

**2009 No. 637 (L. 6)**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Family Proceedings Courts (Children Act 1989)  
(Amendment) Rules 2009**

<i>Made</i> - - - -	<i>10th March 2009</i>
<i>Laid before Parliament</i>	<i>12th March 2009</i>
<i>Coming into force</i> - -	<i>6th April 2009</i>

The Lord Chief Justice with the concurrence of the Lord Chancellor makes the following Rules in exercise of the powers conferred by section 144 of the Magistrates' Courts Act 1980(a) after consultation with the rule committee appointed under section 144(A1) of that Act:

**Citation and commencement**

1. These Rules may be cited as the Family Proceedings Courts (Children Act 1989) (Amendment) Rules 2009 and come into force on 6<sup>th</sup> April 2009.

**Amendments to the Family Proceedings Courts (Children Act 1989) Rules 1991**

2. The Family Proceedings Courts (Children Act 1989) Rules 1991(b) are amended in accordance with rules 3 to 11.

3. In the Arrangement of Rules—

(a) in the entry for rule 2, after “1989” insert “and the Childcare Act 2006(c)”; and

(b) after the entry for rule 2, insert—

“2A Proceedings with respect to which a single justice may discharge the functions of a court”.

4. In the heading to rule 2, after “the Act of 1989”, insert “and the Childcare Act 2006”.

5. In rule 2(5)(a), omit “75(1)”.

6. After rule 2, insert—

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(a) 1980 c.43. Section 144 was amended by section 125(3) of and paragraph 25 of Schedule 18 to the Courts and Legal Services Act 1990 (c.41), section 78(2) of and paragraphs 26 and 29 of Schedule 11 to the Access to Justice Act 1999 (c.22), section 109(1) and (3) of and paragraph 245 of Schedule 8 and Schedule 10 to the Courts Act 2003 (c.39), and section 15(1) of and paragraphs 99 and 102 of Schedule 4 to the Constitutional Reform Act 2005 (c.4).  
(b) S.I. 1991/1395. Relevant amending instrument is S.I. 1997/1895.  
(c) 2006 c.21.

**“2A Proceedings with respect to which a single justice may discharge the functions of a court**

Where an application is made for a warrant under section 79 of the Childcare Act 2006, a single justice may discharge the functions of a family proceedings court in relation to those proceedings.”.

**7. In rule 4(4)—**

- (a) at the end of sub-paragraph (d), omit “or”;
- (b) at the end of sub-paragraph (e), insert “or”; and
- (c) after sub-paragraph (e), insert—
  - “(f) a warrant under section 79 of the Childcare Act 2006.”.

**8. In rule 4(4)(ii), omit “and also in the case of an application for an order under section 75(1) where the application is ex parte,”.**

**9. For rule 21(8)(b) substitute—**

“(b) an order under section 44, 48(9) or 50.”

**10. In Schedule 1, for Forms C19 and C23, substitute the forms set out in the Schedule to these Rules.**

**11. In Schedule 2—**

- (a) in the entry relating to section 25, 44(1), 44(9)(b) etc., in column (i), omit “75(1)” and in column (iii), omit “75(1) or” and “in the case of an application under section 75(1), the registered person;”;
- (b) at the end of column (i), insert “Section 79 of the Childcare Act 2006”;
- (c) in the corresponding entry in column (ii), insert “1 day”; and
- (d) in the corresponding entry in column (iii), insert “Any person preventing or likely to prevent Her Majesty’s Chief Inspector of Education, Children’s Services and Skills from exercising a power conferred on him by section 77”.

*Lord Judge, C.J.*

I concur

10th March 2009

*Bridget Prentice*  
Parliamentary Under-Secretary of State  
Ministry of Justice

Application for a warrant of assistance

Form C19

*Section 102 Children Act 1989  
Section 33 Adoption Act 1976  
Section 79 Childcare Act 2006*

The court       The full name(s) of the child(ren) (if known)	To be completed by the court  Date issued  Case number  Child(ren)'s number(s)
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**1 About you (the applicant)**

- State*
- your title, full name, address, telephone number and relationship to the child(ren) (if any)
  - your solicitor's name, address, reference, telephone, FAX and DX numbers
  - whether you are:
    - a person authorised by the local authority
    - a person authorised by the Welsh Ministers
    - a person authorised by the Secretary of State
    - a supervisor acting under a supervision order
    - Her Majesty's Chief Inspector of Education, Children's Services and Skills

**2 Description of the child(ren) (if applicable)**

*If a child's identity is not known, state details which will identify the child.  
You may enclose a recent photograph of the child, which should be dated.*

### 3 The grounds for the application

I am attempting to exercise powers under an enactment within Section 102(6) Children Act 1989 or under section 77(1) or (2) of the Childcare Act 2006 at the following premises (*give full address*):

