

2013 No. 3204 (L. 26)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment No.3) Rules 2013

Made - - - - - *16th December 2013*

Laid before Parliament *19th December 2013*

Coming into force in accordance with rule 1

The Family Procedure Rule Committee makes the following rules in exercise of the powers conferred by sections 75 and 76 of the Courts Act 2003(a), section 18(1A) of the Maintenance Orders (Reciprocal Enforcement) Act 1972(b), sections 12 and 48 of the Civil Jurisdiction and Judgments Act 1982(c), sections 10 and 24 of the Child Abduction and Custody Act 1985(d) and section 141(1) of the Adoption and Children Act 2002(e), after consulting in accordance with section 79 of the Courts Act 2003.

Citation, interpretation and commencement

1. These Rules may be cited as the Family Procedure (Amendment No.3) Rules 2013 and come into force on the date on which section 17(3) of the Crime and Courts Act 2013(f) is brought fully into force.

Amendments to the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(g) are amended in accordance with rules 3 to 136.

3. For rule 2.1, substitute—

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- (a) 2003 c.39. Section 75 was amended by paragraph 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c.4) and by paragraph 91 of Schedule 10 to the Crime and Courts Act 2013 (c.22). Section 76 was amended by section 62(7) of the Children Act 2004 (c.31), paragraph 172 of Schedule 2 to the Civil Partnership Act 2004 (c.33), paragraph 29 of Schedule 1 to the Constitutional Reform Act 2005 and paragraph 92 of Schedule 10 to the Crime and Courts Act 2013.
- (b) 1972 c.18. Section 18(1A) was inserted by paragraph 11 of Schedule 1 to the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c.56) and was amended by paragraph 155 of Schedule 8 to the Courts Act 2003 and by paragraph 39 of Schedule 11 to the Crime and Courts Act 2013.
- (c) 1982 c.27. Section 12 was amended by paragraph 7 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c.12). Section 48 was amended by paragraph 23 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991, paragraph 86 of Schedule 11 to the Crime and Courts Act 2013 and by S.I. 2001/3929, 2011/1215 and 2012/1770.
- (d) 1985 c.60.
- (e) 2002 c.38. Section 141(1) was amended by paragraph 413 of Schedule 8 to the Courts Act 2003.
- (f) 2013 c.22.
- (g) S.I. 2010/2955; relevant amending instruments are S.I. 2011/1328, 2012/ 679, 2007, 2046, 2806 and 3006 and 2013/530.

“Application of these Rules

2.1. Unless the context otherwise requires, these rules apply to family proceedings in—

- (a) the High Court; and
- (b) the family court.”.

4. In rule 2.3(1)—

- (a) omit the definitions of—
 - (i) “Allocation Order”;
 - (ii) “civil partnership proceedings county court”;
 - (iii) “court of trial”;
 - (iv) “designated county court”;
 - (v) “district judge”;
 - (vi) “district registry”;
 - (vii) “divorce county court”; and
 - (viii) “Royal Courts of Justice”;
- (b) in the definition of “court” for “, a county court or a magistrates’ court” substitute “or the family court”; and
- (c) in the definition of “court officer” for the words after “means”, including the words in parentheses at the end of the definition, substitute “a member of court staff”.

5. In rule 2.5(1)—

- (a) for the words from “, any other enactment” to “1990,” substitute “or any other enactment”;
- (b) for paragraph (b) substitute—

“(b) in relation to proceedings in the family court, by any judge.”;
- (c) omit paragraph (c); and
- (d) for the words in parentheses at the end of paragraph (1) substitute—

“(Rules made under section 31O of the 1984 Act make provision for a justices’ clerk to carry out certain functions of the family court or of a judge of the family court and for an assistant to a justices’ clerk to carry out functions of a justices’ clerk given under those rules, or by section 31O(2) of the 1984 Act.)”.

6. In rule 4.3—

- (a) in paragraph (2), for “Where” substitute “Subject to rule 29.17, where”; and
- (b) in paragraph (7), for “the High Court or a county court” substitute “the court”.

7. In rule 4.4(5), for “the High Court or a county court” substitute “the court”.

8. In rule 4.8(a), for “the High Court or a county court” substitute “the court”.

9. After rule 5.3, insert—

“Where to start proceedings

5.4.—(1) Where both the family court and the High Court have jurisdiction to deal with a matter, the proceedings relating to that matter must be started in the family court.

(2) Paragraph (1) does not apply where—

- (a) proceedings relating to the same parties are already being heard in the High Court;
- (b) any rule, other enactment or Practice Direction provides otherwise; or
- (c) the court otherwise directs.”.

10. In rule 6.16(1), for “district judge” substitute “court”.
11. In rule 6.18—
- (a) in paragraph (3), for “133 of the County Courts Act 1984” substitute “31N of the 1984 Act”; and
 - (b) in the words in parentheses after paragraph (3)—
 - (i) for “133 of the County Courts Act 1984” substitute “31N of the 1984 Act”; and
 - (ii) for “a county court” substitute “the family court”.
12. Omit rules 7.1(2), 7.2, 7.3, 7.5 and 7.17.
13. In rule 7.20(2)(a), for “district judge” substitute “judge”.
14. Omit rules 7.23 and 7.24.
15. For rule 7.33(3), substitute—
- “(3) An application under this rule to which paragraph (2)(a) applies must be served on the Queen’s Proctor.”.
16. Omit rule 8.7.
17. For rule 8.14, substitute—

“Where to start proceedings

8.14. Where any matrimonial proceedings or civil partnership proceedings have been started, or are intended to be started, by the applicant or the respondent, the application must be made in the same court as those matrimonial proceedings or civil partnership proceedings.

(Practice Direction 8A makes provision in respect of the particular location where the application should be made.)”.

18. Omit rule 8.19.
19. For rule 8.24, substitute—

“How to start proceedings

8.24. The application must be made in accordance with the Part 18 procedure.”.

20. In rule 8.28, for “If” substitute “In the High Court, if”.
21. For rule 8.30, substitute—

“Where to start proceedings

8.30. Where any matrimonial proceedings or civil partnership proceedings have been started by the applicant or the respondent, the application must be made in the same court as those matrimonial proceedings or civil partnership proceedings.

(Practice Direction 8A makes provision in respect of the particular location where the application should be made.)”.

22. Omit rules 8.37 and 9.3(2).
23. In rule 9.5—
- (a) in paragraph (1)(a), for “a designated county court” substitute “the family court”;
 - (b) omit paragraph (2); and

- (c) in the words in parentheses at the end of the rule after “2004 Act” insert “which is proceeding in the High Court”.

24. In rule 9.10—

- (a) in paragraph (1)(f), before “a child” insert “subject to paragraph (1A),”; and
- (b) after paragraph (1) insert—
 - “(1A) Where the application is—
 - (a) for the variation of an order under section 2(1)(c), 6 or 7 of the 1978 Act or paragraph 2(1)(c) of, or Part 2 or 3 of, Schedule 6 to the 2004 Act for periodical payments in respect of a child;
 - (b) the application is made by the child in question; and
 - (c) the child in question is aged 16 or over,the child does not require permission to make the application.”.

