the Rules of the Supreme Court 1965(4),” there shall be substituted “M33.”.

**17.** In Appendix 1,—

(a) in the list of Forms at the beginning, after the entry relating to Form M32(5) there shall be inserted the following:—

“M33 Application for registration of Maintenance Order in a Magistrates' Court”; and

(b) after Form M32(6) there shall be inserted the Form contained in Schedule 3 to these Rules.”

#### **Miscellaneous amendments**

**18.** In rule 2.2(2), for the word “possible” there shall be substituted the word “practicable”.

**19.** For rule 4.8(8), there shall be substituted the following:—

“(8) In proceedings to which this Part applies, where these rules or other rules of court require a document to be served, the court may, without prejudice to any power under rule 4.14, direct that—

(a) the requirement shall not apply;

(b) the time specified by the rules for complying with the requirement shall be abridged to such extent as may be specified in the direction;

(c) service shall be effected in such manner as may be specified in the direction.”.

**20.** In rule 4.17(1)(a), at the end of paragraph (ii), the word “and” shall be omitted; and after paragraph (iii) there shall be added the following:—

“(iv) show in the top right hand corner of the first page—

(a) the initials and surname of the person making the statement,

(b) the number of the statement in relation to the maker,

(c) the date on which the statement was made, and

(d) the party on whose behalf it is filed; and”.

**21.** In rule 9.3(1), the words “within the meaning of the last foregoing rule” shall be omitted.

**22.** In Appendix 1,—

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(4) S.I. 1965/1776; relevant amending instruments are S.I. 1985/1277 (which inserted the Form) and S.I. 1991/2671 (which caused it to be omitted).

(5) The entry was inserted by S.I. 1992/456.

(6) Form M32 was inserted by S.I. 1991/2113.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) in paragraph 5(b)(iii) of Form M5 (Notice of Proceedings), for “1933” there shall be substituted “1983”; and
- (b) in Form CHA 45 (Application for Recovery Order), in the section of the Form headed “[2] About the application”, after the words “an emergency protection order” there shall be inserted the words “or care order”.

**23.** In Appendix 2, in paragraph 4(a), the words from “any application for an order” to the word “family” shall be omitted.

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Dated 27th August 1992