
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART V

WARDSHIP

Application to make a minor a ward of court

5.1.—(1) An application to make a minor a ward of court shall be made by originating summons and, unless the court otherwise directs, the plaintiff shall file an affidavit in support of the application when the originating summons is issued.

(2) Rule 4.3 shall, so far as applicable, apply to an application by a local authority for the leave of the court under section 100(3) of the Act of 1989.

(3) Where there is no person other than the minor who is a suitable defendant, an application may be made ex parte to a district judge for leave to issue either an ex parte originating summons or an originating summons with the minor as defendant thereto; and, except where such leave is granted, the minor shall not be made a defendant to an originating summons under this rule in the first instance.

(4) Particulars of any summons issued under this rule in a district registry shall be sent by the proper officer to the principal registry for recording in the register of wards.

(5) The date of the minor's birth shall, unless otherwise directed, be stated in the summons, and the plaintiff shall—

- (a) on issuing the summons or before or at the first hearing thereof lodge in the registry out of which the summons issued a certified copy of the entry in the Register of Births or, as the case may be, in the Adopted Children Register relating to the minor, or
- (b) at the first hearing of the summons apply for directions as to proof of birth of the minor in some other manner.

(6) The name of each party to the proceedings shall be qualified by a brief description, in the body of the summons, of his interest in, or relation to, the minor.

(7) Unless the court otherwise directs, the summons shall state the whereabouts of the minor or, as the case may be, that the plaintiff is unaware of his whereabouts.

(8) Upon being served with the summons, every defendant other than the minor shall forthwith lodge in the registry out of which the summons issued a notice stating the address of the defendant and the whereabouts of the minor or, as the case may be, that the defendant is unaware of his whereabouts and, unless the court otherwise directs, serve a copy of the same upon the plaintiff.

(9) Where any party other than the minor changes his address or becomes aware of any change in the whereabouts of the minor after the issue or, as the case may be, service of the summons, he shall, unless the court otherwise directs, forthwith lodge notice of the change in the registry out of which the summons issued and serve a copy of the notice on every other party.

(10) The summons shall contain a notice to the defendant informing him of the requirements of paragraphs (8) and (9).

(11) In this rule any reference to the whereabouts of a minor is a reference to the address at which and the person with whom he is living and any other information relevant to the question where he may be found.

Enforcement of order by tipstaff

5.2 The power of the High Court to secure, through an officer attending upon the court, compliance with any direction relating to a ward of court may be exercised by an order addressed to the tipstaff.

Where minor ceases to be a ward of court

5.3.—(1) A minor who, by virtue of section 41(2) of the Supreme Court Act 1981(1), becomes a ward of court on the issue of a summons under rule 5.1 shall cease to be a ward of court—

- (a) if an application for an appointment for the hearing of the summons is not made within the period of 21 days after the issue of the summons, at the expiration of that period;
- (b) if an application for such an appointment is made within that period, on the determination of the application made by the summons unless the court hearing it orders that the minor be made a ward of court.

(2) Nothing in paragraph (1) shall be taken as affecting the power of the court under section 41(3) of the said Act to order that any minor who is for the time being a ward of court shall cease to be a ward of court.

(3) If no application for an appointment for the hearing of a summons under rule 5.1 is made within the period of 21 days after the issue of the summons, a notice stating whether the applicant intends to proceed with the application made by the summons must be left at the registry in which the matter is proceeding immediately after the expiration of that period.

Adoption of minor who is a ward of court

5.4.—(1) An application for leave—

- (a) to commence proceedings to adopt a minor who is a ward or
- (b) to commence proceedings to free such a minor for adoption,

may be ex parte to a district judge.

(2) Where a local authority has been granted leave to place a minor who is a ward with foster parents with a view to adoption it shall not be necessary for an application to be made for leave under paragraph (1)(a) or (b) unless the court otherwise directs.

(3) If the applicant for leave under paragraph (1)(a) or (b), or a local authority which has applied for leave as referred to in paragraph (2), or a foster parent so requests, the district judge may direct that any subsequent proceedings shall be conducted with a view to securing that the proposed adopter is not seen by or made known to any respondent or prospective respondent who is not already aware of his identity except with his consent.

(4) In paragraphs (1) and (3) “proceedings” means proceedings in the High Court or in a county court.