25. In the heading to Chapter 4 of Part 9, omit “in the High Court and County Court”.

26. In rule 9.12(1), for “in the High Court or in a county court” substitute “, except where Chapter 5 of this Part applies”.

27. For the heading to Chapter 5 of Part 9, substitute “Procedure after filing particular applications”.

28. In rule 9.18—

- (a) before paragraph (1) insert—
 - “(A1) This Chapter applies where an application is made—
 - (a) under—
 - (i) the 1978 Act;
 - (ii) Schedule 6 to the 2004 Act;
 - (iii) Schedule 1 to the 1989 Act; or
 - (b) for the variation of an order for a financial remedy.”; and
- (b) in paragraph (1) for the words from “When” to “in a magistrates’ court” substitute “Where an application is issued”.

29. After rule 9.18, insert—

“Request for change of procedure

9.18A.—(1) This rule applies if the applicant wishes to seek a direction from the court that the procedure in Chapter 4 of this Part should apply to an application for an order in proceedings referred to in rule 9.18(A1).

- (2) The application for the order must state—
 - (a) that the applicant seeks a direction that the procedure in Chapter 4 of this Part should apply; and
 - (b) the applicant’s reasons for seeking such a direction.
- (3) The court will—
 - (a) determine without notice to the parties and before the first hearing whether the procedure in Chapter 4 or Chapter 5 of this Part should apply to the application; and
 - (b) notify the parties of its determination and any directions made in consequence of that determination.”.

30. In rule 9.21, in the first column of the table, omit “, except an application for variation of an order” in both of the places those words occur.

- 31.** In rule 9.22—
- (a) in the heading, omit “in a magistrates’ court”;
 - (b) in paragraph (1)—
 - (i) omit “to a magistrates’ court”; and
 - (ii) after “or for” insert “the variation or”;
 - (c) omit paragraph (3); and
 - (d) omit the words in parentheses at the end of the rule.
- 32.** In rule 9.23—
- (a) in paragraph (1)—
 - (i) for “designated officer” substitute “court officer”; and
 - (ii) for “a county court” substitute “the family court”; and
 - (b) omit paragraph (2).
- 33.** In rule 9.25, omit paragraphs (2)(a), (3), (4) and (5).
- 34.** Omit rule 9.27(3).
- 35.** In rule 10.2—
- (a) in paragraph (2), for “Subject to paragraph (3), an” substitute “An”; and
 - (b) omit paragraph (3).
- 36.** Omit rule 10.4.
- 37.** In rule 10.5, for “In the High Court and a county court, any” substitute “Any”.
- 38.** In rule 10.11—
- (a) in the heading, omit “in a county court or the High Court”;
 - (b) in the first set of words in parentheses at the end of the rule, for “a county court and the High Court” substitute “the court”; and
 - (c) omit the second set of words in parentheses at the end of the rule.
- 39.** In rule 10.14—
- (a) for “The High Court or a county court” substitute “The court”; and
 - (b) omit the words in parentheses at the end of the rule.
- 40.** In rule 10.15—
- (a) in paragraphs (1) and (2), for “High Court or a county court” substitute “court”; and
 - (b) omit the words in parentheses at the end of the rule.
- 41.** In rule 10.16—
- (a) in paragraph (1), for “High Court or a county court” substitute “court”; and
 - (b) omit the words in parentheses at the end of the rule.
- 42.** In rule 10.17—
- (a) in paragraph (1)—
 - (i) for “High Court or a county court” substitute “court”; and
 - (ii) in sub-paragraph (a), for “district judge” substitute “judge of the court”; and
 - (b) omit the words in parentheses at the end of the rule.
- 43.** In rule 11.1(1), omit “in the High Court or a county court”.
- 44.** Omit rule 11.5.

- 45.** In rule 11.14, in the words in parentheses at the end of the rule, for “a county court and the High Court” substitute “the court”.
- 46.** In rule 11.19(1)(a), for “district judge” substitute “judge of the court”.
- 47.** Omit rules 12.9, 12.10 and 12.11.
- 48.** In rule 12.16—
- (a) in paragraph (2) omit “, in the High Court or a county court,”; and
 - (b) omit paragraph (3).
- 49.** In rule 12.33, omit “to the High Court or a county court”.
- 50.** In rule 12.35(1), for “the High Court or a county court” substitute “the court”.
- 51.** In rule 12.36(2), for “county court” substitute “family court”.
- 52.** In rule 12.52(1)(a)—
- (a) for “a county court” substitute “the family court”; and
 - (b) omit “(iii) a magistrates’ court;”.
- 53.** In rule 13.2, omit “12.9 to 12.11,”.
- 54.** For rule 13.9(1)(e), substitute—
- “(e) consider, in accordance with rule 29.17, whether the case needs to be transferred to another court and, if so, give appropriate directions;”.
- 55.** In rule 13.15(5)(a), for “the registration district of the court” substitute “the registration district and sub-district in which the court is sitting”.
- 56.** For rule 13.17(1), substitute—
- “(1) An application for any of the orders referred to in section 41(2) of the 2002 Act (recovery orders) may be made without notice, in which case the applicant must file the application—
- (a) where the application is made by telephone, the next business day after the making of the application; or
 - (b) in any other case, at the time when the application is made.”.
- 57.** In rule 13.18—
- (a) omit paragraph (1); and
 - (b) in paragraph (2), omit “including, in a family proceedings court, the book kept in accordance with paragraph (1),”.
- 58.** In rule 13.22—
- (a) omit paragraph (2); and
 - (b) in paragraph (5) for “proper officer” substitute “court officer”.
- 59.** In rule 14.8(1)(d)—
- (a) after “consider” insert “in accordance with rule 29.17”; and
 - (b) omit “in accordance with any order made by the Lord Chancellor under Part 1 of Schedule 11 to the 1989 Act”.
- 60.** In rule 14.17(6)(a), for “the registration district of the court” substitute “the registration district and sub-district in which the court sits” .
- 61.** For rule 14.20(1), substitute—

“(1) An application for any of the orders referred to in section 41(2) of the 2002 Act (recovery orders) may be made without notice, in which case the applicant must file the application—

- (a) where the application is made by telephone, the next business day after the making of the application; or
- (b) in any other case, at the time when the application is made.”.

62. Omit rule 14.28.

63. Omit rule 17.6(3).

64. At the end of rule 18.2, insert the following words in parentheses —

“(Rule 5.4 makes general provision in relation to the court in which proceedings should be started.)”.

65. Omit rules 18.9(3) and 18.12(3).

66. In rule 18.13, omit “High Court or a county”.

67. Omit rule 20.1.

68. In rule 22.12, omit paragraph (2) and the words in parentheses at the end of the rule.

69. Omit rule 24.1(2).

70. In rule 24.12(4), for “county court” substitute “family court”.

71. Omit rules 27.5(4) and 27.6(2) and (3) and the words in parentheses at the end of rule 27.6.

72. In rule 28.2—

- (a) in paragraph (1)—
 - (i) omit “and to paragraph (2)”;
 - (ii) for sub-paragraph (a) substitute—

“(a) in the definition of “authorised court officer” in rule 44.1(1), for the words in sub-paragraph (i) substitute “the family court”;; and
 - (iii) omit sub-paragraph (b); and
- (b) omit paragraph (2).