and

I have been prevented from exercising those powers by

I am likely to be prevented from exercising those powers by

PERSON AUTHORISED BY THE LOCAL AUTHORITY	s62(6)	<input type="checkbox"/>	[being, or likely to be, refused entry to accommodation provided by a voluntary organisation]
			[being, or likely to be, refused access to a child in accommodation provided by a voluntary organisation]
	s64(4)	<input type="checkbox"/>	[being, or likely to be, refused entry to a children's home]
			[being, or likely to be, refused access to a child in a children's home]
	s67(3)	<input type="checkbox"/>	[being, or likely to be, refused entry to a private foster home]
			[being, or likely to be, refused access to a child in a private foster home]
s86(5)	<input type="checkbox"/>	[being, or likely to be, refused entry to a residential care, nursing or mental nursing home]	
		[being, or likely to be, refused access to a child in a residential care, nursing or mental nursing home]	
s87(5)	<input type="checkbox"/>	[being, or likely to be, refused entry to an independent school]	
		[being, or likely to be, refused access to a child in an independent school]	
Section 33 Adoption Act 1976	<input type="checkbox"/>	[being, or likely to be, refused entry to premises on which a protected child is, or is likely to be, kept]	
		[being, or likely to be prevented from visiting a protected child]	
PERSON AUTHORISED BY THE WELSH MINISTERS	s79U	<input type="checkbox"/>	[being, or likely to be, refused entry to domestic premises where child-minding is carried on]
			[being, or likely to be, refused access to a child on domestic premises where child-minding is carried on]
		<input type="checkbox"/>	[being, or likely to be, refused entry to premises on which day care for children under the age of 8 is provided]
			[being, or likely to be, refused access to a child in premises on which day care for children under the age of 8 is provided]
PERSON AUTHORISED BY THE SECRETARY OF STATE	s80(8)	<input type="checkbox"/>	[being, or likely to be, refused entry to any of the premises specified by Section 80(1) Children Act 1989]
			[being, or likely to be, refused access to a child in any of the premises specified by Section 80(1) Children Act 1989]
SUPERVISOR UNDER THE SUPERVISION ORDER	Paragraph 8(1)(b) Schedule 3	<input type="checkbox"/>	[being, or likely to be, refused entry to accommodation where a supervised child is living]
			Paragraph 8(2)(b) Schedule 3
HER MAJESTY'S CHIEF INSPECTOR OF EDUCATION, CHILDREN'S SERVICES AND SKILLS	Section 77(1) Childcare Act 2006	<input type="checkbox"/>	[being, or likely to be, refused entry to premises on which I have reasonable cause to believe early years provision or later years provision is being provided in breach of section 33(1), 34(1), 52(1) or 53(1) of the Childcare Act 2006]
			Section 77(2) Childcare Act 2006

**4 The respondent(s)**

*For each respondent state the title, full name, address, telephone number and relationship (if any) to each child.*

**5 The reason(s) for the application**

*If you are relying on a report or other documentary evidence, state the date(s) and author(s) and enclose a copy.*

**6 The direction(s) sought**

State

- *whether you wish to accompany the constable, if the warrant is granted*
- *whether you wish the constable to be accompanied by a registered medical practitioner, registered nurse or registered midwife, if he so wishes.*

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Signed  
(Applicant)

Date



In the

Case Number:

Child(ren)'s Number(s):

**Order** Emergency Protection Order  
Section 44 Children Act 1989

The full name(s) of the child(ren) Boy or Girl Date(s) of birth

[described as

**Warning** It is an offence intentionally to obstruct any person exercising the power under Section 44(4)(b) Children Act 1989 to remove, or prevent the removal, of a child (Section 44(15) Children Act 1989).

The Court grants an Emergency Protection Order to the applicant who is

The Court authorises The order gives the applicant parental responsibility for the child[ren].  
[the applicant to remove the child[ren] to accommodation provided by or on behalf of the applicant]  
[the applicant to prevent the child[ren] being removed from

[This order directs that any person who can produce the child[ren] to the applicant must do so.]

The Court directs that [[a named person] be excluded from [a named address] [forthwith] [from [date]] so that the child may continue to live there, consent to the exclusion requirement having been given by [a named person]]

[a power of arrest be attached to the exclusion requirement for a period of ]

This order ends on at [am] [pm]

Ordered by [Mr][Mrs] Justice  
[His][Her] Honour Judge  
District Judge [of Family Division]  
Justice[s] of the Peace

on at [am] [pm]

C23 (01.09)

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## *Notes about the Emergency Protection Order*

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### *About this order*

This is an Emergency Protection Order.  
This order states what has been authorised in respect of the child[ren] and when the order will end.  
The court can extend this order for up to 7 days but it can only do this once.

### ***Warning***

**If you are shown this order, you must comply with it. If you do not, you may commit an offence. Read the order now.**

### *What you may do*

You may apply to the court at any time  
to **change the directions**  
*or* to **end the order**.

If you would like to ask the court to change the directions, or end the order, you must fill in a form. You can obtain the form from a court office.

If the court has directed that the child[ren] should have a medical, psychiatric or another kind of examination, you may ask the court to allow a doctor of your choice to be at the examination.

### *What you should do*

Go to a solicitor as soon as you can.

Some solicitors specialise in court proceedings which involve children. You can obtain the address of a solicitor or advice agency from the Yellow Pages or the Solicitors' Regional Directory.

You will find these books at

- a Citizens Advice Bureau
- a Law Centre
- a local library

A solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

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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 (“the 1991 Rules”).

Provision is made to ensure that on an application for a warrant by Her Majesty’s Chief Inspector of Education, Children’s Services and Skills under section 79 of the Childcare Act 2006 Act (power of constable to assist in exercise of powers of entry), a single justice may discharge the functions of a family proceedings court, to ensure that such an application may be made ex parte, and to specify for such an application the appropriate form, periods of notice and respondents. Form C19 (Warrant of Assistance) has been amended to refer to an application under section 79 and to make provision for an application under section 102 of the Children Act 1989 (c.41) in relation to the exercise of powers, in Wales, under section 79U of that Act.

References to section 75 of the Children Act 1989 are removed as that section is no longer in force.

Amendments have been made to Form C23 (Emergency Protection Order) in consequence of the repeal of section 45(9) of the Children Act 1989 by section 30 of the Children and Young Persons Act 2008 (c.23).

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£5.00