
STATUTORY INSTRUMENTS

1996 No. 1674 (L.3)

**FAMILY LAWSUPREME COURT OF
ENGLAND AND WALESCOUNTY COURTS**

The Family Proceedings (Amendment) (No. 2) Rules 1996

<i>Made</i>	- - - -	<i>26th June 1996</i>
<i>Laid before Parliament</i>		<i>27th June 1996</i>
<i>Coming into force</i>	- -	<i>1st August 1996</i>

We, the authority having power under section 40(1) of the Matrimonial and Family Proceedings Act 1984⁽¹⁾ to make rules of court for the purposes of family proceedings in the High Court and county courts, in the exercise of the powers conferred by the said section 40, and of all other powers enabling us in that behalf, hereby make the following rules:

1. These Rules may be cited as the Family Proceedings (Amendment) (No. 2) Rules 1996 and shall come into force on 1st August 1996.

2. In these Rules, every reference to a rule by number alone means the rule so numbered in the Family Proceedings Rules 1991⁽²⁾, and every reference to a form by number alone means the form so numbered in Appendix 1 to those Rules.

3.—(1) These Rules shall apply to all proceedings commenced by a petition presented on or after 1st July 1996, and in relation to all other proceedings the Family Proceedings Rules 1991 shall have effect as if these Rules had not come into force.

(2) Where an application for ancillary relief is made on or after 1st July 1996 but before 1st August 1996, an order including provision made by virtue of section 25B or 25C of the Matrimonial Causes Act 1973⁽³⁾ may only be made in favour of a party who, on or after 1st August 1996, applies for such relief in form M11, specifying therein the terms of the order sought including such provision.

(3) An application in form M11 made pursuant to paragraph (2) above may be made without the leave of the court, but in every other respect the Family Proceedings Rules 1991 shall apply to such a form M11 as they do to any other form M11.

4.—(1) After paragraph (1)(d) of rule 2.61 there shall be inserted: —

(1) 1984 c. 42. Section 40 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 50.
(2) S.I.1991/1247, as amended by S.I. 1992/2067.
(3) 1973 c. 18.

“(dd) where the order imposes any requirement on the trustees or managers of a pension scheme by virtue of section 25B or 25C of the Act of 1973, a statement confirming that those trustees or managers have been served with notice of the application and that no objection to such an order has been made by them within 14 days from such service;”.

(2) In paragraph (2) of rule 2.61, after “paragraph (1)(b)” there shall be inserted “(and, where appropriate, a statement under paragraph (1)(dd))”.

5. After rule 2.69 there shall be inserted: —

“Pensions

2.70.—(1) Where an applicant for ancillary relief or the respondent to the application is obliged by rule 2.58 to give full particulars of his property and income, he shall also give all information in his possession, power or control concerning any benefits under a pension scheme which he has or is likely to have, including the most recent valuation (if any) furnished by the trustees or managers of the pension scheme pursuant to

- (a) regulation 11 of and Schedule 1 to the Occupational Pension Schemes (Transfer Values) Regulations 1996;
- (b) paragraph 2(b) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987(4); or
- (c) regulation 4 (provision of valuations after petition).

(2) Where by virtue of rule 2.62(4) the district judge has power to order discovery of any document, he shall also have power to require either party to request a valuation under regulation 4 from the trustees or managers of any pension scheme under which that party has or is likely to have any benefits.

(3) No order including provision made by virtue of section 25B or 25C of the Act of 1973 shall be made unless such provision has been sought by way of —

- (a) a form M11 in accordance with rule 2.53;
- (b) a form M13 in accordance with rule 2.58; or
- (c) a draft order lodged in accordance with rule 2.61.

(4) Where an application is made for an order which by virtue of section 25B or 25C of the Act of 1973 imposes any requirement on the trustees or managers of a pension scheme, a copy of Form M11 or M13 as the case may be, shall be served on those trustees or managers together with the following:

- (a) an address to which any notice which the trustees or managers are required to serve under the Divorce etc. (Pensions) Regulations 1996(5) is to be sent;
- (b) an address to which any payment which the trustees or managers are required to make to the applicant is to be sent; and
- (c) where the address in sub-paragraph (b) is that of a bank, a building society or the Department of National Savings, sufficient details to enable payment to be made into the account of the applicant.

(5) Trustees or managers of a pension scheme on whom a copy of such a notice is served may, within 14 days after service, require the applicant to provide them with a copy of the affidavit supporting his application.

(4) S.I. 1987/1110.

(5) S.I. 1996/1676.

(6) Trustees or managers of a pension scheme who receive a copy of an affidavit as required pursuant to paragraph (5) may within 14 days after receipt file an affidavit in answer.

(7) Trustees or managers of a pension scheme who file an affidavit pursuant to paragraph (6) may file therewith a notice to the court requiring an appointment to be fixed; and where such a notice is filed

- (a) the proper officer shall fix an appointment for the hearing or further hearing of the application and give not less than 14 days' notice of that appointment to the petitioner, the respondent and the trustees or managers of the pension scheme; and
- (b) the trustees or managers of the pension scheme shall be entitled to be represented at any such hearing.

(8) Where the petitioner and the respondent have agreed on the terms of an order which by virtue of section 25B or 25C of the Act of 1973 imposes any requirement on the trustees or managers of a pension scheme, then unless service has already been effected under paragraph (4), they shall serve on the trustees or managers notice of the application together with the particulars set out in sub-paragraphs (a), (b) and (c) of paragraph (4), and no such order shall be made unless either

- (a) the trustees or managers have not made any objection within 14 days after the service on them of such notice; or
- (b) the court has considered the objection made by the trustees or managers

and for the purpose of considering any such objection the court may make such direction as it sees fit for the trustees or managers to attend before it or to furnish written details of their objection.

(9) Upon the making, amendment or revocation of an order which by virtue of section 25B or 25C of the Act of 1973 imposes any requirement on the trustees or managers of a pension scheme, the party in whose favour the order is or was made shall serve a copy of that order, or as the case may be of the order amending or revoking that order, upon the trustees or managers.

(10) In this rule —

- (a) every reference to a regulation by number alone means the regulation so numbered in the Divorce etc. (Pensions) Regulations 1996;
- (b) all words and phrases defined in section 25D(3) and (4) of the Act of 1973 have the meanings assigned by those subsections."

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Dated 26th June 1996

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

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules 1991 to regulate applications for financial provision orders affecting pensions. The principal provisions are as follows:

- (a) the applicant may apply for such an order by notice in form M11 or M13 or by lodging a draft agreed form of order (*new rule 2.70(3)*);
- (b) where the order sought imposes any obligation on a pension scheme, the applicant must give notice of the application to the trustees or managers, and they are given the rights to demand a copy of the applicant's affidavit, to file an affidavit in reply and to be represented at a hearing of the application fixed for the purpose (*new rule 2.70(4) to (7)*);
- (c) the applicant must supply an address and/or bank details sufficient to allow the pension scheme to comply with its obligations relating to notices and payment (*new rule 2.70(4)*);
- (d) a party with pension rights must give in his affidavit of means details of those rights, including any valuation received to date, and may be required to procure such a valuation by an order for discovery (*new rule 2.70(1) and (2)*);
- (e) an order imposing an obligation on a pension scheme can be made by agreement of the parties, but only if the trustees or managers have been notified and have made no objection in 14 days, or their objection has been considered by the court (*new rules 2.61(1)(dd) and 2.70(8)*).