73. Omit rule 28.4.

74. After rule 29.16, insert—

“Transfer of proceedings

29.17.—(1) Subject to paragraph (3), a court may transfer a case to another court, either of its own initiative or on the application of one of the parties if—

- (a) the parties consent to the transfer;
- (b) the court has held a hearing to determine whether a transfer should be ordered; or
- (c) paragraph (2) applies.

(2) A court may transfer a case without a hearing if—

- (a) the court has notified the parties in writing that it intends to order a transfer; and
- (b) no party has, within 14 days of the notification being sent, requested a hearing to determine whether a transfer should be ordered.

(3) A case may not be transferred from the family court to the High Court unless—

- (a) the decision to transfer was made by a judge sitting in the family court who is a person to whom paragraph (4) applies; or

- (b) one or more of the circumstances specified in Practice Direction 29C applies.
- (4) This paragraph applies to a person who is—
 - (a) the President of the Family Division;
 - (b) an ordinary judge of the Court of Appeal (including the vice-president, if any, of either division of that court);
 - (c) a puisne judge of the High Court.

Application for change of area

29.18. The Part 18 procedure applies to an application to the family court for existing proceedings to be heard in a different Designated Family Judge area.

(Her Majesty’s Courts and Tribunals Service publishes information to enable Designated Family Judge areas to be identified.)”.

75. In rule 31.18(3), for “the district judge, or by the court where the application is made to the Magistrates’ Court” substitute “a court officer”.

76. In rule 32.1—

- (a) in paragraph (3)—
 - (i) in sub-paragraph (a) for “a county court” substitute “the family court”; and
 - (ii) omit the words in parentheses at the end of the paragraph;
- (b) for paragraph (4) (including the words in parentheses at the end of the paragraph) substitute—

“(4) Chapter 3 of this Part contains rules to be applied in the family court in relation to the registration in the family court of a maintenance order made in the High Court, in accordance with the 1958 Act.”; and
- (c) after paragraph (5) insert—

“(6) Chapter 5 of this Part relates to the ability of a court officer to take enforcement proceedings in relation to certain orders for periodical payments.”.

77. In rule 32.2—

- (a) after the definition of “the clerk of the Court of Session” insert—

““the clerk of the court which made the order” means, in the case of a county court in Northern Ireland, the Chief Clerk for the appropriate court in Northern Ireland;”;
- (b) omit the definition of “county court order”;
- (c) before the definition of “High Court order” insert—

““family court order” means a maintenance order made in the family court;”;
- (d) for the definition of “Northern Irish order” substitute—

““Northern Irish order” means a maintenance order made by a court in Northern Ireland;”; and
- (e) for the definition of “Scottish order” substitute—

““Scottish order” means a maintenance order made by a court in Scotland.”.

78. In the heading to Section 2 of Chapter 2 of Part 32, for “county court” substitute “family court”.

79. In rule 32.5—

- (a) in the heading, after “order” insert “by the court of registration”; and
- (b) in paragraph (2), omit “Part 1 of”.

80. After rule 32.5, insert—

“Cancellation of registration of a High Court order by the High Court

32.5A. The Part 19 procedure applies to an application to the High Court under section 24(2) of the 1950 Act.”.

81. In rule 32.6—

- (a) in the heading, for “county court” substitute “family court”;
- (b) for “32.5” substitute “32.5A”;
- (c) for “an application to register a county court order” substitute “a family court order”;
- (d) in paragraph (a), for “county court” substitute “family court”; and
- (e) after paragraph (a) insert—
 - “(aa) in rule 32.5A, references to the High Court were to the family court;”.

82. After rule 32.6, insert—

“Variation of a family court order: section 22(1) of the 1950 Act

32.6A. Where a family court order, which is registered in a court in Scotland or Northern Ireland, is varied under section 22(1) of the 1950 Act by the court in which it is registered—

- (a) the court officer for the court which made the order will be the prescribed officer to whom notice of the variation must be given under section 23(1) of the 1950 Act; and
- (b) on receipt of a notice under section 23(1) of the 1950 Act, the court officer will enter particulars of the notice in the register.

Application to adduce evidence: section 22(5) of the 1950 Act

32.6B.—(1) The Part 18 procedure applies to an application under section 22(5) of the 1950 Act where a maintenance order was made by the family court.

(2) The family court will send a transcript or summary of any evidence taken to the clerk of the court in which the order is registered.

(3) The court officer for the court in England and Wales which made the maintenance order will be the prescribed officer to whom any transcript or summary of evidence adduced in the court in Scotland or Northern Ireland must be sent under section 22(5) of the 1950 Act.”.

83. In rule 32.7—

- (a) after “prescribed officer” insert “in the High Court”;
- (b) after “1950 Act)” insert “or a court officer in the family court (who is the prescribed officer in the family court for the purposes of section 17(2) of the 1950 Act)”;
- (c) in paragraph (a), omit “Part 2 of”;
- (d) in paragraph (b) for “the Court of Session” substitute “the court which made the order”; and
- (e) at the end of the rule insert the following words in parentheses—

“(Section 17(3) of the 1950 Act makes provision as to the court in England and Wales to which a Northern Irish order or a Scottish order should be sent, which depends on which court originally made the order.)”.

84. For rule 32.8, substitute—

“Application to adduce evidence: sections 21(2) and 22(5) of the 1950 Act

32.8.—(1) The Part 18 procedure applies to the applications under these provisions of the 1950 Act—

- (a) an application to the High Court to adduce evidence under section 21(2) by a person liable to make payments under a Scottish order registered in the High Court;
- (b) an application to the family court to adduce evidence under section 21(2) by a person liable to make payments under a Scottish order registered in the High Court under the 1950 Act and registered in the family court under Part 1 of the 1958 Act; and
- (c) an application to the family court to adduce evidence under section 22(5) by a person entitled to payments or a person liable to make payments under a Scottish order or a Northern Irish order registered in the family court under Part 1 of the 1950 Act.

(2) The court officer for the family court (being the court in which the order is registered) will be the prescribed officer under section 22(5) of the 1950 Act to whom any transcript or summary of evidence adduced in the court in Scotland or Northern Ireland by which the order was made must be sent.”.

85. In rule 32.9—

- (a) in paragraph (1)(a)—
 - (i) after “High Court” insert “or the family court”; and
 - (ii) after “varied” insert “by the court in Scotland or Northern Ireland”;
- (b) in paragraph (1)(b), for “a court officer in the High Court” substitute “the court officer in the High Court or in the family court, as the case may be”; and
- (c) in paragraph (2), omit “Part 2 of”.

86. After rule 32.9, insert—

“Variation of Scottish and Northern Irish orders by the family court

32.9A.—(1) The Part 18 procedure applies to an application to the family court under section 22(1) of the 1950 Act to vary a Scottish order or a Northern Irish order which is registered in the family court.

