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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

**The Family Procedure (Modification of Enactments) Order 2011**

**PART 3**

**AMENDMENTS TO SECONDARY LEGISLATION**

**Amendment of the Magistrates' Courts Rules 1981**

**16.** In the Magistrates' Courts Rules 1981(1) in the entry in the Arrangement of Rules relating to rule 3, in the heading to rule 3 and in rule 3—

- (a) for “and” substitute “,”; and
- (b) after “1991” the second time it appears, insert “and the Family Procedure Rules 2010(2).”.

**Amendment of the Civil Procedure Rules 1998**

**17.** The Civil Procedure Rules 1998(3) are amended as provided in articles 18 and 19.

**18.** In the table following rule 2.1(2)—

- (a) in entry 5 (Family proceedings), in the second column, omit the current words and substitute “Courts Act 2003, s.75”; and
- (b) in entry 6 (Adoption proceedings), in the second column—
  - (i) omit “Adoption Act 1976, s.66 or”; and
  - (ii) after “s.141” insert “or Courts Act 2003, s.75”.

**19.** In rule 57.15(2), for “the Family Proceedings Rules 1991”, substitute “the Family Procedure Rules 2010(4)”.

**Amendment of the Data Protection (Subject Access Modification) (Health) Order 2000**

**20.** In article 4(2) of the Data Protection (Subject Access Modification) (Health) Order 2000(5)—

- (a) after “1997” for “or” substitute “,”; and
- (b) after “1996” insert “or the Family Procedure Rules 2010(6)”.

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(1) S.I. 1981/552. Rule 3 was substituted by S.I. 1991/1991.

(2) S.I. 2010/2955.

(3) S.I. 1998/3132. Rule 2.1 was amended by section 59(5) of and paragraph 1(2) of Part 1 of Schedule 11 to the Constitutional Reform Act 2005 and by S.I. 1999/1008, 2003/1242, 2005/3515 and 2007/ 2204. Rule 57.15 was amended by S.I. 2002/2058 and 2009/3390.

(4) S.I. 2010/2955.

(5) S.I. 2000/413.

(6) S.I. 2010/2955.

### **Amendment of the Data Protection (Subject Access Modification) (Social Work) Order 2000**

**21.** The Data Protection (Subject Access Modification) (Social Work) Order 2000(7) is amended as provided in articles 22 to 24.

**22.** In article 5(2)(a), for “(t) or (tt)” substitute “(t), (tt), (v) or (w)”.

**23.** In article 7(2), in section 7(12)(a) of the Data Protection Act 1998 as modified, for “(t) or (tt)” substitute “(t), (tt), (v) or (w)”.

**24.** In the Schedule—

(a) after paragraph 1(u) insert—

“(v) data processed by any children’s guardian appointed under rule 16.3(1)(i) or rule 16.4 of the Family Procedure Rules 2010(8);

(w) data processed by any officer of the Children and Family Court Advisory and Support Service or Welsh family proceedings officer for the purpose of the functions referred to in rule 16.33 (insofar as it applies to proceedings to which Part 12 of the Family Procedure Rules 2010 applies) or 16.38(1) of the Family Procedure Rules 2010.”; and

(b) in paragraph 2—

(i) after “1996” for “or” substitute “,”; and

(ii) after “the Family Proceedings Rules 1991” insert “or the Family Procedure Rules 2010”.

### **Amendment of the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000**

**25.** In Part II of the Schedule to the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000(9)—

(a) at the end of paragraph (a) insert—

“In the Family Procedure Rules 2010(10): rules 14.6, 14.11, 14.12, 14.13, 14.14, 14.24, 16.20 (insofar as it applies to a children’s guardian appointed in proceedings to which Part 14 of those Rules applies), 16.32 and 16.33 (insofar as it applies to a children and family reporter in proceedings to which Part 14 of those Rules applies).”; and

(b) at the end of paragraph (c) insert—

“Rules made under section 75 of the Courts Act 2003 by virtue of section 141(1) of the Adoption and Children Act 2002, as applied with modifications by regulation 2 of Schedule 1 to the Human Fertilisation and Embryology (Parental Orders) Regulations 2010, so far as the rules relate to the appointment and duties of the parental order reporter and the keeping of registers, custody, inspection and disclosure of documents and information relating to parental order proceedings or related proceedings.”.

### **Amendment of the Divorce etc (Pensions) Regulations 2000**

**26.** The Divorce etc (Pensions) Regulations 2000(11) are amended as provided in articles 27 and 28.

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(7) [S.I. 2000/415](#). Relevant amending instruments are [S.I. 2002/2469](#) and [3220](#), [2004/696](#), [2005/467](#) and [3504](#) and 2011/.

(8) [S.I. 2010/2955](#).

(9) [S.I. 2000/419](#). Relevant amending instruments are [S.I. 2005/3504](#) and [2010/986](#).

(10) [S.I. 2010/2955](#).

(11) [S.I. 2000/1123](#), amended by [S.I. 2005/2114](#). [S.I. 2006/1932](#) modifies the Divorce etc (Pensions) Regulations 2000 so that, in relation to a modified pension attachment order, they apply as if regulation 7A were inserted.

