

2023 No. 61 (L. 2)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment) Rules 2023

Made - - - - - *17th January 2023*

Laid before Parliament *23rd January 2023*

Coming into force in accordance with rule 1(3)

The Family Procedure Rule Committee makes the following Rules in exercise of the powers conferred by sections 75 and 76(8) of the Courts Act 2003(a), having fulfilled the requirements of section 79(1) of that Act:

Citation, extent and commencement

- 1.—(1) These Rules may be cited as the Family Procedure (Amendment) Rules 2023.
- (2) These Rules extend to England and Wales.
- (3) These Rules come into force on 6th April 2023, except that rule 8 comes into force on 27th February 2023.

Amendment of the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(b) are amended in accordance with rules 3 to 20 of these Rules.

Amendment of rule 2.3

3. In rule 2.3 (interpretation), in the definition of “judge”, in sub-paragraph (b)(iii) for “Queen’s” substitute “King’s”.

(a) 2003 c. 39. Section 75 was amended by paragraphs 308 and 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c. 4), paragraphs 83 and 91 of Part 2 of Schedule 10 to the Crime and Courts Act 2013 (c. 22) and paragraph 3(1) and (2) of Schedule 4 to the Judicial Review and Courts Act 2022 (c. 35).

(b) S.I. 2010/2955. Relevant amendments were made by S.I. 2013/530, S.I. 2013/3204, S.I. 2014/667, S.I. 2014/843, S.I. 2014/3296, S.I. 2016/355, S.I. 2016/891, S.I. 2018/1413, S.I. 2019/517, S.I. 2020/135, S.I. 2020/942, S.I. 2021/875 and S.I. 2022/44.

Amendment of rule 3A.2A

4. At the end of rule 3A.2A (court’s duty to consider making participation directions: victims of domestic abuse) insert—

“(Attention is drawn to Practice Direction 27C, which makes provision for the attendance at hearings, without the need for an order of the court, of Independent Domestic Violence Advisers and Independent Sexual Violence Advisers.)”.

Amendment of rule 6.46

5. In rule 6.46 (procedure where service is to be through foreign governments, judicial authorities and British Consular authorities), in paragraph (3)(b) for “Queen’s” substitute “King’s”.

Amendment of Part 7

6. In rule 7.18 (applications to prevent conditional orders being made final), in paragraph (6) for “Queen’s”, in each place it occurs, substitute “King’s”.

7. In rule 7.20 (applications to make conditional orders final), for “Queen’s” substitute “King’s” in the following places—

- (a) paragraph (2)(a); and
- (b) paragraph (3).

Amendment of Part 8

8. Omit Chapter 9 (application for consent to marriage of a child or to registration of civil partnership of a child) of the Part, including rules 8.41 to 8.43.

Amendment of Part 12

9. In rule 12.3 (who the parties are), in paragraph (1), in the table entry for “A warrant under section 79 of the 2006 Act authorising any constable to assist Her Majesty’s Chief Inspector for Education, Children’s Services and Skills in the exercise of powers conferred on him by section 77 of the 2006 Act” for “Her Majesty’s” substitute “His Majesty’s” for each occurrence in column 1, 2 and 3.

10. In rule 12.14, after paragraph (2) insert—

“(Practice Direction 27C makes provision for the attendance at hearings of Independent Domestic Violence Advisers and Independent Sexual Violence Advisers.)”.

Amendment of Part 27

11. In rule 27.9 (recording, transcription and informal notes of proceedings), in paragraph (4)(b) for “Queen’s” substitute “King’s”.

12. In rule 27.11 (attendance at private hearings)—

- (a) in paragraph (2)(g), after “permits” insert “, or who is required by any practice direction,”; and
- (b) after paragraph (2) insert—

“(Practice Direction 27C makes provision for the attendance at hearings of Independent Domestic Violence Advisers and Independent Sexual Violence Advisers.)”.

Amendment of rule 29.18

13. In rule 29.18 (application for change of area) for “Her Majesty’s” substitute “His Majesty’s”.

Amendment of rule 30.3

14. In rule 30.3 (permission)—

(a) for paragraph (5A) substitute—

“(5A) Where—

(a) a judge of the High Court; or

(b) in the family court—

(i) a judge of the High Court;

(ii) a Designated Family Judge; or

(iii) where the application relates to financial remedy proceedings, a Nominated FRC Circuit Judge,

refuses permission to appeal without a hearing and considers that the application is totally without merit, the judge may make an order that the person seeking permission may not request the decision to be reconsidered at a hearing.”; and

(b) after paragraph (5B) insert—

“(5C) In paragraph (5A) “Nominated FRC Circuit Judge” means any circuit judge nominated by the National Lead Judge of the Financial Remedies Court for the purposes of that paragraph.”.

Amendment of Part 32

15. In rule 32.2 (interpretation), in the definition of “the registrar in Northern Ireland” for “Queen’s” substitute “King’s”.

16. In rule 32.10 (cancellation of registration of Scottish and Northern Irish Orders), in paragraph (6)(c)(ii) for “Queen’s” substitute “King’s”.

Amendment of rule 33.3

17. In rule 33.3 (how to apply) for paragraph (3) substitute—

“(3) If an application is made under paragraph (2)(b), the court must issue an order which includes requirements that—

(a) the debtor must attend court at the time and place specified in the order to answer on oath such questions as the court may require;

(b) the debtor must complete a financial statement in the form served with that order; and

(c) the financial statement, together with any documents that the statement indicates should be provided, must be—

(i) filed with the court; and

(ii) served on the applicant,

by the debtor not less than seven days before the date on which order requires the debtor to attend court.

(4) An order issued under paragraph (3) must include a penal notice, as defined in rule 37.2.”.

Amendment of rule 39.4

18. In rule 39.4 (attachment of earnings order) for “Her Majesty’s” substitute “His Majesty’s”.

Amendment of Part 40

19. In rule 40.4 (charging orders – scope of this chapter), in paragraph (2) for “Her Majesty’s” substitute “His Majesty’s”.

20. In rule 40.14 (stop notices – general) for “Her Majesty’s” substitute “His Majesty’s”.

Sir Andrew McFarlane, President of the Family Division
Lord Justice Baker
Poonam Bhari
District Judge Birk
Graeme Fraser
His Honour Judge Godwin
Mr Justice Mostyn
Her Honour Judge Raeside
Rhys Taylor
Her Honour Judge Suh

I allow these Rules

17th January 2023

Bellamy
Parliamentary Under-Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 (S.I. 2010/2955) (“the FPR”).

Rules 3, 5 to 7, 9, 11, 13, 15, 16 and 18 to 20 amend the FPR to reflect the accession of King Charles III, following the death of Queen Elizabeth II on 8 September 2022.

Rules 4, 10 and 12 amend the FPR to provide for provision to be made in a practice direction (Practice Direction 27C) for Independent Domestic Violence Advisers and Independent Sexual Violence Advisers to attend proceedings without the need for an order of the court.

Rule 8 amends Part 8 of the FPR to remove Chapter 9 (application for consent to marriage of a child or to registration of civil partnership of a child). It will not be possible to make an application under this Chapter when the Marriage and Civil Partnership (Minimum Age) Act 2022 (c. 28) comes into force.

Rule 14 amends rule 30.3 of the FPR to add an additional category of judge of the family court who may make an order that an application for permission to appeal may not be reconsidered at a hearing, where the judge has refused the application for permission to appeal, without a hearing, as being totally without merit.

Rule 17 amends rule 33.3 of the FPR to make provision about the content of a standard order which is issued on an application for the court to order such method of enforcement as the court may consider appropriate.

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