(2) Where a Scottish order or a Northern Irish order is varied by the family court on an application under section 22(1) of the 1950 Act, the court officer will give notice of the variation to the clerk of the court in Scotland or Northern Ireland which made the order by sending a certified copy of the order of variation.”.

87. In rule 32.10—

- (a) in paragraph (1)—
 - (i) after “application” insert “under section 24(1) of the 1950 Act; and
 - (ii) after “High Court” insert “or the family court”;
- (b) in paragraph (3)—
 - (i) in sub-paragraph (a), omit “Part II of”;
 - (ii) sub-paragraph (b)(i), for “Court of Session” substitute “court which made the order”; and
 - (iii) in sub-paragraph (b)(ii) for “in any magistrates’ court in which the order has been registered” substitute “of the family court if the order has been registered in the family court”; and
- (c) after paragraph (3) insert—

“(4) Where a maintenance order is registered under the 1950 Act in the family court, the court officer for the family court is the prescribed officer for the purposes of section 24(2) of the 1950 Act, and in paragraphs (5) and (6) references to the court officer are to the court officer of the family court.

(5) If a notice under section 24(2) of the 1950 Act is received, the court officer will—

- (a) cancel the registration of the order; and
- (b) send written notice of the cancellation to the clerk of the court which made the order.

(6) Where a maintenance order is registered in the family court under Part 1 of the 1958 Act and the court officer receives a notice of cancellation under section 24(3) of the 1950 Act from the appropriate officer of the High Court, the court officer will—

- (a) enter the details of the notice in the register;
- (b) cancel the registration under Part 1 of the 1958 Act; and
- (c) give notice of the cancellation to the appropriate officer of the court which made the order, being—
 - (i) the Deputy Principal Clerk of Session, in the case of the Court of Session; or
 - (ii) the Chief Registrar of the Queen’s Bench Division (Matrimonial), in the case of the High Court of Justice in Northern Ireland.”.

88. After rule 32.10, insert—

“Payments under a maintenance order registered in the family court

32.10A.—(1) This rule applies where section 22(1A) of the 1950 Act applies and the family court orders that payments under a maintenance order registered in the family court are to be made by a particular means.

(2) The court officer will record on a copy of the order the means of payment that the court has ordered.

(3) The court officer will notify, in writing, the person liable to make payments under the order how the payments are to be made.

(4) Where the family court orders payment to the court by a method of payment specified in section 1(5) of the Maintenance Enforcement Act 1991, the court officer will notify the person liable to make payments under the order of sufficient details of the account into which the payments should be made to enable payments to be made into that account.

(5) The Part 18 procedure applies to an application under section 1(7) of the Maintenance Enforcement Act 1991 from an interested party to vary the method of payment.

(6) The court officer will notify in writing that interested party and, where practicable, any other interested party, of the result of the application.”.

89. In rule 32.11(1)—

- (a) for “The Part 18 procedure” substitute “Subject to paragraph (2), Part 33”; and
- (b) after “High Court” insert “or the family court”.

90. In rule 32.12—

- (a) in paragraph (a), for “a maintenance order made by the High Court, the Court of Session or the Court of Judicature of Northern Ireland” substitute “a Scottish order or a Northern Irish order registered in the High Court or the family court under the 1950 Act”; and
- (b) in sub-paragraph (ii), after “High Court” insert “or the family court”.

91. After rule 32.12, insert—

“Notices and certificates: section 19(4), 20(1) and 24(5) and (5A) of the 1950 Act

32.12A.—(1) Practice Direction 32A contains the form of—

- (a) a notice under section 19(4) of the 1950 Act that payments under a maintenance order made by a sheriff court in Scotland or a court of summary jurisdiction in Northern Ireland have become payable through or to any officer or person;
- (b) a notice under section 19(4) of the 1950 Act that the payments under a maintenance order made by the family court have, on its registration under Part 2 of the 1950 Act in a court in Scotland or Northern Ireland, ceased to be payable to or through the court or any person;
- (c) a certificate lodged under section 20(1) of the 1950 Act as to the amount of any arrears due under a maintenance order made by the family court; and
- (d) a notice under section 24(5) or (5A) of the 1950 Act of the cancellation of the registration under Part 2 of the 1950 Act of a maintenance order in the family court.

(2) The court officer will send a notice referred to in paragraph (1)(a), (b) or (d) to the person liable to make the payments under the order at that person’s last known address.”.

92. In rule 32.15—

- (a) in the heading, for “a magistrates’ court” substitute “the family court – procedure in the High Court”;
- (b) in paragraphs (2) and (3) for “magistrates’ court” each time those words appear substitute “family court”; and
- (c) in paragraph (3), after “the court officer” insert “of the High Court”.

93. After rule 32.15, insert—

“Application for registration of a maintenance order in the family court – procedure in the family court

32.15A.—(1) This rule applies where the court officer for the family court receives from the court officer of the High Court a certified copy of a High Court order, in accordance with section 2(2)(b) of the 1958 Act.

(2) The court officer of the family court will—

- (a) register the order in the family court by entering particulars in the register; and
- (b) send notice to the court officer of the High Court that the order has been registered.

94. In rule 32.16—

- (a) in the heading—
 - (i) for “a magistrates’ court” substitute “the family court”; and
 - (ii) after “High Court” insert “- procedure in the High Court”;
- (b) in paragraph (1)(b) and (2) after “court officer” insert “of the High Court”;
- (c) in paragraph (1)(b) for “magistrates’ court” substitute “family court”; and
- (d) in paragraph (2), omit “Part II of”.

95. After rule 32.16, insert—

“Registration in the family court of an order registered in the High Court – procedure in the family court

32.16A.—(1) This rule applies where—

- (a) a maintenance order is registered in the High Court in accordance with section 17(4) of the 1950 Act; and
- (b) the court officer of the family court, in accordance with section 2(2)(b) of the 1958 Act, receives from the appropriate officer of the original court in Scotland or Northern Ireland a certified copy of an order made by the court in Scotland or Northern Ireland.

(2) The court officer of the family court will—

- (a) register the order in the family court by entering particulars in the register; and
- (b) send written notice to the court officer of the High Court and to the appropriate officer of the original court in Scotland or in Northern Ireland that the order has been registered.”.

96. Omit rules 32.17 and 32.18.

97. In rule 32.19—

- (a) in the heading, for “a magistrates’ court” substitute “the family court – procedure in the High Court”;
- (b) in paragraph (1), for “a magistrates’ court” substitute “the family court”;
- (c) in paragraph (2)—
 - (i) after “court officer” insert “of the High Court”; and
 - (ii) for “a magistrates’ court” substitute “the family court”; and
- (d) in paragraph (3)—
 - (i) after “If the court officer” insert “of the High Court”; and
 - (ii) for “the magistrates’ court” substitute “the family court”.

