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STATUTORY INSTRUMENTS

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**1993 No. 627 (L. 8)**

**MAGISTRATES' COURTS**

**The Family Proceedings Courts  
(Child Support Act 1991) Rules 1993**

<i>Made</i>	- - - -	<i>11th March 1993</i>
<i>Laid before Parliament</i>		<i>15th March 1993</i>
<i>Coming into force</i>	- -	<i>5th April 1993</i>

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

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

1. These Rules may be cited as the Family Proceedings Courts (Child Support Act 1991) Rules 1993 and shall come into force on 5th April 1993.

2. In these rules—

“the Act of 1991” means the Child Support Act 1991(2),

“court” means a family proceedings court constituted in accordance with section 66 and 67 of the Magistrates' Courts Act 1980(3) or a single justice who is a member of a family panel.

3. Rules 6 to 8 shall apply only to applications filed on or after 5th April 1993.

4.—(1) Rules 2 to 16 of the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991(4) shall apply as appropriate to an appeal under section 20 (appeal against decision of child support officer), where the proceedings are to be dealt with in accordance with the Child Support Appeals (Jurisdiction of Courts) Order 1993(5) and an application under section 27 of the Act of 1991 (reference to court for declaration of parentage).

(2) The respondent to an appeal under section 20 of the Act of 1991 shall be the Secretary of State.

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(1) 1980 c. 43; as extended by sections 74 and 145 of that Act; by section 28 of the Justices of the Peace Act 1979 (c. 55), as amended by section 117 of the Courts and Legal Services Act 1990 (c. 41); 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; 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) 1991 c. 48.

(3) Sections 66 and 67 were amended by paragraph 8 of Schedule 11 to the Children Act 1989 (c. 41).

(4) S.I.1991/1991, amended by S.I. 1992/2068.

(5) S.I. 1993/961.

(3) The respondent to an application under section 27 of the Act of 1991 shall be the alleged parent (as defined in section 27 of that Act).

(4) Where the justices' clerk or the court is considering whether or not to transfer proceedings under sections 20 or 27 of the Act of 1991 to another court, rules 6, 14(2)(h), (4) and (11) and rule 32 of the Family Proceedings Courts (Children Act 1989) Rules 1991(6) shall also apply as appropriate.

#### **Disclosure of information under the Act of 1991**

5. Where the Secretary of State requires a person mentioned in regulation 2(2) or (3)(a) of the Child Support (Information, Evidence and Disclosure) Regulations 1992(7) to furnish information or evidence for a purpose mentioned in regulation 3(1) of those Regulations, nothing in rule 23 of the Family Proceedings Courts (Children Act 1989) Rules 1991 or rule 14 of the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 (confidentiality of documents) shall prevent that person from furnishing the information or evidence sought or shall require him to seek leave of the court before doing so.

#### **Applications for relief which is precluded by the Act of 1991**

6.—(1) Where an application is made for an order which, in the opinion of the justices' clerk, the court would be prevented from making by section 8 or 9 of the Act of 1991, he may send a notice in the appropriate form to the applicant and the provisions of rule 4(1) to (3) of the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 (service) shall apply as appropriate.

(2) Where a notice is sent under paragraph (1), no requirement of any rules, except for those of this rule, as to the service of the application or as to any other procedural step applicable to the making of an application of the type in question, shall apply unless and until the court directs that such rules shall apply or that they shall apply to such extent and subject to such modifications as may be specified in the direction.

(3) Where an applicant who has been sent a notice under paragraph (1) informs the justices' clerk in writing, within 14 days of the date of service of the notice, that he wishes to persist with his application, the justices' clerk shall give such directions as he considers appropriate for the matter to be heard and determined by the court and, without prejudice to the generality of the foregoing, such directions may provide for the hearing to be ex parte.

(4) Where directions are given under paragraph (3), the justices' clerk shall inform the applicant of the directions and, in relation to the other parties,—

(a) where the hearing is to be ex parte, inform them briefly—

(i) of the nature and effect of the notice under this rule,

(ii) that the matter is being resolved ex parte, and

(iii) that they will be informed of the result in due course; and

(b) where the hearing is to be inter partes, inform them of—

(i) the circumstances which led to the directions being given, and

(ii) the directions.

(5) Where a notice has been sent under paragraph (1) and the justices' clerk is not informed under paragraph (3) the application shall be treated as having been withdrawn.

(6) Where the matter is heard pursuant to directions under paragraph (3) and the court determines that it would be prevented by section 8 or 9 of the Act of 1991 from making the order sought by the application, it shall dismiss the application.

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(6) S.I. 1991/1395, amended by S.I. 1991/1991 and 1992/2068.

(7) S.I. 1992/1812.

(7) Where the court dismisses an application under this rule it shall give its reasons in writing, copies of which shall be sent to the parties by the justices' clerk.

(8) In this rule, 'the matter' means the question whether the making of an order in the terms sought by the application would be prevented by section 8 or 9 of the Act of 1991.

