STATUTORY INSTRUMENTS

2022 No. 821 (L. 10)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment No. 2) Rules 2022

Made - - - -	*12th July 2022*
Laid before Parliament	*18th July 2022*
Coming into force - -	*1st October 2022*

The Family Procedure Rule Committee makes the following Rules in exercise of the powers conferred by sections 75 and 76(8) of the Courts Act 2003(**a**), having fulfilled the requirements of section 79(1) of the Courts Act 2003:

Citation, extent and commencement

1.—(1) These Rules may be cited as the Family Procedure (Amendment No. 2) Rules 2022.

(2) These Rules extend to England and Wales.

(3) These Rules come into force on 1st October 2022.

Amendment of the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(**b**) are amended in accordance with rules 3 to 6 of these Rules.

Amendment of Part 11

3. In rule 11.7 (hearings and service of orders), in paragraph (3) for "as soon as reasonably practical" substitute "within two days of an order being made (unless otherwise directed by the court)".

4. For rule 11.12 (service of an order on the officer for the time being in charge of a police station) substitute—

(**a**) 2003 c. 39. Section 75 was amended by paragraphs 308 and 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c. 4) and by paragraphs 83 and 91 of Part 1 of Schedule 10 to the Crime and Courts Act 2013 (c. 22).

(**b**) S.I. 2010/2955. Relevant amendments were made by S.I. 2015/913 and 1420 and 2017/413.

"**Notifying the police**

11.12. A practice direction may make provision for notifying the police when a protection order is made, varied, extended or discharged.".

Amendment of Part 12

5. After Chapter 6 of Part 12 (proceedings under the 1980 Hague Convention, the European Convention and the 1996 Hague Convention) insert—

"CHAPTER 6A

Special provision about return proceedings with links to asylum claims

12.71A.—(1) In this rule—

"child concerned" means the child who is the subject of the return proceedings;

"claimant" means the person who has made the protection claim;

"linked protection claim" is a protection claim that is made by or on behalf of the child concerned or in which the child concerned is named as a dependant of the claimant, and includes a pending in-country appeal;

"NIA Act 2002" means the Nationality, Immigration and Asylum Act 2002(**a**);

"pending in-country appeal" means an appeal within the meaning of section 104 of the NIA Act 2002(**b**) against a decision of the Secretary of State on a protection claim in which the child concerned is present in England and Wales, and includes any period for instituting of such appeal or applying for permission for such appeal;

"protection claim" has the same meaning as in section 82(2)(a) of the NIA Act 2002(**c**), and for the avoidance of doubt, includes an application for asylum as defined by the Immigration Rules HC 395 as amended;

"return order" means an order for the return of a child to another country, made pursuant to an application under any of the 1980 Hague Convention, the High Court's inherent jurisdiction, or section 8 of the 1989 Act(**d**);

"return proceedings" means any proceedings—

(a) for a return order;

(b) to vary, revoke, discharge or set aside a return order; or

(c) in which implementation of a return order is sought.

(2) This rule applies in return proceedings.

(3) Any party to return proceedings that is aware of a linked protection claim must notify the court as soon as practicable of the existence of that claim and provide any information that party has about the progress of that claim.

(4) When the court becomes aware of a linked protection claim, it must hold a hearing as soon as practicable in order to consider directions, including those specified in rule 12.48, as to—

(a) whether the child concerned should be made a party to the return proceedings;

(**a**) 2002 c. 41.

(**b**) Section 104 was amended by paragraphs 16 and 20(b) of Schedule 2 and Schedule 4 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), section 9 of the Immigration, Asylum and Nationality Act 2006 (c. 13), paragraphs 30 and 47 of Part 4 of Schedule 9 to the Immigration Act 2014 (c. 22) and by S.I. 2010/21.

(**c**) Section 82 was substituted by section 15(1) and (2) of the Immigration Act 2014.

(**d**) Section 8 was amended by paragraph 60 of Schedule 8 and by Schedule 10 to the Family Law Act 1996 (c. 27), paragraph 68 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37), section 1 of the Children Act 1989 (Amendment) (Female Genital Mutilation) Act 2019 (c. 10), paragraphs 54 and 55 of Schedule 3 to the Adoption and Children Act 2002 (c. 38), paragraph 129 of Schedule 27 to the Civil Partnership Act 2004 (c. 33) and section 12 of, and paragraphs 1 and 3 of Part 1 of Schedule 2 to, the Children and Families Act 2014 (c. 6).

(b) whether the Secretary of State should be invited to intervene in the return proceedings;

(c) whether there should be disclosure and/or inspection under rule 4.1(3)(b) and Part 21 of any documents or information—

(i) from the Secretary of State, claimant or child concerned to one or more parties to the return proceedings or other persons;

(ii) from one or more parties to the return proceedings or other persons, to the Secretary of State, claimant or child concerned;

including any directions as to representations or production to the court of such documents or information;

(d) whether the return proceedings should be stayed until such further point as the court would direct.

(5) Nothing in this Rule disapplies the provisions of other rules or of Practice Directions, including any powers of the court, whether in relation to family proceedings or protection claims falling within scope of this rule, or to other family proceedings, other immigration proceedings, or other claims or proceedings.".

Amendment of Part 36

6. After rule 36.2 (pilot schemes) insert—

"**Domestic Abuse Act 2021: provision during pilot commencement of Part 3**

36.2A.—(1) Practice directions may make provision for proceedings in relation to Part 3 of the Domestic Abuse Act 2021(**a**) during any period when, pursuant to regulations made under section 90(7) to (9) of that Act, any provisions of that Part are in force only for a specified purpose, in relation to a specified area or for a specified period.

(2) The provision made by a practice direction under paragraph (1) may include provision modifying or disapplying any provision of these Rules.".

Sir Andrew McFarlane, President of the Family Division
Lord Justice Baker
Poonam Bhari
District Judge Branston
Melanie Carew
Graeme Fraser
His Honour Judge Godwin
Mr Justice Mostyn
Her Honour Judge Raeside
Rhys Taylor

I allow these Rules

Christopher Bellamy
Parliamentary Under-Secretary of State for Justice
Ministry of Justice

12th July 2022

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 ("the FPR") (S.I. 2010/2955).

Rule 3 amends the FPR to clarify the time period within which an applicant must serve a forced marriage protection order or a female genital mutilation protection order on the respondent and, where applicable, on the person who is the subject of the proceedings.

(**a**) 2021 c. 17.

Rule 4 amends the FPR to enable a practice direction to make provision for notification to the police when a forced marriage protection order or a female genital mutilation protection order is made, varied, extended or discharged.

Rule 5 inserts a new Chapter 6A into Part 12 of the FPR to make provision about return proceedings with linked protection claims (including asylum claims).

Rule 6 amends the FPR by inserting a new rule 36.2A enabling provision to be made by practice direction for the purposes of the piloted commencement of any provisions of Part 3 of the Domestic Abuse Act 2021 (c. 17) (for which section 90(7) to (9) of that Act makes provision).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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