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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 4**

**GENERAL CASE MANAGEMENT POWERS**

**Court's power to make order of its own initiative**

**4.3.**—(1) Except where an enactment provides otherwise, the court may exercise its powers on an application or of its own initiative.

(Part 18 sets out the procedure for making an application.)

- (2) Where the court proposes to make an order of its own initiative—
- (a) it may give any person likely to be affected by the order an opportunity to make representations; and
  - (b) where it does so it must specify the time by and the manner in which the representations must be made.
- (3) Where the court proposes—
- (a) to make an order of its own initiative; and
  - (b) to hold a hearing to decide whether to make the order,

it must give each party likely to be affected by the order at least 5 days' notice of the hearing.

(4) The court may make an order of its own initiative without hearing the parties or giving them an opportunity to make representations.

- (5) Where the court has made an order under paragraph (4)—
- (a) a party affected by the order may apply to have it set aside<sup>(GL)</sup>, varied or stayed<sup>(GL)</sup>; and
  - (b) the order must contain a statement of the right to make such an application.

- (6) An application under paragraph (5)(a) must be made—
- (a) within such period as may be specified by the court; or
  - (b) if the court does not specify a period, within 7 days beginning with the date on which the order was served on the party making the application.

(7) If the High Court or a county court of its own initiative strikes out a statement of case or dismisses an application (including an application for permission to appeal) and it considers that the application is totally without merit—

- (a) the court's order must record that fact; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.