

**EXPLANATORY MEMORANDUM TO**  
**THE FAMILY PROCEEDINGS (AMENDMENT No. 2) RULES 2005**

**2005 No.412 (L.5)**

**THE FAMILY PROCEEDINGS COURTS (CHILDREN ACT 1989)**  
**(AMENDMENT No. 2) RULES 2005**

**2005 No.413 (L.6)**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs. It is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 The Family Proceedings (Amendment No. 2) Rules 2005 amend the Family Proceedings Rules 1991 (S.I. 1991/1247) and the Family Proceedings Courts (Children Act 1989) (Amendment No. 2) Rules 2005 amend the Family Proceedings Courts (Children Act 1989) Rules 1991 (S.I. 1991/1395) by substituting new Forms C1, C2 and C7. This is to correct a defect in these Forms as substituted by the Family Proceedings (Amendment) Rules 2004 (S.I. 2004/3375) and the Family Proceedings Courts (Children Act 1989) (Amendment) Rules 2004 (S.I. 2004/3376) respectively.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 Paragraph 14 of Form C1, paragraph 6 of Form C2 and paragraph 9 of Form C7 have been amended so as to clarify that the court will make the arrangements for an interpreter to be provided where one is required. This is pursuant to a report by the Joint Committee on Statutory Instruments (Eighth Report of Session 2004-2005). As this instrument corrects a defect in S.I. 2004/3375 arrangements have been made for copies of this instrument to be made available free of charge to purchasers of that instrument.

3.2 This instrument contravenes the 21-day rule mentioned in paragraph 5.4.13 of *Statutory Instrument Practice*, which requires that instruments subject to annulment should normally not be brought into force until 21 days after laying, for the following reason:-

3.3 Forms C1, C2 and C7 that were substituted into the 1991 Rules by S.I.s 2004/3375 and 3376 contained an error. However, this error is not present in the versions of the forms which the Court Service had arranged to be printed and sent to the courts. Accordingly, the courts are now using forms which are not the prescribed forms.

3.4 To ensure that the forms sent out to the courts are the ones prescribed by law the Department considers that the correct version of the forms, the ones being used by the courts, should be prescribed as quickly as possible. In order to do that it is necessary to contravene the 21-day rule.

#### **4. Legislative Background**

4.1 The original order made changes to Forms C1, C2 and C7 and introduced new Form C1A. The amendments were linked to the commencement of section 120 of the Adoption and Children Act 2002 (amendment to the definition of ‘harm’).

#### **5. Extent**

5.1 The instrument extends to England and Wales only.

#### **6. European Convention on Human Rights**

6.1 Not applicable.

#### **7. Policy Background**

7.1 Section 120 of the Adoption and Children Act 2002 amends the definition of ‘harm’ contained in section 31 Children Act 1989 (care and supervision orders) so as to include ‘impairment suffered from seeing or hearing the ill-treatment of another’. This includes emotional or physical harm.

7.2 The application forms, C1 and C2, and the acknowledgement form, C7, have been amended to include an additional question related to harm which must be completed where an application is made for a section 8 order (an application for contact with a child) or an order for parental responsibility. The question (question 7 on Form C1, question 4 on C2 and question 7 on C7) asks whether the child, who is the subject of such an application, has suffered or is at risk of suffering any harm from (a) any form of domestic abuse; (b) violence within the household; (c) child abduction; or (d) other conduct or behaviour. If this question is answered in the affirmative, supplemental form C1A must also be completed.

7.3 To reflect this, the Rules have been amended to require an applicant and a respondent to complete Form C1A if any of the questions above are answered in the affirmative.

#### **8. Impact**

8.1 The impact of the amendment to the forms will be minimal since the courts are already using the correct version of the forms as now substituted by these Rules.

#### **9. Contact**

9.1 Andrew McNeill of Relationship Breakdown Branch, 020 7210 8648 or [andrew.mcneill.dca.gsi.gov.uk](mailto:andrew.mcneill.dca.gsi.gov.uk) can answer queries in relation to the instrument.