
STATUTORY INSTRUMENTS

1992 No. 2068 (L.19)

MAGISTRATES' COURTS

**The Family Proceedings Courts
(Miscellaneous Amendments) Rules 1992**

Made - - - - - *27th August 1992*
Laid before Parliament *10th September 1992*
Coming into force - - - *5th October 1992*

The Lord Chancellor, in exercise of the power conferred on him by section 144 of the Magistrates' Courts Act 1980(1), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

1.—(1) These Rules may be cited as the Family Proceedings Courts (Miscellaneous Amendments) Rules 1992 and shall come into force on 5th October 1992.

(2) Paragraph 3 of the Schedule to these Rules shall not have effect in relation to a written report the making of which was directed before the commencement of that paragraph.

2. The following Rules—

The Family Proceedings Courts (Children Act 1989) Rules 1991(2);

The Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991(3);

shall have effect subject to the amendments set out in the Schedule to these Rules.

Dated 27th August 1992

Mackay of Clashfern, C.

(1) 1980 c. 43; as extended by section 145 of that Act; by section 93 of the Children Act 1989 (c. 41) as amended by paragraph 22 of Schedule 16 to the Courts and Legal Services Act 1990 (c. 41); and by section 10 of the Courts and Legal Services Act 1990 as amended by paragraph 11 of Schedule 2 to the Maintenance Enforcement Act 1991 (c. 17).
(2) S.I.1991/1395, amended by S.I. 1991/1991.
(3) S.I. 1991/1991.

SCHEDULE

Rule 2

AMENDMENT OF RULES

The Family Proceedings Courts (Children Act 1989) Rules 1991

1. In rule 4(4) and (21)(8) of the Family Proceedings Courts (Children Act 1989) Rules 1991, 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”.

2. For rule 8(8) of those Rules, there shall be substituted the following—

“(8) In any relevant proceedings, where these rules require a document to be served, the court or the justices' clerk may, without prejudice to any power under rule 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.”.

3. For rule 13 of those Rules, there shall be substituted the following—

“Welfare officer

13.—(1) Where the court or a justices' clerk 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 or justices' clerk directs or, in the absence of such a direction, at least 14 days before a relevant hearing; and the justices' clerk 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 justices' clerk has given the welfare officer notice that his report is to be considered at it.

(3) After the filing of a written report by a welfare officer, the court or the justices' clerk 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 justices' clerk 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 the court’s power to give directions under rule 14.”.

4. In rule 17(1)(a) of those Rules, 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”.

5. In rule 21(8)(b) of those Rules—

- (a) there shall be inserted after “50”, the word “or”; and
- (b) “or 102(1)” shall be omitted.

- 6 In rule 25 of those Rules—
 - (a) at the end of paragraph (a) there shall be inserted the word “or”; and
 - (b) paragraph (b) shall be omitted.
7. In Schedule 1 to those Rules—
 - (a) For Form CHA7 ([Contact] [Residence] Order) there shall be substituted the form contained in Appendix 1 to this Schedule;
 - (b) in Form CHA 13 (Application for Financial Provision for Children), for pages 5 and 6 of that Form there shall be substituted the pages contained in Appendix 2 to this Schedule, and the remaining page of that Form shall be renumbered accordingly;
 - (c) in Form CHA 13A (Respondent’s Answer), for page 2 of that Form there shall be substituted the page contained in Appendix 3 to this Schedule;
 - (d) in Form CHA 14 (Statement of Means), for pages 2 and 3 of that Form there shall be substituted the pages contained in Appendix 4 to this Schedule;
 - (e) in Form CHA 15 (Application for the [Variation] [Discharge] of an order for Financial Provision), for pages 1 and 2 of that Form there shall be substituted the pages contained in Appendix 5 to this Schedule; and
 - (f) in Form CHA 45 (Application for a Recovery Order), in paragraph (a) of the section of that Form headed “[2] About the application”, after the words “an emergency protection order” there shall be inserted “or care order”.
8. In Schedule 2 of those Rules, the entry hitherto relating to section 8 and Schedule 1 shall be omitted.
9. In the entry relating to section 4(1)(a), 4(3) etc in Schedule 2 of those Rules,—
 - (a) after “6(7),” in column (i) there shall be inserted the figure “8”;
 - (b) after “77(6)” in column (i) there shall be inserted “Schedule 1”;
 - (c) for the words “in the case or proceedings” in column (ii) there shall be substituted the words “in the case of proceedings”.
 - (d) after the paragraph relating to section 77(6) in column (iii) there shall be inserted the words: “in the case of proceedings under Schedule 1, those persons whom the applicant believes to be interested in or affected by the proceedings;”; and
 - (e) at the end of column (iii) there shall be inserted the following paragraph—

