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## EXPLANATORY NOTE

(This Note is not part of the rules)

These rules are the first Family Proceedings Rules, made under section 40 of the Matrimonial and Family Proceedings Act 1984. They regulate family proceedings in the High Court and the county courts.

These rules replace the Matrimonial Causes Rules 1977 and certain of the Rules of the Supreme Court 1965 (notably Orders 90 and 105) and of the County Court Rules 1981 (notably Order 47). They also contain a section (Part IV) regulating new business which will arise under the Children Act 1989.

Parts I to 111 and V to X and Appendix 2 largely reproduce existing provisions, with amendments consequential upon the Children Act 1989, in particular a new procedure is established regulating compliance with section 41 of the Matrimonial Causes Act 1973 following the revision of that section by the 1989 Act (rules 2.2(2) and 2.39). Certain other changes have been made:

- (a) it is no longer necessary, in a case where a divorce or judicial separation petition alleges that the respondent has committed adultery, for the co-respondent to be named in the petition even if his identity is known to the petitioner (rule 2.7(1));
- (b) rule 2.64(3) allows courts to order possession of a property which they have ordered to be sold;
- (c) rule 8.1(2), governing appeals from a district judge in ancillary relief applications, provides for the appeal to be on stated grounds.

Part IV (Proceedings under the Children Act 1989) provides generally for those proceedings and, in particular:

- (a) requires notice of the proceedings to be given to persons who have an interest but may not wish or need to be joined—such as persons caring for the child or fathers of children who do not have parental responsibility for them. They can then apply to be joined (Rule 4.7 and Appendix 3);
- (b) enables the court to control the timetable of the proceedings. A date for the next hearing is set at any adjournment or postponement and at the conclusion of interlocutory stages. In addition, when a case is transferred to a county court, that court must fix the date for a hearing or directions appointment forthwith (Rule 4.15);
- (c) requires the parties to exchange in advance written statements of the substance of the oral evidence which they propose to adduce, and copies of documents upon which they propose to rely (Rule 4.17);
- (d) by a requirement for leave enables the court to control medical and psychiatric examinations of the child for the purpose of obtaining expert evidence for the proceedings (Rule 4.18);
- (e) sets out the details of the role to be played by guardians ad litem appointed under section 41 of the Children Act 1989 (Rule 4.11).

Appendix I prescribes the forms to be used in family proceedings. These are taken from the forms prescribed by the Matrimonial Causes Rules 1977, revised and updated and prefixed “M”, with the addition of new forms to deal with business arising under the Children Act 1989, prefixed “CHA”.