
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules 1991 (“the FPR 1991”).

Transfer of proceedings

Rule 4 amends rule 3.8(9) of the FPR 1991, which deals with transfer of proceedings under Part IV of the Family Law Act 1996 (“the 1996 Act”), so as to align rule 3.8(9) with new rule 3.29 (transfer of proceedings under Part 4A of the 1996 Act) which comes into force on 25th November 2008. By rule 14, rule 3(8) as so amended applies only to Part IV proceedings commenced on or after 25th November 2008.

Part 4A of the Family Law Act 1996

Rules 3(b) and (c), 7, 8, 9, 11 and 13 set out a procedural code for applications under Part 4A (Forced Marriage) of the 1996 Act and come into force, with Part 4A itself, on 25th November 2008. Jurisdiction in respect of proceedings under Part 4A is conferred on the High Court and designated county courts. The procedural code for such applications is contained in new rules 3.25 to 3.36, 8.1B and 10.21(1A) which are inserted into the FPR 1991. The new rules are to a large extent modelled on, and adapted from, the rules for applications under Part IV (Family homes and domestic violence) of the 1996 Act.

New rule 3.25 contains principal definitions. New rule 3.26 sets out how an application for a forced marriage protection order is to be made. New rule 3.27 deals with cases where the court’s leave is required to make an application. New rule 3.28 deals with service of the application.

New rule 3.29 permits the court to transfer the proceedings to another court. New rule 3.30 deals with joining or removing a person as party to the proceedings.

New rule 3.31 permits the court, on application, to make an order for disclosure against a person who is not a party to the proceedings. New rule 3.32 deals with applications to withhold disclosure or inspection of a document.

New rule 3.33 provides for the hearing of applications for forced marriage protection orders and service of the ensuing orders. New rule 3.34 provides for orders made by the court of its own motion.

New rules 3.35 and 3.36 apply, with modifications, the equivalent Part IV rules (3.9A and 3.10 respectively) as to enforcement of orders, to proceedings under Part 4A of the 1996 Act.

New rule 8.1B provides for appeals from orders made under Part 4A of the 1996 Act.

New rule 10.21(1A) widens, for forced marriage proceedings, the ambit of rule 10.21 (no requirement for party to disclose own address or that of a child) so as to permit a party additionally not to disclose the address of a witness or of the person who is the subject of the proceedings.

Rule 13 and the Schedules specify the amended and new forms which are to be used in connection with forced marriage proceedings.

The Tribunals, Courts and Enforcement Act 2007

Rules 3(a), 5, 6, 10 and 12 make amendments to the FPR 1991 that are consequential on the transfer of the functions of the appeal tribunal and Child Support Commissioners to the First-tier Tribunal and

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Upper Tribunal and the subsequent abolition of the appeal tribunal and Commissioners. A Transfer Order to effect these transfers is being made under the Tribunals, Courts and Enforcement Act 2007 (c.15).