“in the case of an application for a section 8 order, every person whom the applicant believes—

 - (i) to be named in a court order with respect to the same child, which has not ceased to have effect,
 - (ii) to be a party to pending proceedings in respect of the same child, or
 - (iii) to be a person with whom the child has lived for at least three years prior to the application,

unless, in a case to which (i) or (ii) applies, the applicant believes that the court order or pending proceedings are not relevant to the application.”.

The Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991

10. In rule 3(4) of the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991, for the words “section 16(6)” there shall be substituted “section 16(2) and (6)”.

11. In rule 9(1) of those Rules, the words “subject to paragraph 4,” shall be omitted.

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12. In Schedule 1 to those Rules—

(1) In Form 1 (Application for Order under Section 2), Form 2 (Application for Order under Section 6), Form 3 (Application for Order under Section 7) and Form 4 (Application for Order under Section 20), there shall in each case be inserted—

- (a) immediately above the applicant's declaration that the information he has given is correct and complete to the best of his knowledge, the following:—

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"I wish the payments to be made

direct to a bank/building society account

The name of the bank/building society is

Bank/building society sort code

Account number

by the attachment of earnings order

in the following way

If you would like another method of payment to be used please give details in the box

No preference";

and

(b) immediately below where the Respondent indicates in the Respondent's Answer whether he intends to make an application, the following:-

"Do you agree with the proposed method of payment?

Yes

No

Please give details

_____";

(2) In Form 4 (Application for Order under Section 20), there shall be inserted immediately above the space provided for the applicant's solicitor's address for service, the following:

"Please give details of any relevant court proceedings involving yourself and the respondent.

Proceedings are not pending or in progress

Proceedings are pending or in progress.
Details are given below. (Please include the name of the court and the case number of the proceedings if known).

The effect of the order

Please give details of the financial provision you wish the court to make, including the amount and any method of payment requested.

(Note: you do need to fill this in if you are applying to revoke an order).

_____";

13. In Schedule 1, in Form 9 (Orders under Section 2, 6 or 7), for the words "[All payments under the above orders are to be made to the justices' clerk]" there shall be substituted "Payments under the above orders are to be made in the following way:".

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13. In Schedule 1, in Form 9 (Orders under Section 2, 6 or 7), for the words “[All payments under the above orders are to be made to the justices' clerk]” there shall be substituted “Payments under the above orders are to be made in the following way:”.

APPENDIX 1

APPENDIX 1



In the
at

[High Court of Justice]
[County Court]
[Magistrates' Court]

THE CHILDREN ACT

[Contact] [Residence] Order

Case No.

Section 8 The Children Act 1989

THE CHILDREN ACT

1 The child is

a [boy] [girl]

born on

2 The Court orders that the child shall

- [visit]
- [stay with]
- [otherwise have contact with]
- [live with]

3 This Order has [not] been made ex parte

4 The Court also orders that

Where a residence order is in force with respect to a child, no person may

- cause the child to be known by a new surname ; or
- remove the child from the United Kingdom without either the written consent of every person who has parental responsibility for the child *or* the leave of the court; however, this does not prevent the removal of a child, for a period of **less than 1 month**, by the person in whose favour the residence order is made.

Note: Any person with parental responsibility may ask the United Kingdom Passport Agency, Clive House, Petty France, LONDON SW1H 9HD not to issue a passport allowing the child to go abroad without the knowledge of that person

THE CHILDREN ACT

This order was made on

[Mr / Mrs Justice]

[His / Her Honour Judge]

[District Judge [of the Family Division]]

[Clerk of the Court]

THE CHILDREN ACT

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APPENDIX 2

APPENDIX 2

6 About this application (continued)

(b) I wish the payments to be made

direct to a bank / building society account

The name of the bank / building society is

The bank / building society sort code

The account number

by attachment of earnings order

in the following way

If you would like another method of payment to be used please give details in the box

no preference

(c) The financial needs of the child are

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6 About this application (continued)

(d) The income, earnings capacity (if any), property and other financial resources of the child are

(e) Does the child have any physical or mental disability?

