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## EXPLANATORY NOTE

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

These rules make amendments to 5 sets of rules, which apply in proceedings in magistrates' courts, as a result of the implementation of the Civil Partnership Act 2004 ("the 2004 Act") which received Royal Assent on 18<sup>th</sup> November 2004. These amendments will come into force on 5<sup>th</sup> December 2005 at the same time as the substantive provisions of the 2004 Act. It also amends the Family Proceedings Courts (Children Act 1989) Rules 1991 as a result of the implementation of the sections 112 (acquisition of parental responsibility by step-parent) and 115(1) (special guardianship) of the Adoption and Children Act 2002 ("the 2002 Act") which received Royal Assent on 7<sup>th</sup> November 2002. These provisions will come into force on 30<sup>th</sup> December 2005 at the same time as those provisions of the 2002 Act to which they relate.

**Paragraph 1** amends rule 1 of the Maintenance Orders Act 1950 (Summary Jurisdiction) Rules 1950 to remove an incorrect reference to subsection 3 of section 1 of the Domestic Proceedings and Magistrates' Courts Act 1978 ("the 1978 Act"), and inserts a paragraph (1A), to make provision similar to that made in paragraph (1) for proceedings under the 1978 Act, for proceedings under Part 1 of Schedule 6 to the Civil Partnership Act. It also makes further consequential changes.

**Paragraph 2** amends rule 5 of the Magistrates' Courts (Guardianship of Minors) Rules 1974 to make provision about applications for consent to the formation of a civil partnership by a child.

**Paragraph 4** amends rule 39(6) of the Magistrates' Courts Rules 1981 to make rules about giving notice of an application to vary a periodical payments order. **Paragraph 5** amends rule 45 of those rules so that the duty to notify a person entitled to payments under a maintenance order includes a duty to notify the formation of a subsequent civil partnership, and to include orders made under the 2004 Act within the list of those orders in relation to which notification needs to be made. **Paragraph 6** amends rules 51 of those rules to make provision for the making of an application for further time on an application under paragraph 41 of Schedule 6 to the 2004 Act. **Paragraph 7** amends rule 69 of those rules to make provision for proving that an order made in a magistrates' court in relation to a civil partnership has not been revoked. **Paragraph 8** amends rule 99 of those rules to make provision for service of applications by post on the husbands and civil partners of members of the armed forces. **Paragraph 9** amends rule 105 of those rules to provide the method for making an application for alteration of a maintenance agreement under the 2004 Act. **Paragraph 3** makes provision consequential to other rule changes.

**Paragraph 12** amends rule 3 of the Family Proceedings Courts (Matrimonial Proceedings etc) Rules 1991 to make provision about applications made under Schedule 6 to the 2004 Act. **Paragraph 13** amends rule 5 of those rules to apply the provisions about answers to applications under Schedule 6 to the 2004 Act. **Paragraph 14** amends rule 16 of those rules to ensure that provision about orders made with the consent of the defendant without hearing evidence applies to applications for variation of periodical payments orders made under the 2004 Act. **Paragraph 15** amends rule 17 of those rules to make provision about proof of the consent of the respondent to the making of an order under Part 2 of Schedule 6 to the 2004 Act. **Paragraph 16** amends rule 18 of those rules which makes provision about decisions in a magistrates' court under paragraph 18 of Schedule 6 to the Act of 2004. **Paragraph 17** creates a new rule 19A of those rules making provision about who should be a respondent to an application under paragraphs 30 to 34 of Schedule 6 to the Act of 2004. **Paragraph 18** amends rule 22 of those rules to make provision about applications by or against a person outside the jurisdiction for the revocation or variation of certain orders made under Schedule 6 to the 2004 Act. **Paragraph 19** amends rule 23 of those rules to make provision about the resumption

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of an adjourned application under Part 1 of Schedule 6 to the 2004 Act before a bench including, or consisting of, different justices. **Paragraphs 10 and 11** make changes consequential to other rules changes. **Paragraphs 20 to 32 and Schedules 2 to 4** make amendments to the contents of Forms 1 to 7 and 9, FL401, FL402, FL416 and FL423 in Schedule 1 to those Rules so that the Forms are also applicable to proceedings under the Act of 2004. A new Form 9A is created.

**Paragraphs 33 to 47 and 49, 50(a), (d) to (f) and 51** amend the Family Proceedings Courts (Children Act 1989) Rules 1991 to make changes consequential to amendments to the Children Act 1989 made by sections 112 and 115 of the 2002 Act. Section 112 of the 2002 Act inserts section 4A into the Children Act 1989 to enable a step-parent to acquire parental responsibility for a child of his spouse or civil partner. Section 115(1) of that Act inserts new sections 14A to 14G into the 1989 Act to provide for special guardianship orders. The amendments in these Rules make provision for the procedure which applies to an application for a special guardianship order or an order giving a step-parent parental responsibility. **Paragraphs 50(b) and (c)** make amendments to the contents of Form C1 and Form C10A in Schedule 1 of the Family Proceedings Courts (Children Act 1989) Rules 1991 so that the Forms are also applicable to proceedings under the Act of 2004. **Paragraph 48** amends rule 23A of those Rules (communication of information relating to proceedings) to include civil partners.