98. After rule 32.19, insert—

“Variation, remission, discharge or cancellation of registration of an order registered in the family court – procedure in the family court

32.19A.—(1) Where under section 4(2) of the 1958 Act a High Court order registered in the family court is varied by the family court, the court officer for the family court will give notice of the variation to the High Court.

(2) Where under section 4(4) of the 1958 Act an application for the variation of a High Court order registered in the family court is remitted to the High Court by the family court, the court officer for the family court will give notice of its having been remitted to the High Court.

(3) Where under section 5(4) of the 1958 Act the registration of a High Court order in the family court is cancelled by the family court, the court officer for the family court will give notice of cancellation to the High Court, stating (if applicable) that the cancellation is a result of a notice given under section 5(1) of the 1958 Act.

(4) Where under section 5(4) of the 1958 Act the registration in the family court of an order made in Scotland or Northern Ireland is cancelled by the family court, the court officer for the family court will give notice of the cancellation to—

- (a) the appropriate officer of the court which made the order; and
- (b) where the order is registered under Part 2 of the 1950 Act, to the appropriate officer of the High Court.

(5) Where under section 5(4) of the 1958 Act the registration in the family court of an order under Part 2 of the 1950 Act is cancelled by the family court, the court officer for the family court will give notice of the cancellation to the appropriate officer of the original court.

(6) Where under section 5 of the 1958 Act the cancellation of the registration of a High Court order means that any order which requires payment to be made to the family court is to cease to have effect, the court officer will give notice to the defendant in the form set out in Practice Direction 32A (Form 7).”.

99. Omit rules 32.20 and 32.21.

100. In rule 32.22—

- (a) in the heading and in paragraph (2), for “a magistrates’ court” substitute “the family court”;
- (b) in paragraph (1), for “magistrates’ court” substitute “family court”; and
- (c) in paragraph (2), omit “or a county court”.

101. After rule 32.22, insert—

“Notices: payments made through the family court

32.22A.—(1) Paragraph (2) applies where a notice is given under section 2(6ZC) of the 1958 Act that payments under an order registered in the family court are payable to the family court.

(2) The notice will be in the form set out in Practice Direction 32A (Form 5) and will be given by the court officer of the family court.

(3) Paragraph (4) applies where a notice is given under section 2(6ZC) of the 1958 Act that payments under an order registered in the family court have ceased to be payable to the family court.

(4) The notice will be in the form set out in Practice Direction 32A (Form 6) and will be given by the court officer of the family court.

Method of payment

32.22B.—(1) This rule applies where the family court exercises its duties or powers under section 4A(2) of the 1958 Act to make, revive or vary any means of payment order within the meaning of section 1(7) of the Maintenance Enforcement Act 1991.

(2) Where the court orders that payments under a registered order are to be made by a particular means—

- (a) the court will record on a copy of the order the means of payment which the court has ordered; and
- (b) the court officer will notify, in writing, the person liable to make payments under the order how the payments are to be made.

(3) Paragraph (4) applies where the court orders that payments be made—

- (a) by the debtor to the creditor; or
- (b) by the debtor to the court;

by a method falling within section 1(5) of the Maintenance Enforcement Act 1991.

(4) The court officer will notify the person liable to make payments under the order of sufficient details of the account into which payments should be made to enable payments to be made into that account.

Variation of method of payment

32.22C.—(1) The Part 18 procedure applies to an application under section 1(3)(a) of the Maintenance Enforcement Act 1991 received from an interested party for the method of payment to be varied under section 4A of the 1958 Act.

(2) The court will notify the interested party who made the application and, where practicable, any other interested party, of the result of the application.

(3) The court will record any variation on a copy of the order.

Notices received from another court or from a person entitled to payments

32.22D.—(1) This rule applies where any notice is received—

- (a) of the discharge or variation by the High Court of a High Court order registered in the family court;
- (b) of the discharge or variation by a court in Scotland or Northern Ireland of an order made by such a court and registered in the family court; or
- (c) under section 5(1) or (2) of the 1958 Act.

(2) The court officer for the family court will enter details of any such notice in the register.

(3) In the case of a notice under section 5(1) or (2) of the 1958 Act, the court officer for the family court will ensure that the person in possession of any warrant of commitment, issued but not executed, for the enforcement of the order is informed of the giving of that notice.”.

102. In rule 32.25—

- (a) in the heading and in paragraph (1) for “a county court” substitute “the family court”; and
- (b) in paragraph (5)(b), for “a judge, but not a district judge” substitute “the court”.

103. In the heading to rule 32.27, for “a county court” substitute “the family court”.

104. After rule 32.32, insert—

“Chapter 5

Ability of a court officer to take enforcement proceedings in relation to certain orders for periodical payments

Court officers and enforcement proceedings

32.33.—(1) In this rule—

“the 1972 Act” means the Maintenance Orders (Reciprocal Enforcement) Act 1972;

“relevant order” means—

- (a) any order made by the family court for periodical payments, other than an order made by virtue of Part 2 of the 1972 Act;
- (b) any order for periodical payments made by the High Court (including an order deemed to be made by the High Court by virtue of section 1(2) of the 1958 Act) and registered under Part 1 of the 1958 Act in the family court; and
- (c) an order made by a court in Scotland or in Northern Ireland which is registered in the family court under Part 2 of the 1950 Act; and

“the payee” means the person for whose benefit payments under a relevant order are required to be made.

(2) Where—

- (a) payments under a relevant order are required to be made periodically to the family court; and
- (b) any sums payable under the order are in arrears,

a court officer will, if the payee so requests in writing, and unless it appears to the court officer that it is unreasonable in the circumstances to do so, proceed in the officer’s own name for the recovery of those sums.

(3) Where payments under a relevant order are required to be made periodically to the court, the payee may, at any time during the period in which the payments are required to be so made, give authority in writing to a court officer for the officer to proceed as mentioned in paragraph (4).

(4) Where authority is given under paragraph (3) to a court officer, that officer will, unless it appears unreasonable in the circumstances to do so, proceed in the officer's own name for the recovery of any sums payable to the court under the order in question which, on or after the date of the giving of the authority, fall into arrears.

(5) In any case where—

(a) authority under paragraph (3) has been given to a court officer; and

(b) the payee gives notice in writing to that court officer cancelling the authority,

the authority will cease to have effect and so the court officer will not continue any proceedings already commenced by virtue of the authority.

(6) The payee shall have the same liability for all of the costs properly incurred in, or in relation to, proceedings taken under paragraph (2) at the payee's request, or under paragraph (3) by virtue of the payee's authority, including any court fees and any costs incurred as a result of any proceedings commenced not being continued, as if the proceedings had been commenced by the payee.

(7) Nothing in paragraph (2) or (4) shall affect any right of a payee to proceed in his or her own name for the recovery of sums payable under an order of any court.”.

105. In rule 34.1(4), for “Part 1” substitute “Parts 1 and 2”.

106. In rule 34.2—

(a) in the heading, for “a magistrates’ court” substitute “the family court”;

(b) in paragraph (1) for “a magistrates’ court is the designated officer for that court” substitute “the family court is the court officer”;

(c) in paragraph (2), for the words “a magistrates’ court” to the end of the paragraph substitute “the family court is the court officer”; and

(d) after paragraph (2) insert—

“(3) For the purposes of an application under Article 30 of the Maintenance Regulation for a declaration of enforceability of a maintenance order or under Article 23(2) or (3) of the 2007 Hague Convention for registration of a maintenance order, the prescribed officer in relation to the family court is the court officer.”.

