
STATUTORY INSTRUMENTS

1991 No. 1395

The Family Proceedings Courts (Children Act 1989) Rules 1991

PART III

MISCELLANEOUS

Costs

22.—(1) In any relevant proceedings, the court may, at any time during the proceedings in that court, make an order that a party pay the whole or any part of the costs of any other party.

(2) A party against whom the court is considering making a costs order shall have an opportunity to make representations as to why the order should not be made.

Confidentiality of documents

23.—(1) No document, other than a record of an order, held by the court and relating to relevant proceedings shall be disclosed, other than to—

- (a) a party,
- (b) the legal representative of a party,
- (c) the guardian ad litem,
- (d) the Legal Aid Board, or
- (e) a welfare officer,

without leave of the justices' clerk or the court.

(2) Nothing in this rule shall prevent the notification by the court or the justices' clerk of a direction under section 37(1) to the authority concerned.

Enforcement of residence order

24. Where a person in whose favour a residence order is in force wishes to enforce it he shall file a written statement describing the alleged breach of the arrangements settled by the order, whereupon the justices' clerk shall fix a date, time and place for a hearing of the proceedings and give notice, as soon as practicable, to the person wishing to enforce the residence order and to any person whom it is alleged is in breach of the arrangements settled by that order, of the date fixed.

Notification of consent

25. Consent for the purposes of—

- (a) section 16(3),
- (b) section 33(7), or
- (c) paragraph 19(1) of Schedule 2,

shall be given either—

- (i) orally in court, or
- (ii) in writing to the justices' clerk or the court and signed by the person giving his consent.

Secure accommodation

26. In proceedings under section 25, the justices' clerk shall, if practicable, arrange for copies of all written reports before the court to be made available before the hearing to—

- (a) the applicant,
- (b) the parent or guardian of the child,
- (c) any legal representative of the child,
- (d) the guardian ad litem, and
- (e) the child, unless the justices' clerk or the court otherwise directs;

and copies of such reports may, if the court considers it desirable, be shown to any person who is entitled to notice of the proceedings in accordance with these Rules.

Investigation under section 37

27.—(1) This rule applies where a direction is given to an appropriate authority by a family proceedings court under section 37(1).

(2) On giving a direction the court shall adjourn the proceedings and the justices' clerk or the court shall record the direction in writing.

(3) A copy of the direction recorded under paragraph (2) shall, as soon as practicable after the direction is given, be served by the justices' clerk on the parties to the proceedings in which the direction is given and, where the appropriate authority is not a party, on that authority.

(4) When serving the copy of the direction on the appropriate authority the justices' clerk shall also serve copies of such of the documentary evidence which has been, or is to be, adduced in the proceedings as the court may direct.

(5) Where a local authority informs the court of any of the matters set out in section 37(3)(a) to (c) it shall do so in writing.

Limits on the power of a justices' clerk or a single justice to make an order under section 11(3) or section 38(1)

28. A justices' clerk or single justice shall not make an order under section 11(3) or section 38(1) unless—

- (a) a written request for such an order has been made to which the other parties and any guardian ad litem consent and which they or their representatives have signed,
- (b) a previous such order has been made in the same proceedings, and
- (c) the terms of the order sought are the same as those of the last such order made.

Appeals to a family proceedings court under section 77(6) and paragraph 8(1) of Schedule 8

29.—(1) An appeal under section 77(6) or paragraph 8(1) of Schedule 8 shall be by application in accordance with rule 4.

(2) An appeal under section 77(6) shall be brought within 21 days from the date of the step to which the appeal relates.

Contribution orders

30.—(1) An application for a contribution order under paragraph 23(1) of Schedule 2 shall be accompanied by a copy of the contribution notice served in accordance with paragraph 22(1) of that Schedule and a copy of any notice served by the contributor under paragraph 22(8) of that Schedule.

(2) Where a local authority notifies the court of an agreement reached under paragraph 23(6) of Schedule 2, it shall do so in writing through the justices' clerk.

(3) An application for the variation or revocation of a contribution order under paragraph 23(8) of Schedule 2 shall be accompanied by a copy of the contribution order which it is sought to vary or revoke.

Direction to local education authority to apply for education supervision order

31.—(1) For the purposes of section 40(3) and (4) of the Education Act 1944(1), a direction by a magistrates' court to a local education authority to apply for an education supervision order shall be given in writing.

(2) Where, following such a direction, a local education authority informs the court that they have decided not to apply for an education supervision order, they shall do so in writing.

Delegation by justices' clerk

32.—(1) In this rule, “employed as a clerk in court” has the same meaning as in rule 2(1) of the Justices' Clerks (Qualifications of Assistants) Rules 1979(2).

(2) Anything authorised to be done by, to or before a justices' clerk under these Rules, or under paragraphs 13 to 15C of the Schedule to the Justices' Clerks Rules 1970(3) as amended by Schedule 3 to these Rules, may be done instead by, to or before a person employed as a clerk in court where that person is appointed by the magistrates' courts committee to assist him and where that person has been specifically authorised by the justices' clerk for that purpose.

(3) Any authorisation by the justices' clerk under paragraph (2) shall be recorded in writing at the time the authority is given or as soon as practicable thereafter.

Application of section 97 of the Magistrates' Courts Act 1980

33. Section 97 of the Magistrates' Courts Act 1980 shall apply to relevant proceedings in a family proceedings court as it applies to a hearing of a complaint under that section.

Consequential and minor amendments, savings and transitionals

34.—(1) Subject to paragraph (3) the consequential and minor amendments in Schedule 3 to these Rules shall have effect.

(2) Subject to paragraph (3), the provisions of the 1981 rules shall have effect subject to these Rules.

(3) Nothing in these Rules shall affect any proceedings which are pending (within the meaning of paragraph 1 of Schedule 14 to the Act of 1989) immediately before these Rules come into force.

(1) 1944 c. 31 (7 and 8 Geo.6); relevant amendments are made by paragraphs 8 to 10 of Schedule 13 to the Children Act 1989.

(2) S.I.1979/570, amended by 1980/1897.

(3) S.I. 1970/231, amended by 1975/300, 1976/1767, 1978/754 and 1983/527.