

**2005 No. 2744 (C.111)**

**FAMILY PROCEEDINGS**

**SUPREME COURT OF ENGLAND AND WALES**

**COUNTY COURTS, ENGLAND AND WALES**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Courts Act 2003 (Commencement No. 11 and Transitional  
Provision) Order 2005**

*Made* - - - -

*5th October 2005*

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 108(6) and 110 of the Courts Act 2003(a).

**Citation**

1. This Order may be cited as the Courts Act 2003 (Commencement No. 11 and Transitional Provision) Order 2005.

**Commencement of provisions of the Courts Act 2003**

2.—(1) The provisions of the Courts Act 2003 referred to in paragraph (2) shall come into force on 7th October 2005 for the purpose only of making Family Procedure Rules in respect of—

- (a) all causes and matters (whether at first instance or appeal) relating to adoption including the exercise of the inherent jurisdiction of the High Court with respect to minors; and
- (b) all proceedings for the purpose of enforcing an order made in proceedings described in sub-paragraph (a).

(2) The provisions referred to in paragraph (1) are—

- (a) section 75 (Family Procedure Rules);
- (b) section 76 (further provision about scope of Family Procedure Rules);
- (c) section 79 (process for making Family Procedure Rules); and
- (d) section 80 (power to amend legislation in connection with the rules).

(3) Paragraph 245(1) and (2) of Schedule 8 (Magistrates' Courts Act 1980) in so far as it is not already in force, and section 109(1) in so far as it relates to that paragraph, shall come into force on 7th October 2005 for the purposes of family proceedings as defined by section 65(1)(h), as

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(a) 2003 c. 39.

substituted by the Adoption and Children Act 2002, of the Magistrates' Courts Act 1980(a) (meaning of family proceedings).

**Transitional provision**

3. With effect from 7th October 2005, section 40(2) (family proceedings rules) of the Matrimonial and Family Proceedings Act 1984(b) shall have effect as if, after “Supreme Court Act 1981” there were inserted—

“; and (c) Family Procedure Rules made by the Family Procedure Rule Committee under section 75 of the Courts Act 2003 (c.39) in respect of—

- (i) all causes and matters (whether at first instance or appeal) relating to adoption including the exercise of the inherent jurisdiction of the High Court with respect to minors; and
- (ii) all proceedings for the purpose of enforcing an order made in proceedings described in sub-paragraph (c)(i)”.

Signed by authority of the Lord Chancellor

5th October 2005

*Cathy Ashton*  
Parliamentary Under Secretary of State,  
Department for Constitutional Affairs

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(a) 1980 c.43.

(b) 1984 c.42. Section 40(2)(a) is amended by sections 12(2) and 146 of, and Schedule 1, part 2, paragraph 18(a) and Schedule 18, part 1 to, the Constitutional Reform Act 2005 (c.4), and repealed by section 109(1) and (3) of, and Schedule 8, paragraph 278(a) and Schedule 10 to, the Courts Act 2003 (c. 39) from dates to be appointed.

## **EXPLANATORY NOTE**

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

This Commencement Order brings into force on 7th October 2005 the following provisions of the Courts Act 2003—

- (a) the power to make Family Procedure Rules (section 75) and the further provision about their scope (section 76) including the power for the rules to refer to provision made about a matter in a practice direction (section 76(8));
- (b) the process for making Family Procedure Rules (section 79);
- (c) the power to amend legislation in connection with Family Procedure rules (section 80)

for the purpose only of making Family Procedure Rules in respect of matters relating to adoption, including appeals and the enforcement of an order made in such proceedings.

This Order also brings into force section 109(1) and Schedule 8, paragraph 245(1) and (2) for the purposes of family proceedings as defined by section 65(1)(h) of the Magistrates' Courts Act 1980 (c.43), that definition having been substituted by the Adoption and Children Act 2002 (c.38). The effect of implementing this paragraph is that the Lord Chancellor will not have power to make rules under section 144 of the Magistrates' Courts Act 1980 (c.43) in relation to proceedings under the Adoption and Children Act 2002 (c.38).