107. In rule 34.3—

(a) in the heading, for “magistrates’ courts in England and Wales” substitute “the family court”;

(b) for “a magistrates’ court”, substitute “the family court”; and

(c) in paragraph (a) omit “kept in accordance with rules made under section 144 of the Magistrates’ Courts Act 1980”.

108. In rule 34.6—

(a) for “a magistrates’ court” substitute “the family court under section 1 of the 1920 Act”;

and

(b) omit “officer”.

109. In rule 34.7—

(a) in the heading, for “Enforcement” substitute “Collection and enforcement”;

(b) for paragraph (1) substitute—

“This rule applies to—

- (a) an order made in a reciprocating county which is registered in the family court; and
- (b) a provisional order made in a reciprocating country which has been confirmed by the family court,

where the court has ordered that payments due under the order be made to the court.”;

- (c) in paragraph (2)(a), omit “in the same way as for a magistrates’ court maintenance order”; and
- (d) at the end of paragraph (3) insert the following words in parentheses—

“(Rule 32.33 makes provision in relation to a court officer taking such proceedings.)”.

110. In rule 34.8(1), for “a magistrates’ court” substitute “the family court”.

111. In rule 34.13, after paragraph (2) insert—

“(3) Section 3 of this Chapter contains a rule in relation to notification of proceedings in a Hague Convention Country or the United States of America.

(4) Section 4 of this Chapter contains rules in relation to proceedings under Part 2 of the 1972 Act (reciprocal enforcement of claims for the recovery of maintenance).”.

112. In rule 34.15, for the words from “as the case may be” to “(Magistrates’ Courts),” substitute “by the judge”.

113. In rule 34.16—

- (a) in paragraph (1), after “country” insert “, including proceedings in the family court for the confirmation of a provisional order made in a reciprocating country varying a maintenance order to which section 5(5) or 9(6) of the 1972 Act applies”;
- (b) omit paragraph (6); and
- (c) omit the second set of words in parentheses at the end of the rule.

114. In rule 34.17, in the heading, in paragraph (1)(a) and in the words in parentheses following paragraph (1), for “a magistrates’ court” substitute “the family court”.

115. In the heading to rule 34.18, for “a county court” substitute “the family court”.

116. In rule 34.19—

- (a) in the heading—
 - (i) after “confirmation”, insert “, variation”; and
 - (ii) for “a magistrates’ court” substitute “the family court”;
- (b) in paragraph (1)—
 - (i) for “a magistrates’ court” substitute “the family court”; and
 - (ii) in paragraph (1)(a) and (b) after “revoking” insert “or varying”;
- (c) in paragraph (2), after “making,” insert “variation,”;
- (d) omit paragraph (3); and
- (e) at the end of the rule—
 - (i) in the first set of words in parentheses, for “a magistrates’ court” substitute “the family court”; and
 - (ii) omit the second set of words in parentheses.

117. In rule 34.20, for paragraphs (3) to (5) substitute—

“(3) The family court has power to take evidence where—

- (a) the request for evidence relates to a maintenance order—
 - (i) made by the family court; or

- (ii) registered in the family court; or
- (b) the Lord Chancellor sends to the family court a request to take evidence.
(Practice Direction 34E makes further provision on this matter)".

118. In rule 34.21(1), for “a magistrates’ court” substitute “the family court”.

119. In rule 34.23—

- (a) in paragraph (1)—
 - (i) for “a magistrates’ court” substitute “the family court”; and
 - (ii) in sub-paragraph (a) omit “court officer for the”; and
- (b) in paragraph (2) for “to the court officer” substitute “to the court”.

120. In rule 34.24(1), omit “officer”.

121. In rule 34.26, to the extent that it remains in force as provided for in rule 38(2) of the Family Procedure (Amendment) Rules 2011(a)—

- (a) in paragraph (7), in the substituted rule 34.19—
 - (i) in the heading, and in the rule, for “a magistrates’ court” substitute “the family court”; and
 - (ii) omit the two sets of words in parentheses which follow the rule;
- (b) in paragraph (8), in the substitute rule 34.23(2), for “to the court officer” substitute “to the court”; and
- (c) in paragraph (11), in the inserted rule 34.25A(2), for “a magistrates’ court” substitute “the family court”.

122. In rule 34.27—

- (a) in paragraph (4)—
 - (i) after “notification of confirmation” insert “, variation”; and
 - (ii) for “a magistrates’ court” substitute “the family court”;
- (b) in paragraph (5)—
 - (i) in the opening words, for “a magistrates’ court” substitute “the family court”; and
 - (ii) in the substituted rule 34.17—
 - (aa) for the heading substitute—

“**34.17.** Consideration of variation or revocation of a maintenance order made by the family court”;

- (bb) in paragraph (1)(a) for “a magistrates’ court by a payee for the revocation” substitute “the family court by a payee for the variation or revocation”; and
- (cc) omit the words in parentheses at the end of the substituted rule;
- (c) in paragraph (6)—
 - (i) in the opening words , for “county court” substitute “the family court”; and
 - (ii) in the substituted rule 34.18—
 - (aa) in the heading and in paragraph (1), for “a county court” substitute “the family court”; and
 - (bb) in paragraph (2)(b) for “the district judge” substitute “a judge”;
- (d) in paragraph (7), in the substituted rule 34.23(2), for “made to the court officer” substitute “made to the court”; and

(a) S.I. 2011/1328.

- (e) in paragraph (9), in paragraph (1) of the inserted rule 34.25A for “a magistrates’ court” substitute “the family court”.

123. In rule 34.28—

- (a) in paragraph (4)—
 - (i) after “notification of confirmation” insert “, variation”; and
 - (ii) for “a magistrates’ court” substitute “the family court”;
- (b) in paragraph (5)—
 - (i) in the opening words, for “a magistrates’ court” substitute “the family court”; and
 - (ii) in the substituted rule 34.17—
 - (aa) for the heading substitute—

“**34.17.** Consideration of variation or revocation of a maintenance order made by the family court”;
 - (bb) in paragraph (1)(a) for “a magistrates’ court by a payee for the revocation” substitute “the family court by a payee for the variation or revocation”; and
 - (cc) omit the words in parentheses at the end of the substituted rule;
- (c) in paragraph (6), in the substituted rule 34.18, for “a county court” insert “the family court”; and
- (d) in paragraph (7), in the substituted rule 34.23(2), for “made to the court officer” substitute “made to the court”.

124. After rule 34.28, insert—

“SECTION 3

Proceedings in a Hague Convention Country or in the United States of America

Notification of proceedings in a Hague Convention Country or in the United States of America

34.28ZA. Practice Direction 34E applies where the court officer receives from the Lord Chancellor notice of the institution of proceedings, including notice of the substance of a claim, in a Hague Convention Country or in the United States of America in relation to the making, variation or revocation of a maintenance order.