No

Yes. The disability is

Give details of all disabilities

(f) The manner in which the child is being, or is expected to be, educated or trained

• You should now complete the statement of means form (CHA 14)

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7 The Respondents

The respondent(s) will be all those who

- have parental responsibility
- are interested in or affected by the proceedings
- are allowed by Rules of Court

(i) Only give the names and addresses of those people whose details are not given in part 4 of this form.

(ii) Please put the address where the respondent usually lives or where papers can be served. See the note on addresses at the top of page 1.

(iii) You will have to serve a copy of this application on each of the respondents.

The name of the respondent	The respondent's address

THE CHILDREN ACT

8 Declaration

I declare that the information I have given is correct and complete to the best of my knowledge.

Signed

Date

THE CHILDREN ACT

What you (the person applying) must do next

- ▶ There is a Notice of Hearing on page 7. Fill in the boxes on the Notice.
- ▶ Take or send this form and the statement of means to the court with enough copies for each respondent to be served. The top copy will be kept by the court and the other copies given or sent back to you for service.
- ▶ You **must** then serve the copies of the Application, the Notice of Hearing, the statement of means and the Respondent's Answer CHA 13A according to the rules. You may also be required under the Rules to give notice of the proceedings to other people.

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APPENDIX 3

APPENDIX 3

The Respondent's Answer

Case No.

Full name of child
Put the surname last

1 About the application

Please

- read the application form before you answer the questions
- continue on another sheet if there is not enough room.

Please put the number of the question on the sheet.

My full name is
Put the surname last

My full address
for service is

Do you have legal representation? No
Yes

Please say who your solicitor is

Name

Address

Tel No.

Fax

Ref

Do you accept that you should be
a respondent in this application? Yes
No

If no, you do not need to complete 2a - 2d

Please give your reason(s) then sign below

2 a. Is everything in the
application true to the best
of your knowledge? Yes
No

Please explain

b. Is there anything else the
Court should know about this
application? No
Yes

Please give details

c. Do you agree with the
applicant's plans for the
child's future? Yes
No

Please explain

d. Do you agree with the
proposed method of
payment? Yes
No

Please say why you do not agree and how you would prefer to pay

e. Do you intend to make
an application? No
Yes

Please give details

f. Please complete a statement of means (form CHA 14) if you are being asked to make any payment for the child.

3 I declare that the information I have given is true and correct to the best of my knowledge.

Signed

Date

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APPENDIX 4
APPENDIX 4

4 Bank accounts and savings

(a) I have bank or building society account(s)

Name and address of the bank/building society where your account is held	Account Number	Average balance in a/c over last 6 months

(b) I have savings account(s)

Name and address where your account is held	Account Number	Amount in account

When filling in sections 6, 7, and 9. Please give amounts on a weekly OR monthly basis. Do NOT put some weekly and some monthly figures.

5 Property

- (b) I live in my own property
- lodgings
- jointly owned property
- council property
- privately rented property
- other. Please state

Value of (jointly) owned property £

6 Income Amounts are per week/month*
*Delete as appropriate

My usual take home pay (including overtime, commission, bonuses etc)	£
Income Support	£
Child benefit(s)	£
Other state benefit(s)	£
My pension(s)	£
Others living in my home give me	£
Other income (give details below)	£
	£
	£
	£
Total income	£

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7 Expenses *(do not include any payments made by other members of the household out of their own income)*

I have regular expenses as follows: *(do not include payments on any arrears)*.
Amounts are per week/month. *Delete as appropriate.

Mortgage <i>(including second mortgage)</i>	£
Rent	£
Community Charge	£
Gas	£
Electricity	£
Water charges	£
.....	
TV rental and licence	£
HP repayments	£
Mail order	£
.....	
Housekeeping, food, school meals	£
Travelling expenses	£
Children's clothing & pocket money	£
Maintenance payments	£
Other (but not credit debt payments or court orders)	£
 	£
 	£
 	£
Total expenses	£

9 Money you owe on essential bills

Please state the amount of any arrears owing and the amount of any payments you make towards these arrears.

