



Ministry of
JUSTICE

Family Procedure Rule Committee

ANNUAL REPORT 2012-13

This annual report of the Family Procedure Rule Committee for April 2012 – March 2013 includes references to rules made during the period of the report, the Committee's terms of reference, membership and dates of meetings.

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1. Terms of Reference

The Family Procedure Rule Committee (“the Committee”) is an Advisory Non-Departmental Public Body sponsored by the Ministry of Justice. Its function is to make rules of court governing the practice and procedure in family proceedings in the High Court, County Court and the Family Proceedings Court. Its power to make rules is to be exercised with a view to securing that the family justice system is accessible, fair and efficient and the rules are both simple and simply expressed. Before making rules the Committee must meet and discuss proposed rules (unless it is inexpedient to do so) and consult such persons as it considers appropriate.

2. Background

The Committee was established in 2004 in accordance with the provisions of the Courts Act 2003.

3. Membership

The Committee comprises the following members:

The Right Honourable Sir James Munby, President of the Family Division (Chair)

The Right Honourable Lady Justice Black – Court of Appeal Judge

The Honourable Mrs Justice Theis – High Court Judge

Her Honour Judge Angela Finnerty – Circuit Judge

Senior District Judge Philip Waller CBE – District Judge (Principal Registry of the Family Division) (Deputy Chair)

District Judge Chris Darbyshire – District Judge (County Court)

District Judge Paul Carr – District Judge (Magistrates’ Courts)

Martyn Cook JP – Magistrate

Richard Burton – Justices’ Clerk

John Wilson QC - Barrister

Charles Hyde QC – Barrister

Tim Becker – Barrister

David Salter – Solicitor

Bruce Edgington – Solicitor

Sunita Mason – Solicitor

Mike Hinchliffe – CAFCASS

Ruth Lindley-Glover – Lay Advice Member

4. Remuneration

The Chair and members are not remunerated for their service on the Committee.

5. Meetings

The Committee met on 2 April 2012, 21 May 2012, 18 June 2012, 16 July 2012, 8 October 2012, 5 November 2012, 3 December 2012 and 4 February 2013 and 11 March 2013.

6. Working Parties

The Committee establishes working parties to consider the detail of rules relating to specific types of family proceedings. During the period of the Report, the following working parties were in existence: the Setting Aside Orders Working Party was in existence and met on 24 October 2012.

7. Family Procedure Rules

The Family Procedure Rules, which had been made by the Committee on 13 December 2010, came into force on 6 April 2011.

The rules are contained in 36 Parts covering different areas of procedure and different types of proceedings. Under the provisions of the Courts Act 2003, rules may, instead of providing for any matter, refer to provision made about that matter in directions. Accordingly, much of the detail of the procedure is contained in Practice Directions supplementing the parts of the rules.

The Committee adopted the following principles in development of the rules:

- i. Modernisation of language,
- ii. Harmonisation with the Civil Procedure Rules to the extent that it is appropriate,
- iii. Creation of a single unified code of practice in addition to rules and
- iv. Alignment of procedures in all levels of Court except where there are strong reasons not to do so.

8. Family Procedure (Amendment) Rules

During the period covered by this Report, the rules were amended by five instruments. The amendments were made by the Committee following a period of consultation in accordance with section 79 Courts Act 2003.

The Family Procedure (Amendment No.2) Rules 2012 [S.I. 2012 No. 1462] amended the rules to ensure compliance with the judgment of the Court of Justice of the European Union in *Health Service Executive v. SC and AC, Attorney General intervening* (case no. C-92/12) which determined that the possibility of appeals against a decision on registration of an order from another Member State under Council Regulation (EC) No. 2201/2003 should not result in automatic suspension of enforcement of a registered order during the time limit for appealing when the best interests of the child require enforcement as a matter of urgency.

The Family Procedure (Amendment No.3) Rules 2012 [S.I. 2012 No. 2046 (L.7) 679 (L.3)] made an amendment to make it clear that when the Rules apply certain rules of the Rules of the Supreme Court and County Court Rules, they are applying those rules as they appeared at a fixed point in time, and not subject to any amendment or revocation effected after that time.

Amendments were also made to reflect the fact that under the 1996 Hague Convention there are separate Central Authorities for England and for Wales.

The Family Procedure (Amendment No.4) Rules 2012 [S.I. No. 2806 (L.10)] made amendments to take account of the Convention on the International Recovery of Child Support and other forms of Family Maintenance (the 2007 Hague Convention).

The Family Procedure (Amendment No.5) Rules 2012 [S.I. No. 3061] inserted a new Part 25 making new provision for the use of experts in family proceedings.

The Family Procedure (Amendment) Rules 2013 [S.I. 530 (L.4)] made amendments giving High Court judges and Designated Family Judges power when refusing permission to appeal without a hearing, where the application is considered to be totally without merit, to make an order that the person seeking permission may not request the decision to be reconsidered at a hearing.

9. Family Justice Review

Following the Government's response to the Family Justice Review and the Judicial Proposals for the Modernisation of Family Justice, the Committee undertook a review of the rule and practice direction amendments required to

support the creation of a single family court provided for in the Crime and Courts Bill.

10. Contact

Any enquiries about the work of the Committee may be addressed to:
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