**27.** In regulation 2(d), for “Family Proceedings Rules 1991” substitute “Family Procedure Rules 2010(12)”.

**28.** In regulation 4(3)(c), 6(2)(a) and (4), 7(3) and 7A(3), for “rule 2.70” substitute “rule 9.33 or 9.34”.

### **Amendment of the Litigants in Person (Costs and Expenses) (Magistrates’ Courts) Order 2001**

**29.** In article 3 of the Litigants in Person (Costs and Expenses) (Magistrates’ Courts) Order 2001(13), after “1980” insert “or under section 75 of the Courts Act 2003”.

### **Amendment of the Dissolution etc (Pensions) Regulations 2005**

**30.** The Dissolution etc (Pensions) Regulations 2005(14) are amended as provided in articles 31 and 32.

**31.** In regulation 2(e) for “Family Proceedings Rules 1991” substitute “Family Procedure Rules 2010(15)”.

**32.** In regulations 4(3)(c), 6(2)(a) and (4), 7(3) and 7A(3), for “rule 2.70” substitute “rule 9.33 or 9.34”.

### **Amendment of the Court of Protection Rules 2007**

**33.** In rule 39 of the Court of Protection Rules 2007(16)—

- (a) in paragraph (1), for “The rules in Section 2 of Part 6 of the Family Procedure (Adoption) Rules 2005 (“the 2005 Rules””, substitute “The rules in Chapter 4 of Part 6 of the Family Procedure Rules 2010(17) (“the 2010 Rules”); and
- (b) in paragraphs (2) and (3), for “2005” substitute “2010”.

### **Amendment of the Family Proceedings Fees Order 2008**

**34.** The Family Proceedings Fees Order 2008(18) is amended as provided in articles 35 to 37.

**35.** For article 1(2)(b), substitute—

- “(b) “the FPR 2010” means the Family Procedure Rules 2010(19); and
- (c) expressions also used in the FPR 2010 have the same meaning as in the FPR 2010.”.

**36.** In column 1 of Schedule 1—

- (a) for the description of fee 1.1 substitute—  
“On filing an application to start proceedings, where no other fee is specified.”;
- (b) for the description of fee 1.2 substitute—  
“On presenting any application for—

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(12) [S.I. 2010/2955](#).

(13) [S.I. 2001/3438](#).

(14) [S.I. 2005/2920](#). These Regulations are modified by [S.I. 2006/1934](#) so that, in relation to a modified pension attachment order, they apply as if regulation 7A were inserted.

(15) [S.I. 2010/2955](#).

(16) [S.I. 2007/1744](#).

(17) [S.I. 2010/2955](#).

(18) [S.I. 2008/1054](#). Relevant amending instruments are [S.I. 2008/2856](#), [2009/1499](#) and [2010/1916](#). Amendments are also made by section 59(5) of and paragraph 1(2) of Part 1 of Schedule 11 to the Constitutional Reform Act 2005.

(19) [S.I. 2010/2955](#).

- (a) a matrimonial or civil partnership order, other than an application to which rule 7.7(1)(b) of the FPR 2010 applies;
  - (b) a declaration to which Chapter 5 of Part 8 of the FPR 2010 applies.”;
  - (c) for the description of fee 1.4 substitute—  
“On amending an application for a matrimonial or civil partnership order, amending an application for a declaration to which Chapter 5 of Part 8 of the FPR 2010 applies, or making an application to which rule 7.7(1)(b) of the FPR 2010 applies.”;
  - (d) for the description of fee 1.5 substitute—  
“On filing an answer to an application for a matrimonial or civil partnership order.”;
  - (e) for the description of fee 4.2 substitute—  
“On an application under rule 7.19 of the FPR 2010 for the court to consider the making of a decree nisi, a conditional order, a decree of judicial separation or a separation order (other than in an undefended case where no fee is payable).”;
  - (f) for the description of fee 4.4 substitute—  
“On the filing of—
    - (a) a notice of intention to proceed with an application for a financial order to which rule 9.4(a) of the FPR 2010 applies; or
    - (b) an application for a financial order to which rule 9.4(b) of the FPR 2010 applies, other than an application for a consent order.”;
  - (g) in the description of fee 5.1, for “a notice of appeal” substitute “an appeal notice”;
  - (h) in the description of fee 10.1, after “enforcement of a judgment” insert “, or on an application to which rule 33.3(2)(b) of the FPR 2010 applies”; and
  - (i) in the description of fee 10.2, for “garnishee order” substitute “third party debt order”.
- 37.** In paragraph 1(1) of Schedule 2, in the definition of “restraint order”—
- (a) in paragraph (a) omit “or”;
  - (b) in paragraph (b), for “.” substitute “; or”; and
  - (c) after paragraph (b) insert—
    - “(c) a civil restraint order under rule 4.8 of the FPR 2010 or the practice direction referred to in that rule.”.

### **Amendment of the Allocation and Transfer of Proceedings Order 2008**

- 38.** In article 15(1) of the Allocation and Transfer of Proceedings Order 2008(20), omit subparagraph (h).