(9) Rule 15 of the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 (delegation by justices' clerk) shall apply as appropriate to anything authorised to be done by or to a justices' clerk under this rule or rule 7.

### **Modification of rule 6 in relation to non-free standing applications**

7. Where a notice is sent under rule 6(1) in respect of an application which is contained in an application, answer or other document ("the document") which contains material extrinsic to the application—

- (a) the document shall, until the contrary is directed under sub-paragraph (c) of this rule, be treated as if it did not contain the application in respect of which the notice was served;
- (b) the justices' clerk shall send to the respondents a copy of the notice under rule 6 (1) and a notice informing the respondents of the effect of sub-paragraph (a) of this paragraph; and
- (c) if it is determined, under rule 6, that the court would not be prevented by section 8 or 9 of the Act of 1991 from making the order sought by the application, the court shall direct that the document shall be treated as if it contained the application, and it may give such directions as it considers appropriate for the conduct of the proceedings in consequence of that direction.

### **Forms**

8. Appendix 1 to these Rules (new form CSA1) shall have effect.

9. In rules 10 to 12 of these Rules, references to a form—

- (a) by number with the prefix 'CHA' are references to the forms so numbered in Schedule 1 to the Family Proceedings Courts (Children Act 1989) Rules 1991; and
- (b) by number alone are references to the forms so numbered in Schedule 1 to the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991.

10. For Form CHA13(8) there shall be substituted the form contained in Appendix 2 to these Rules.

11.—(1) The amendments in paragraph (2) shall be made to—

- (a) Form CHA14 (Statement of Means)(9);
- (b) 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)(10), in the Statement of Means of the Applicant and the Statement of Means of the Respondent respectively.

(2) The forms mentioned in paragraph (1) are amended as follows:—

- (a) in section 6, after "Other state benefit(s)" there shall be inserted "Child Support Agency maintenance";
- (b) in section 7, after "pocket money" there shall be inserted "Child Support Agency payments";

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(8) This form was amended by S.I. 1992/2068.

(9) This form was amended by S.I. 1992/2068.

(10) These forms were amended by S.I. 1992/2068.

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(c) in section 9, after “Other” there shall be inserted “Child Support Agency arrears”;

(d) in sections 7 and 9, for “Community charge” there shall be substituted “Council tax”(11).

**12.** In form CHA15 (Application for Variation/Discharge of an Order for Financial Provision)(12), there shall be substituted for section 4 the provision contained in Appendix 3 to these Rules.

Dated 11th March 1993

*Mackay of Clashfern, C.*

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(11) The Local Government Finance Act 1992 (c. 14) introduced the council tax on 1st April 1993.

(12) This form was amended by S.I. 1992/2068.

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules make provision for proceedings in Family Proceedings Courts arising under, or affected by, the Child Support Act 1991. They—

- (a) prescribe the procedure for appeals under section 20 and applications under section 27 of the Act in respect of parentage issues (rule 4);
- (b) remove the restrictions on disclosure of information relating to court proceedings of which relevant information is sought by the Secretary of State in connection with certain of his functions under the Act (rule 5);
- (c) prescribe the procedure where it appears to the court that it may be precluded from exercising jurisdiction by the Act (rules 6 and 7); and
- (d) amend various forms to elicit information about maintenance assessments made under the Act (rules 8 to 12).

## APPENDIX 1

### Rule 8

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In the  
at

Magistrates' Court

**Notice under Rule 6 (1)**

**The Family Proceedings Courts (Child Support Act 1991) Rules 1993**

**Case No.**

To \_\_\_\_\_ of \_\_\_\_\_

I have considered your \_\_\_\_\_ dated the \_\_\_\_\_ and the other relevant papers in these proceedings. I have formed the opinion that the court would be prevented from making the order mentioned in the notice sent to you on [in respect of the following children:

] because

If you wish to dispute this and argue that the court should continue to deal with your application, you must say so in writing and send it to the court office by \_\_\_\_\_. If you do this a hearing will be fixed at which you will be able to say why you think the court would be able to make the order in question.

The address of the court office is:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_

[Clerk to the Justices]

**Appendix 2**

Rule 10

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### Application for Financial Provision for Children

## Application for Financial Provision for Children

Schedule 1 The Children Act 1989

Date received by court

▶ Please use black ink. The notes on page 7 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.

