
EXPLANATORY NOTE

(This note is not part of the Order)

These rules amend the Family Proceedings Rules 1991 to give effect to Council Regulation (EC) No 2201/2003 of 27 November 2003 (the new Council Regulation) on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

The new Council Regulation reproduces and repeals Council Regulation (EC) No 1347/2000 of 29th May 2000 (the previous Council Regulation) extending it to include matters of parental responsibility where there are no matrimonial proceedings. Therefore, many of the alterations in these rules are to update the existing Family Proceedings Rules 1991 to make reference to the new Council Regulation and the correct Article therein.

The amendments to rule 1.2 inserts a definition of a “Contracting State”, which gives a list of Member States who have signed up to the new Council Regulation. This is to save cross reference with other documents when trying to determine if the State in question is one to which the new Council Regulation is relevant. To be consistent with all European documents the list is in alphabetical order in accordance with the spelling of each State’s own spelling of its name.

New rule 4.47A (Stay under the Council Regulation) is a replication of rule 2.27A. The necessity for the repetition is because the new Council Regulation extends matters of parental responsibility to apply in all children cases.

Rule 6.4 is extended so that, where relevant, an originating summons shall include information to meet the requirements of the new Council Regulation.

New rule 6.11A ensures that a stay under the new Council Regulation can also be applied in cases under the Child Abduction and Custody Act 1985 if required.

New rule 6.18 inserts a rule to ensure that decisions made under section 16 of the Child Abduction and Custody Act 1985 are registered.

The amendment to rule 7.48 extends the rule to include non-recognition of judgments as well as recognition of them.

The amendments to 7.49 are so that certified copies of certificates can be obtained in the same way as certified copies of judgments.

New rules 7.51 and 7.52 have been inserted to cater for the service and registration of certificates made under Articles 41 and 42 of the new Council Regulation.

New rule 7.53 has been inserted to deal with the procedure required for Article 15 of the new Council Regulation to operate where parties may apply for their case, or part of their case, to be heard in another Member State.

New rule 7.54 has been inserted to deal with the procedure required for Article 15 of the new Council Regulation to operate where a court of another Member State applies for a case, or part of a case, to be heard in that other Member State.

New rule 7.55 allows for rectification of certificates made under Articles 41 or 42 of the new Council Regulation, where there is an error in them.