Payments are per week/month* *Delete as appropriate**

	Total amount outstanding	Amount of payments
Rent	£	
Mortgage	£	
Community Charge	£	
Water Charges	£	
Fuel debts: Gas	£	
Electricity	£	
Other	£	
Maintenance arrears	£	
Total priority debts	£	

10 Other commitments

Give details of payments on any credit cards, other loans, storecards, loans from family etc

	Total amount outstanding	Payment per month
.....	£	
.....	£	
.....	£	
.....	£	
.....	£	
.....	£	
.....	£	
Total	£	

8 Court orders

Court	Case No.	Amount outstanding	Payment per month

11 Declaration

I declare that the details I have given above are true to the best of my knowledge and belief.

Signed

Dated

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APPENDIX 5

APPENDIX 5

Application for the [Variation][Discharge] of an order for Financial Provision for Children Date received by court

Schedule 1 Para 1(4) The Children Act 1989

- Please use black ink. The notes on page 3 tell you what to do when you have completed the form.
If there is more than one child you must fill in a separate form for each child.

- Please answer every part. If a part does not apply or you do not know what to say, please say so. If there is not enough room continue on another sheet (put the case number (if known), the child's name and the number of the part on the sheet).
If you have any concerns about giving your address or that of the child or any other address requested in this form, you may give an alternative address where papers can be served. However, you must notify the court of the actual address on a separate form available from the court.

THE CHILDREN ACT

I apply to The [High] [County] [Magistrates'] Court

Case No.

- for the [variation][discharge] of an order for
periodical payments
secured periodical payments*
payment of lump sum by instalments

*these orders can only be made in the High Court or a County Court

THE CHILDREN ACT

1 About the order for Financial Provision

- (a) The order for Financial Provision was made on [day month year]
(b) The order was made at [High] [County] [Magistrates'] Court
Case No.
(c) It is helpful to the court if a copy of the order is attached. Please tick the box if you are enclosing a copy.

THE CHILDREN ACT

2 About the child

- (a) The name of the child is [Put the surname last]
(b) The child is a [boy] [girl]
(c) The child was born on the [day month year] Age now
(d) The child usually lives at [See the note on addresses at the top of this form]
(e) The child lives with [the child's mother] [the child's father]

If the child does not live with a parent please give the name of the person who is responsible for the child

THE CHILDREN ACT

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3 About myself (the person applying)

- (a) I am a person to whom payments are made under the existing order
 ordered to make payments under the existing order
- (b) My title is Mr Mrs Miss Ms Other (say here)
- (c) My full name is
Put the surname last
- (d) My full address is
See note on addresses at the top of page 1
- (e) My telephone number is
- (f) My solicitor is
- | | | |
|---------|-----|-----|
| Name | | |
| Address | | |
| Tel. | Fax | Ref |

THE CHILDREN ACT

4 About this application

- (a) My reasons for making this application are
- (b) I would like the court to order that
If you are asking for the order to be varied, please give details of the changes you would like the Court to make to the
- payments, or
 - the method of payment
- (c) Please complete the statement of means form if you are seeking a variation or discharge of the order on the grounds of a change in your financial circumstances.

THE CHILDREN ACT

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make amendments to the Family Proceedings Courts (Children Act 1989) Rules 1991 and the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991.

The effect of the paragraphs of the Schedule is to—

- (a) enable residence orders and contact orders under the Children Act 1989 to be made ex parte (paragraphs 1 and 7(a));
- (b) modify the provision concerning the attendance of welfare officers at hearings in proceedings to which Part IV applies; the main change is that instead of being required to attend hearings unless excused by the court or justices' clerk, the welfare officer will not have to attend unless the court or justices' clerk so orders, and the welfare officer is required to file his report at least 14 days before a hearing at which it is to be considered instead of 5 days (paragraph 3);
- (c) enable parties to give the court details of their preferred method of payment in respect of orders for financial provision (paragraph 7(b)-(e), 12 and 13); and
- (d) reduce the notice period for the first hearing of an application for an order under section 8 of the Children Act 1989 (a "section 8 order") or for an order under Schedule 1 to that Act (financial provision for children) from 21 days to 14 days (paragraphs 8 and 9);
- (e) make minor and drafting changes (paragraphs 2, 4, 5, 6, 7(a) and (f), 10, 11).