I apply to **The**  THE  CHILDREN  ACT **[High] [County] [Magistrates'] Court**

Case No.

for an order for  lump sum  transfer of property\*  settlement of property\*  
 periodical payments  secured periodical payments\*

\*these orders can only be made in the High Court or a county court

If you have ticked 'periodical payments' or 'secured periodical payments' are you applying for payment:

for a stepchild or stepchildren  in addition to child support maintenance already paid under a Child Support Agency assessment  to meet expenses arising from a child's disability  to meet expenses

incurred by a child in being educated or training for work  when either  the child OR  the person with care of the child, OR  the absent parent of the child is not habitually resident in the United Kingdom

other (please specify)

### 1 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*

(f) The child is also cared for by   
*Put the surname last*

(g) The child is at present  staying in a refuge (Please give the address to the Court separately)  
 not staying in a refuge

(h) The child usually lives at   
*If the child is temporarily living away from the usual address please say where he/she is living at present*  
*See the note on addresses at the top of this form*

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**2 About myself (the person applying)**

(a) I am  the child (if 18 or over)  
 the child's mother or father  
 the child's stepmother or stepfather  
 a guardian of the child  
 a person with a residence order  
 none of the above. I am

(b) Leave to make this application  is being sought  
*Only complete if leave is required*  has been given. The court which gave leave was   
  
 Leave was given on  day  month  year

(c) My title is  Mr  Mrs  Miss  Ms  Other (say here)

(d) My full name is   
*Put the surname last*

(e) My full address is   
*See the note on addresses at the top of page 1*

(f) My telephone number is

(g) My solicitor is   
 Name   
 Address   
 Tel.  Fax  Ref

THE CHILDREN ACT

**3 About the child's family**

(a) The name of the child's mother is   
*Put the surname last*

(b) The mother usually lives at   
*See the note on addresses at the top of page 1*

(c) The name of the child's father is   
*Put the surname last*

(d) The father usually lives at   
*See the note on addresses at top of page 1*

THE CHILDREN ACT



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**3 About the child's family (continued)**

- (e) The child's mother and father  are living together  are living apart
- (f) The father is  married to the child's mother  married to someone else  
 single  divorced
- (g) The mother is  married to the child's father  married to someone else  
 single  divorced

THE CHILDREN ACT

**4 Parental responsibility**

Some people have "parental responsibility" for a child. The law says what "parental responsibility" is and which people have it. These people include:

- |   |  |
|---|--|
| <b>A</b> the mother   | <b>D</b> a guardian of the child                         |
| <b>B</b> the father<br>if he was married to the child's mother<br>when the child was born   | <b>E</b> someone who holds a custody or residence order  |
| <b>C</b> the father<br>if he was <b>not</b> married to the child's mother<br>when the child was born<br>but he now has a residence order<br>or he now has a court order<br>which gives him parental responsibility<br>or he now has a formal "parental responsibility<br>agreement" with the mother<br>or he has since married the mother | <b>F</b> a local authority which has a care order        |
|   | <b>G</b> someone who holds an emergency protection order |
|   | <b>H</b> any man or woman who has adopted the child      |

The people who are believed to have parental responsibility for this child are  
See the note on addresses at the top of page 1

Name	Address

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**5 About court proceedings and the parents**

Please give details of any relevant court proceedings between the parents and/or those who have parental responsibility

*Include the name of the court and the case number of the proceedings if known*

Proceedings are not pending or in progress

Proceedings are pending or in progress.

Please give details below.

THE CHILDREN ACT

**6 About this application**

(a) I wish the Court to order that

*Give details of the financial provision you wish the court to make, including the amounts requested*

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**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, property and other financial resources (if any) of the child are

(e) State if the Child Support Agency has made an assessment for maintenance for this child  No  Yes

If yes, are you applying

- for additional child maintenance on top of payments made through the Agency?  No  Yes

If yes, please give details

- because the Agency will no longer deal with your claim?  No  Yes

If yes, please give details

(f) Does the child have any physical or mental disability?  No  Yes The disability is

*Give details of all disabilities*

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**6 About this application (continued)**

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

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

THE CHILDREN ACT

**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 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 8. 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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In the  
at

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

(When writing to the Court please state the Case No.)

Case No.

Tel.

Fax

THE CHILDREN ACT

## Notice of a [Hearing] [Directions Appointment]

You are named as a respondent in these proceedings

about the child

a boy  a girl

born on the

You must read this Notice now

THE CHILDREN ACT

### About the [Hearing] [Directions Appointment]

name of applicant

has made an application to the Court.

The Court has been asked to make an order for financial provision for the child.

THE CHILDREN ACT

### To be completed by the court

The Court will hear this at

on

at

o'clock

The time allowed is

THE CHILDREN ACT

### What you must do

- ▶ There is a copy of the application and statement of means with this Notice. Read the application **now**. You do not have to fill in any part. You must complete the form of Answer enclosed and follow the instructions on the first page of the Answer regarding service.
- ▶ You should obtain legal advice from a solicitor or, alternatively, from an advice agency. The Law Society administers a national panel of solicitors to represent children and other parties involved in proceedings relating to children. Addresses of solicitors (including panel members) and advice agencies can be obtained from the Yellow Pages and the Solicitors Regional Directory which can be found at Citizens Advice Bureaux, Law Centres and any local library. A solicitor or advice agency will also be able to advise you as to whether you will be eligible for legal aid.

date

THE CHILDREN ACT

### Appendix 3

#### Rule 12

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THE CHILDREN ACT

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**4 About this application**

(a) My reasons for making this application are

(b) State if the Child Support Agency has made an assessment for maintenance for this child

No  
 Yes

If yes, please give details

(c) 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*

(d) 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.

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