This Order contains a transitional provision amending section 40(2) of the Matrimonial and Family Proceedings Act 1984 (c.42) to provide that rules for family proceedings cannot be made under that section in respect of any matter in which the Family Procedure Rule Committee has power to make rules.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	1.4.05	2005/910
Sections 2 and 3	1.4.05	2005/910
Section 4	1.6.04	2004/798
Section 5	1.4.05	2005/910
Section 6 (partially)	1.9.04	2004/2066
(remainder)	1.4.05	2005/910
Sections 7 and 8	1.4.05	2005/910
Sections 9 to 16	1.4.05	2005/910
Sections 17 and 18	1.4.05	2005/910
Sections 19 to 21	1.4.05	2005/910
Sections 22 to 26	1.4.05	2005/910
Sections 27 to 29	1.4.05	2005/910
Section 30	1.4.05	2005/910
Sections 31 to 35	1.4.05	2005/910
Sections 36 and 37	1.4.05	2005/910
Section 38 to 40	1.4.05	2005/910
Sections 41	1.4.05	2005/910
Sections 43 to 46	1.4.05	2005/910
Sections 47 and 48	1.4.05	2005/910
Sections 49, 50(1) and (4)	1.4.05	2005/910
Sections 51 to 57	1.4.05	2005/910
Sections 58 to 61	1.4.05	2005/910
Section 62	26.1.04	2003/3345
Section 63	26.1.04	2003/3345
Section 64	26.1.04	2003/3345
Section 65	1.4.05	2005/910
Section 66 (partially)	26.1.04	2003/3345
Section 67	26.1.04	2003/3345
Section 68	26.1.04	2003/3345
Section 69	1.9.04	2004/2066
Section 70	26.1.04	2003/3345
Section 71	26.1.04	2003/3345
Section 72	1.9.04	2004/2066
Section 73	1.9.04	2004/2066
Section 74	26.1.04	2003/3345
Section 77	26.1.04	2003/3345
Section 78	26.1.04	2003/3345
Section 81	26.1.04	2003/3345
Section 83	26.1.04	2003/3345
Section 84	26.1.04	2003/3345
Section 88 to 91	1.4.05	2005/910
Section 86	1.5.04	2004/1104
Section 87	1.5.04	2004/1104
Section 92	4.1.05	2004/3123
Section 93	1.2.04	2004/174
Section 95	5.4.04	2004/174
Section 96	5.4.04	2004/174

Section 97 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(partially)	5.4.04	2004/174
(partially)	1.5.04	2004/1104
(remainder)	21.9.04	2004/2195
Section 98 (partially)	26.1.04	2003/3345
Section 99	15.3.04	2004/401
Sections 100 and 101	1.4.05	2005/910
Section 102	26.1.04	2003/3345
Section 103	1.5.04	2004/1104
Section 104	1.5.04	2004/1104
Section 105	1.4.05	2005/910
Section 106	1.5.04	2004/1104
Schedule 1	1.6.04	2004/798
Schedule 2	1.9.04	2004/2066
Schedule 3	1.4.05	2005/910
Schedule 5 (partially)	23.2.04	2004/174
(partially)	29.3.04	2004/174
(remainder)	5.4.04	2004/174
Schedule 6 (partially)	1.5.04	2004/1104
(remainder)	21.9.04	2004/2195
Schedule 7	15.3.04	2004/401
Schedule 8 (and section 109(1) insofar as it relates to the paragraphs specified below) paragraphs 288 (partially) and 289	1.2.04	2004/174
Paragraphs 5, 9, 61 (partially), 62, 63 (partially), 189, 264, 274, 275 and 295 to 298	15.3.04	2004/401
Paragraphs 67, 71, 83, 107, 122, 126, 145, 172, 173, 182, 183(1) and (3), 186(1) and (2), 190, 207, 219, 233, 234, 238, 245(1) and (2) (partially), 246, 250 (partially), 251, 286, 290(1) and (3), 324, 327, 328, 329(1) and (4), 330(1), (2) and (3)(a) (partially), 355(a), 362, 364, 377 to 381, 384, 386,387, 389, 390, 403, 405 and 410	1.09.04	2004/2066
Paragraphs 263, 276, 277 and 278(b)	4.1.05	2004/3123
Paragraphs 1 to 4, 6 to 8, 10 to 60, 61(3), 63 (remainder), 64 to 66, 68 to 70, 72 to 82, 84 to 90, 91(1), (3), (4), 92 to 106, 108 to 121, 123 to 125, 127 to 144, 146 to 171, 174 to 181, 183(2), 184, 185, 186(3), 187, 188, 191 to 206, 208 to 218, 220 to 232, 235 to 237, 239 to 241, 243, 244, 245(1) to (3) (partially), 245(4) and (5), 247 to 249, 250 (remainder), 252, 253, 255 to 262, 265 to 271, 273, 279 to 285, 287, 288(2), 290(2), 291 to 294, 299 to 323, 325, 326, 329(2), (3), (5), 330(3)(b), 331 to 336, 338 to 348, 350 to 354, 355(b), 356 to 361, 363, 365 to 376, 382, 383, 385, 388, 391 to 402, 404, 406 to 409, 411 to 414	1.4.05	2005/910
Schedule 9 (and section 109(2) insofar as it relates to the paragraphs specified below)	1.4.05	2005/910
Paragraph 15 (partially)	23.2.04	2004/174
Paragraph 15 (partially)	29.3.04	2004/174
Paragraph 15 (remainder)	5.4.04	2004/174
Paragraphs 1 to 14	1.4.05	2005/910

Schedule 10 (and section 109(3)) (partially)	26.1.04	2003/3345
(partially)	15.3.04	2004/401
(partially) (and section 109(3))	1.5.04	2004/1104
(partially) (and section 109(3))	1.9.04	2004/2066
(partially) (and section 109(3))	4.1.05	2004/3123
(partially) (and section 109(3))	1.4.05	2005/910

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