

**2003 No. 2960 (L. 37)**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Family Proceedings Courts (Constitution) (Greater London) Rules 2003**

*Made - - - - - 18th November 2003*

*Laid before Parliament 19th November 2003*

*Coming into force in accordance with Rule 1*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 67 and 144 of the Magistrates' Courts Act 1980(a), and after consultation with the rule committee appointed under section 144, makes the following Rules:

**Citation, commencement and application**

**1.**—(1) These Rules may be cited as the Family Proceedings Courts (Constitution) (Greater London) Rules 2003 and shall come into force on—

- (a) for the purposes of rules 2, 9, and this rule on 15th December 2003; and
- (b) for all other purposes on 1st January 2004.

(2) These Rules do not apply outside the Greater London area.

**Interpretation**

**2.** In these Rules—

“the 1989 Act” means the Children Act 1989(b);

“District Judge (Magistrates' Courts)” means a District Judge (Magistrates' Courts) appointed under section 10A(1) of the Justices of the Peace Act 1997(c);

“Greater London area” means the Commission Area of Greater London;

“justice” means a justice of the peace who is not a District Judge (Magistrates' Courts);

“petty sessions area” has the meaning assigned to it by section 4 of the Justices of the Peace Act 1997; and

“panel” means “family panel”, within the meaning of section 92 of the 1989 Act.

**Revocations**

**3.**—(1) Subject to paragraph (2), the Family Proceedings Courts (Constitution) (Metropolitan Area) Rules 1991(d) are revoked.

(2) Nothing in these Rules shall affect any proceedings that are pending (within the meaning of paragraph 1 of Schedule 14 to the 1989 Act) immediately before these Rules come into force.

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(a) 1980 c. 43. Subsection 1 was amended by paragraphs 95 and 116 of Schedule 13 to the Access to Justice Act 1999 (c. 22).

(b) 1989 c. 41.

(c) 1997 c. 25. Sections 10A and 10B were substituted by section 78 of the Access to Justice Act 1999 (c. 22).

(d) S.I. 1991/1426, amended by S.I. 2000/1873.

### **Formation of panel**

4.—(1) There shall be one panel for the Greater London area and any justice who is a member of a family panel in any petty sessions area in the Greater London area on the 31st December 2003 shall be a member of the first panel.

(2) The panel shall thereafter be formed of justices who are nominated from time to time by the Lord Chancellor in accordance with these Rules.

(3) The justices who form the first panel constituted under paragraph (1) shall serve for a term commencing on 1st January 2004 and expiring on 31st December 2005 and succeeding justices shall, subject to paragraph (4), serve for a term of three years commencing on 1st January in the year following the expiry of the term of previous justices.

(4) The number of justices who are nominated under paragraph (2) shall be such as the Lord Chancellor thinks sufficient for family proceedings courts in the Greater London area and he may, at any time, subject to rule 5, nominate one or more additional justices to the panel who shall serve thereon for a term commencing on a date determined by the Lord Chancellor and ending at the end of the period for which the other justices to the panel were nominated.

### **Eligibility and removal**

5.—(1) A justice shall not be nominated to the panel unless—

- (a) he is a justice who acts for the Greater London area;
- (b) he has acted as a justice for a minimum period of two years;
- (c) he has indicated that he is willing to serve as a member of the panel; and
- (d) he is suitable, in the opinion of the Lord Chancellor, to serve as a member of the panel.

(2) A justice shall be eligible for nomination to the panel whether or not he—

- (a) has been a member of the panel before, or
- (b) is, or has been, a member of any other panel.

(3) The Lord Chancellor may remove from the panel any justice who, in his opinion, is unsuitable to serve on the panel.

### **Vacancies in membership of panel**

6. If a vacancy occurs in the membership of the panel, the Lord Chancellor may, subject to rule 5(1), nominate a justice to fill the vacancy who shall serve on the panel for a term commencing on a date determined by the Lord Chancellor and ending at the end of the period for which the other justices to the panel were nominated.

### **Meetings**

7. The members of the panel shall meet as often as may be necessary but not less than twice a year to make arrangements connected with the sitting of family proceedings courts and to discuss questions connected with the work of those courts.

### **Composition and chairmen of family proceedings courts**

8.—(1) The justices to sit in each family proceedings court shall be chosen from the panel in such manner as the panel determines so as to ensure that section 66(1) and (2) of the Magistrates' Courts Act 1980 (which provides how a family proceedings court is to be constituted) is complied with (except where a single justice is authorised to discharge the functions of a magistrates' court).

(2) Subject to paragraph (3), the chairman of a family proceedings court which does not include a District Judge (Magistrates' Courts) (whether sitting alone or as chairman) shall be a justice nominated by the Lord Chancellor to act as a court chairman.

(3) Any justice who is eligible to act as a court chairman of a family proceedings court in any petty sessions area in the Greater London area on 31st December 2003 shall be entitled to continue to preside in a family proceedings court until 31st December 2005.

(4) If at any sitting of a family proceedings court which does not include a District Judge (Magistrates' Courts) (whether sitting alone or as chairman), a chairman is available to act as chairman but considers that it would be appropriate for another member of the court to act as chairman at that sitting, he may nominate that member to act as chairman at the sitting provided that the chairman who makes the nomination sits as a member of the court throughout the sitting.

(5) If, at any sitting of a family proceedings court, a District Judge (Magistrates' Courts) or the chairman who was chosen to preside in court cannot do so owing to circumstances unforeseen when the justices to sit were chosen under paragraph (1), the members of that court shall choose one of their number to preside.

#### **Transitional provisions**

9.—(1) The justices who will be members of the first panel constituted in accordance with rule 4(1) may hold a meeting before 1st January 2004 in order to prepare to assume their functions on and after that date.

(2) If a meeting is held in accordance with paragraph (1) it shall be treated as if it were a meeting of the justices of the first panel despite the fact that the panel was not at that time in existence.

(3) The existing terms of appointment to a family panel in the Greater London area expire on 31st December 2003.

18th November 2003

*Falconer of Thoroton, C*

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules, with effect from 1st January 2004, re-enact the Family Proceedings Courts (Constitution) (Metropolitan Areas) Rules 1991 (the Metropolitan Rules) (S.I. 1991/1426) with amendments. In addition to drafting amendments, the substantial change is that the Rules apply to the whole of the Greater London Commission Area rather than just the Inner London areas that the Metropolitan Rules applied to.

The Rules provide that there is one family panel for the whole of the Greater London Commission Area formed of justices nominated by the Lord Chancellor although any justice who is a member of an existing family panel on 31st December 2003 will be a member of the first panel. The members of the first panel will serve for a term from 1st January 2004 until 31st December 2005 and members of each subsequent panel will serve for a term of 3 years, although additional justices can be nominated to the panel at any time (rule 4).

Rule 5 lists the eligibility criteria which must be met in order to be nominated to the panel; rule 6 deals with vacancies on the panel and rule 7 provides for the panel to hold meetings.

The Rules provide that justices who are existing chairmen on 31st December 2003 in any petty sessions area within the Greater London Commission Area are entitled to preside until 31st December 2005 but after that date the chairmen must be nominated by the Lord Chancellor (rule 8).

Transitional provisions provide that the panel may hold a meeting before 1st January 2004 which will be treated as a meeting of the new panel, despite the fact that it did not exist at the time, and provide that existing appointments to any family panel made under the Metropolitan Rules or Family Proceedings Courts (Constitution) Rules 1991 (S.I. 1991/1405) will continue until 31st December 2003 (rule 9).

These Rules revoke the Metropolitan Rules which make equivalent provisions for family panels in the Inner London area only (rule 3).

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