SECTION 4

Reciprocal enforcement of claims for the recovery of maintenance

Interpretation

34.28ZB. In this Section—

“convention country” means a country or territory specified in an Order in Council made under section 25 of the 1972 Act; and
an expression defined in the 1972 Act has the meaning given to it in that Act.

Dismissal of an application under section 27A of the 1972 Act or application for variation

34.28ZC.—(1) Where the family court dismisses an application under—

- (a) section 27A of the 1972 Act (application for recovery of maintenance); or
- (b) an application by a person in a convention country for the variation of a registered order,

the court officer will send a written notice of the court’s decision to the Lord Chancellor.

(2) The notice will include a statement of the court's reasons for its decision.

Application for recovery of maintenance in England and Wales: section 27B of the 1972 Act

34.28ZD.—(1) Where the family court receives an application for the recovery of maintenance sent from the Lord Chancellor under section 27B of the 1972 Act, the court will—

- (a) fix the date, time and place for a hearing or directions appointment, allowing sufficient time for service under this rule to be effected at least 21 days before the date fixed; and
- (b) serve copies of the application and any accompanying documents, together with a notice stating the date, time and place so fixed, on the respondent.

(2) Within 14 days of service under this rule, the respondent must file an answer to the application in the form referred to in Practice Direction 5A.

Application under section 26(1) or (2) of the 1972 Act and certificate under section 26(3A) of the 1972 Act: registration

34.28ZE. Where—

- (a) an application under section 26(1) or (2) of the 1972 Act; or
- (b) a certificate under section 26(3A) of the 1972 Act,

is required to be registered in the family court by virtue of the Recovery of Maintenance (United States of America) Order 2007, the court officer will enter a minute or memorandum of the application or certificate in the register.

Registration of an order: sections 27C(7) and 32(3) and (6) of the 1972 Act

34.28ZF.—(1) Where the family court makes an order which is required under section 27C(7) of the 1972 Act to be registered, the court officer will enter a minute or memorandum of the order in the register.

(2) Where a court officer receives under section 32(3) of the 1972 Act a certified copy of an order, the court officer will register the order by means of a minute or memorandum in the register.

(3) Every minute or memorandum entered under paragraph (1) or (2) will specify the section and subsection of the 1972 Act under which the order in question is registered.

(4) Where a court officer registers an order as required by section 27C(7) or 32(3) of the 1972 Act, the court officer will send written notice to the Lord Chancellor that the order has been registered.

(5) Where a court officer is required by section 32(6) of the 1972 Act to give notice of the registration of an order, the court officer will do this by sending written notice to the officer specified in that subsection that the order has been registered.

Payments made to the family court

34.28ZG.—(1) Where payments are made to the family court by virtue of section 27C or 34A of the 1972 Act, the court officer will send those payments by post to such person or authority as the Lord Chancellor may from time to time direct.

(2) Subject to paragraph (3), if it appears to a court officer that any sums payable under a registered order are in arrears, the officer may proceed in the officer's own name for the recovery of those sums.

(3) Where it appears to the officer that sums payable under the order are in arrears to an amount equal—

- (a) in the case of payments to be made monthly or less frequently, to twice the sum payable periodically; or
- (b) in any other case, to four times the sum payable periodically,

the officer will proceed in the officer's own name for the recovery of those sums, unless it appears to the officer that it is unreasonable in the circumstances to do so.

Method of payment

34.28ZH.—(1) This rule applies where the family court exercises its duties or powers under section 27C or 34A of the 1972 Act.

(2) Where the court orders that payments under the order are to be made by a particular means—

- (a) the court will record on the copy of the order the means of payment that the court has ordered; and
- (b) the court officer will, as soon as practicable, notify, in writing, the person liable to make the payments under the order how payments are to be made.

(3) Paragraph (4) applies where the court orders that payments be made to the court by a method of payment falling within section 1(5) of the Maintenance Enforcement Act 1991.

(4) The court officer will notify the person liable to make the payments under the order of sufficient details of the account into which the payments should be made to enable payments to be made into that account.

Application under section 34 of the 1972 Act: variation or revocation

34.28ZI.—(1) This rule applies in relation to an application under section 34 of the 1972 Act for the variation or revocation of a registered order.

(2) An application which is made directly to the registering court must be filed in the form referred to in Practice Direction 5A.

(3) Where the court receives an application, either filed in accordance with paragraph (2) or sent from the Lord Chancellor under section 34(3) of the 1972 Act—

- (a) the court will set the date, time and place for a hearing or directions appointment; and
- (b) the court officer will notify the applicant of the date, time and place.

Application under section 35 of the 1972 Act: variation or revocation

34.28ZJ.—(1) This rule applies in relation to an application under section 35 of the 1972 Act for the variation or revocation of a registered order.

(2) Notice under section 35(3)(b) of the 1972 Act of the time and place appointed for the hearing of the application will be in the form specified in Practice Direction 34D.

(3) The court officer will send the notice by post to the Lord Chancellor for onward transmission to the appropriate authority in the convention country in which the respondent is residing.

(4) The time appointed for the hearing of the application will not be less than six weeks later than the date on which the notice is sent to the Lord Chancellor.

Request under section 38(1) of the 1972 Act to the family court

34.28ZK.—(1) This rule applies where the family court receives from the Lord Chancellor a request under section 38(1) of the 1972 Act (taking evidence at the request of a court in a convention country) to take the evidence of any person.

(2) Subject to paragraph (3)—

- (a) the evidence will be taken in the same manner as if the person concerned were a witness in family proceedings;
- (b) any oral evidence so taken will be put into writing and read to the person who gave it, who must sign the document; and
- (c) the judge who takes any such evidence of any person will certify at the foot of the document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by that judge.

(3) Where the request referred to in section 38(2) of the 1972 Act includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken will, so far as circumstances permit, comply with that request.

Request under section 38(1) of the 1972 Act to the officer of the court

34.28ZL.—(1) This rule applies where an officer of the court receives from the Lord Chancellor a request under section 38(1) of the 1972 Act to take the evidence of any person.

(2) Subject to paragraph (3)—

- (a) the person whose evidence is to be taken will be examined on oath by or before a justices’ clerk or any other court officer determined by the Lord Chancellor;
- (b) any oral evidence will be put into writing and read to the person who gave it, who must sign the document; and
- (c) the justices’ clerk or other officer will certify at the foot of the document setting out the evidence of, or produced by, that person, that such evidence was taken, or document received in evidence, as the case may be, by that justices’ clerk or other officer.

(3) Where the request referred to in section 38(1) of the 1972 Act includes a request that the evidence be taken in a particular manner, the justices’ clerk or other officer by whom the evidence is taken will, so far as circumstances permit, comply with that request.

(4) For the purposes of this rule, the justices’ clerk or other officer has the same power to administer oaths as a single justice of the peace.

