
STATUTORY INSTRUMENTS

1999 No. 3491

The Family Proceedings (Amendment No. 2) Rules 1999

Amendment of the Family Proceedings Rules 1991

17.—(1) For rule 2.69 there shall be substituted:

“Offers to settle

2.69.—(1) Either party to the application may at any time make a written offer to the other party which is expressed to be “without prejudice except as to costs” and which relates to any issue in the proceedings relating to the application.

(2) Where an offer is made under paragraph (1), the fact that such an offer has been made shall not be communicated to the court, except in accordance with rule 2.61E(3), until the question of costs falls to be decided.

Interpretation of rules 2.69B to 2.69D

2.69A In rules 2.69B to 2.69D, “base rate” has the same meaning as in the Civil Procedure Rules 1998.

Judgment or order more advantageous than an offer made by the other party

2.69B.—(1) This rule applies where the judgment or order in favour of the applicant or respondent is more advantageous to him than an offer made under rule 2.69(1) by the other party.

(2) The court must, unless it considers it unjust to do so, order that other party to pay any costs incurred after the date beginning 28 days after the offer was made.

Judgment or order more advantageous than offers made by both parties

2.69C.—(1) This rule applies where

- (a) both the applicant and the respondent have made offers under rule 2.69(1); and
- (b) the judgment or order in favour of the applicant or the respondent, as the case may be, is more advantageous to him than both of the offers referred to in paragraph (a).

(2) The court may, where it considers it just, order interest in accordance with paragraph (3) on the whole or part of any sum of money (excluding interest and periodical payments) to be awarded to the applicant or respondent, as the case may be.

(3) Interest under paragraph (2) may be at a rate not exceeding 10 per cent above base rate for some or all of the period beginning 28 days after the offer was made.

(4) The court may also order that the applicant or respondent, as the case may be, is entitled to:

- (a) his costs on the indemnity basis beginning 28 days after the offer was made; and
- (b) interest on those costs at a rate not exceeding 10 per cent above base rate.

(5) The court's powers under this rule are in addition to its powers under rule 2.69B.

Factors for court's consideration under rules 2.69B and 2.69C

2.69D.—(1) In considering whether it would be unjust, or whether it would be just, to make the orders referred to in rules 2.69B and 2.69C, the court must take into account all the circumstances of the case, including—

- (a) the terms of any offers made under rule 2.69(1);
- (b) the stage in the proceedings when any offer was made;
- (c) the information available to the parties at the time when the offer was made;
- (d) the conduct of the parties with regard to the giving or refusing to give information for the purposes of enabling the offer to be made or evaluated; and
- (e) the respective means of the parties.

(2) The power of the court to award interest under rule 2.69C(2) and (4)(b) is in addition to any other power it may have to award interest.

Open proposals

2.69E.—(1) Not less than 14 days before the date fixed for the final hearing of an application for ancillary relief, the applicant must (unless the court directs otherwise) file with the court and serve on the respondent an open statement which sets out concise details, including the amounts involved, of the orders which he proposes to ask the court to make.

(2) Not more than 7 days after service of a statement under paragraph (1), the respondent must file with the court and serve on the applicant an open statement which sets out concise details, including the amounts involved, of the orders which he proposes to ask the court to make.

Application for interim orders

2.69F.—(1) A party may apply at any stage of the proceedings for an order for maintenance pending suit, interim periodical payments or an interim variation order.

(2) An application for such an order must be made by notice of application and the date fixed for the hearing of the application must be not less than 14 days after the date the notice of application is issued.

(3) The applicant shall forthwith serve the respondent with a copy of the notice of application.

(4) Where an application is made before a party has filed Form E, that party must file with the application and serve on the other party, a draft of the order requested and a short sworn statement explaining why the order is necessary and giving the necessary information about his means.

(5) Not less than 7 days before the date fixed for the hearing, the respondent must file with the court and serve on the other party, a short sworn statement about his means, unless he has already filed Form E.

(6) A party may apply for any other form of interim order at any stage of the proceedings with or without notice.

(7) Where an application referred to in paragraph (6) is made with notice, the provisions of paragraphs (1) to (5) apply to it.

(8) Where an application referred to in paragraph (6) is made without notice, the provisions of paragraph (1) apply to it.”