

2014 No. 524 (L. 5)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

COUNTY COURTS, ENGLAND AND WALES

MAGISTRATES' COURTS, ENGLAND AND WALES

The Family Procedure (Amendment) Rules 2014

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|-------------------------------|------------------------|
| <i>Made</i> - - - - | <i>6th March 2014</i> |
| <i>Laid before Parliament</i> | <i>10th March 2014</i> |
| <i>Coming into force</i> - - | <i>13th March 2014</i> |

The Family Procedure Rule Committee makes the following rules in exercise of the powers conferred by sections 75 and 76 of the Courts Act 2003(a), after consulting in accordance with section 79 of the Courts Act 2003(b).

Citation and commencement

1. These rules may be cited as the Family Procedure (Amendment) Rules 2014 and come into force on 13th March 2014.

Amendments to the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(c) are amended in accordance with rules 3 to 11.

3. In rule 7.11(3)(a)(ii), for “husband and wife” substitute “a married couple”.

4. In rule 7.26

(a) in the heading—

(i) omit “marriage” and insert “a marriage of an opposite sex couple”.

(b) in subparagraph (1)—

(a) 2003, c.39. Section 75 was amended by paragraph 91 of Schedule 10 to the Crime and Courts Act 2013 (c. 22), sections 15(1) and 146 of and paragraphs 308 and 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c.4). Section 76 was amended by paragraph 92 of Schedule 10 to the Crime and Courts Act 2013, section 25 of and paragraph 14 of Part 2 of Schedule 3 to the Children, Schools and Families Act 2010 (c.26), section 261(1) of and, section 12(2) of and paragraph 29 of Part 2 of Schedule 1 to the Constitutional Reform Act 2005, paragraph 172 of Schedule 27 to the Civil Partnership Act 2004 (c.33) and section 62(7) of the Children Act 2004 (c. 31).

(b) Section 79 was amended by sections 15(1) and 146 of and paragraphs 308 and 341(1) of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005.

(c) S.I. 2010/2955.

- (i) omit “marriage” and insert “a marriage of an opposite sex couple”.
- 5.** In the heading to Part 31 after “2005” insert “, The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014”;
- 6.** In rule 31.1—
- (a) in sub paragraph (b) omit “and”;
 - (b) in sub paragraph (c) omit “.” and insert “; and”;
 - (c) after sub paragraph (c) insert—
 - “(d) judgments to which the 2014 Regulations apply and which relate to divorce, or annulment of a marriage of a same sex couple or the judicial separation of the same”.
- 7.** In rule 31.2—
- (a) in sub paragraph (1)(a)(ii) omit “or”;
 - (b) in sub paragraph (1)(a)(iii) after “;” insert “or”;
 - (c) after sub paragraph (1)(a)(iii) insert—
 - “(iv) in accordance with regulation 4(1)(a) of The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 where those Regulations apply.”;
 - (d) after sub paragraph (1)(b) insert—
 - “(ba) “the 2014 Regulations” means the Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014”;
 - (e) after sub paragraph (1)(c)(ii) insert—
 - “(iii) where recognition is sought of a judgment to which the 2014 Regulations apply, a member State of the European Union to which Part II of those Regulations applies.”.
- 8.** In rule 31.3(3)—
- (a) after “Convention” omit “or” and insert “;”;
 - (b) after “Regulations” insert “or the 2014 Regulations”.
- 9.** In rule 31.8(8) after “Regulations” insert “or the 2014 Regulations”.
- 10.** In rule 31.12—
- (a) after “Convention” omit “or” and insert “;”;
 - (b) after “Regulations” insert “or regulation 5 of the 2014 Regulations”.
- 11.** In rule 31.14(3)—
- (a) after “convention” omit “or” and insert “;”;
 - (b) after “Regulations” insert “or regulation 5 of the 2014 Regulations”.

James Munby, P
Timothy Becker
Richard Burton
Paul Carr
Martyn Cook
Chris Darbyshire
Bruce Edgington
Angela Finnerty
Mike Hinchliffe
Charles Hyde
Sunita Mason
Ernest Ryder, LJ
David Salter
Lucy Theis, J

John Wilson

I allow these Rules
Signed by authority of the Lord Chancellor
6th March 2014

Simon Hughes
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

These rules amend the Family Procedure Rules 2010 (“the Rules”) to make consequential amendments in light of the Marriage (Same Sex Couples) Act 2013 (c. 30) (“the 2013 Act”).

Rule 3 amends rule 7.11(3)(a)(ii) of the Rules to replace the reference to “husband and wife” in that rule with a reference to “a married couple”. This amendment will ensure that this rule applies to marriages of opposite sex and same sex couples.

Rule 4 amends rule 7.26 of the Rules to make it clear that this rule only applies to marriages of opposite sex couples. Paragraph 4 of Schedule 4 to the 2013 Act inserted a new subsection (2) into section 12 of the Matrimonial Causes Act 1973 (c.18) (“the 1973 Act”). Section 12(2) provides that the grounds on which a marriage is voidable in section 12(a) (incapacity to consummate the marriage) and section 12(b) (wilful refusal to consummate the marriage) do not extend to marriages of same sex couples. Rule 4 therefore makes consequential amendments to rule 7.26 of the Rules to reflect this position that the grounds on which a marriage is voidable in section 12(a) and 12(b) of the 1973 Act only extend to marriages of opposite sex couples.

Rules 5 to 11 amend certain rules in Part 31 of the Rules. These rules make consequential amendments to include reference to The Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014. Those Regulations make corresponding provision, as far as is possible in domestic law, for marriages of same sex couples as to the jurisdiction and recognition elements of Council Regulation (EC) 2201/2003 for proceedings for the divorce of, or annulment of a marriage of, a same sex couple or the judicial separation of a married same sex couple as regards the law of England and Wales.

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£4.00

UK201403075 03/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/524>

ISBN 978-0-11-111122-2



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