Onward transmission of documents

34.28ZM. Any document mentioned in rule 34.28ZK(2)(c) or rule 34.28ZL(2)(c) will be sent to the Lord Chancellor for onward transmission to the appropriate authority in the convention country in which the request referred to in section 38(1) of the 1972 Act originated.”.

125. Omit the words in parentheses at the end of rule 34.28A.

126. Omit rule 34.29A.

127. In rule 34.30—

- (a) omit paragraph (1);
- (b) in paragraph (2) for “This rule applies where the court officer for a magistrates’ court” substitute “This rule and Practice Direction 34E apply where the family court”;
- (c) omit paragraphs (3), (4) and (5);
- (d) in paragraph (6) for “paragraphs (4) or (5) apply, the court officer” substitute “Practice Direction 34E provides otherwise, the court”;
- (e) in paragraphs (7) and (8), omit “officer” the first time it appears in each paragraph; and
- (f) omit paragraph (9).

128. In rule 34.31, for paragraph (2) substitute—

“(2) The appeal must be to the family court.

(Practice Direction 34E makes provision in relation to such cases.)”.

129. In rule 34.32—

(a) in paragraph (1)—

(i) for “must” substitute “may”; and

(ii) for the words after “made” substitute “to the court, at such time and place as directed.”; and

(b) in paragraph (2), omit “officer” the first time it appears.

130. In rule 34.33(1) for “court officer for a magistrates’ court” substitute “the family court”.

131. For rule 34.35 substitute—

“Registered order: payer residing in a different Designated Family Judge area

34.35. Practice Direction 34E makes provision for cases where a court officer in the Designated Family Judge area where an order is registered considers that the payer is residing in a different Designated Family Judge area.”.

132. In rule 34.36, for paragraph (1) substitute—

“(1) Where the court officer for the registering court—

(a) has no reason to send papers to another Designated Family Judge area under Practice Direction 34E; and

(b) considers that the payer under the registered order is not residing within the Designated Family Judge area where the order is registered,

the court officer will cancel the registration of the order.”.

133. After rule 34.36B, insert—

“The Maintenance Regulation: applications for enforcement or for refusal or suspension of enforcement

34.36C. Practice Direction 34E makes provision regarding—

(a) an application for enforcement of a maintenance decision to which section 1 of Chapter IV of the Maintenance Regulation applies; and

(b) an application by a debtor under Article 21 of the Maintenance Regulation for refusal or suspension of enforcement.”.

134. In rule 34.38, in paragraphs (3) and (7) for “a magistrates’ court in England and Wales” substitute “the family court”.

135. In rule 34.39—

(a) in the heading and in paragraph (1) for “a magistrates’ court” substitute “the family court”; and

(b) in paragraph (5) for “a magistrates’ court in England and Wales” substitute “the family court”.

136. In rule 34.40—

(a) in the heading, for “county court” substitute “the family court”; and

(b) in paragraph (1) for the words from “a county court” to “a civil partnership proceedings county court)” substitute “the family court”.

Transitional and saving provision

137.—(1) Subject to paragraph (2), the Family Procedure Rules 2010 as amended by these Rules shall apply to any proceedings which were commenced but not disposed of before these Rules came into force.

(2) The court may in any such proceedings give any directions for the purpose of ensuring that the proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision in rules of court which applied to the proceedings before these Rules came into force; or
- (b) disapply provisions of the Family Procedure Rules 2010 as amended by these Rules.

*James Munby, P
Timothy Becker
Richard Burton
Martyn Cook
Chris Darbyshire
Bruce Edgington
Mike Hinchliffe
Ruth Lindley-Glover
Ernest Ryder, LJ
David Salter
Lucy Theis, J
John Wilson*

I allow these Rules
Signed by authority of the Lord Chancellor
16th December 2013

McNally
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 (S.I. 2010/2955) (“the FPR 2010”). The majority of the amendments made to the FPR 2010 by these Rules are made to reflect the creation of the family court. Provision in respect of the family court is made in section 17 of, and Schedules 10 and 11 to, the Crime and Courts Act 2013 (c.22). The family court, and the High Court, have jurisdiction to deal with family proceedings. The jurisdiction formerly exercised by magistrates’ courts and county courts in relation to family proceedings, and enforcement of orders made in family proceedings, held by magistrates’ courts and county courts, is removed by provision in the Crime and Courts Act 2013.

In particular, these Rules amend the following Parts of the FPR 2010-

- (a) Part 2 (application and interpretation) to state that the FPR 2010 apply in family proceedings in the High Court and the family court, and to make consequential amendments to rule 2.3 FPR 2010 (interpretation) and to rules relating to powers to perform functions of the court;
- (b) Part 4 (general case management powers) so that Part will apply to the High Court and the family court;
- (c) Part 5 (forms and start of proceedings) to make provision as to where to start proceedings (the High Court or the family court);

- (d) Part 6 (service) to make provision in respect of deemed service;
- (e) Part 7 (procedure for applications in matrimonial and civil partnership proceedings) to reflect the fact that with the advent of the family court, divorce county courts and civil partnership proceedings county courts no longer exist, the fact that the Principal Registry of the Family Division of the High Court is no longer to be treated as such a county court, and the fact that the family court is a national court for England and Wales;
- (f) Part 8 (procedure for miscellaneous applications) to make provision as to where and how to start certain proceedings;
- (g) Part 9 (applications for financial remedy) to make provision as to where to start certain proceedings, and as to the procedure to apply to particular types of applications;
- (h) Parts 10 (applications under Part 4 Family Law Act 1996) and 12 (certain children proceedings) to remove provisions relating to transfer between courts (given the national nature of the family court) and to remove references to county courts and magistrates' courts;
- (i) Parts 13 (procedure under section 54 Human Fertilisation and Embryology Act 2008) and 14 (procedure for applications in adoption, placement and related proceedings) to make cross-references to the new rule 29.17 on transfers between the High Court and the family court, to put in place a single procedure for applications for recovery orders and to remove references to magistrates' courts;
- (j) Parts 17 (statements of truth), 18 (procedure for other applications), 20 (interim remedies and security for costs), 24 (witnesses) and 28 (costs) to remove references to certain rules not applying in magistrates' courts;
- (k) Part 22 (evidence) to remove references to proceedings pending, or treated as pending, in a divorce county court or civil partnership proceedings county court;
- (l) Part 29 (miscellaneous) to make new provision in respect of the transfer of proceedings between the High Court and the family court, and to clarify that the Part 18 procedure applies in respect of an application to the family court for proceedings to be heard in a different Designated Family Judge area;
- (m) Parts 32 (registration and enforcement of orders) and 34 (reciprocal enforcement of maintenance orders) to—
 - reflect the fact that magistrates' courts will no longer deal with these proceedings;
 - in the High Court for enforcement purposes; and
 - incorporate into the FPR 2010 procedures in relation to enforcement which were previously set out in the Magistrates' Courts (Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions) Rules 2011 (S.I. 2011/1329).

Transitional and saving provision is made in rule 137.

An impact assessment for these Rules is annexed to the Explanatory Memorandum, which is available alongside this instrument at www.legislation.gov.uk.

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