STATUTORY INSTRUMENTS

2016 No. 901 (L. 14)

FAMILY PROCEEDINGS
SENIOR COURTS OF ENGLAND AND WALES
FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment No. 2) Rules 2016

Made - - - -	*8th September 2016*
Laid before Parliament	*12th September 2016*
Coming into force - -	*3rd October 2016*

The Family Procedure Rule Committee makes the following rules in exercise of the powers conferred by section 17(2) of the Senior Courts Act 1981(**1**) and sections 75 and 76 of the Courts Act 2003(**2**).

Citation and commencement

1. These Rules may be cited as the Family Procedure (Amendment No. 2) Rules 2016 and come into force on 3rd October 2016.

Amendments to the Family Procedure Rules

2. The Family Procedure Rules 2010(**3**) are amended in accordance with rules 3 to 8.

Amendment of rule 8.20

3. In rule 8.20 (who the parties are)—

(a) in paragraph (1), in the table, in the row relating to applications for declarations of parentage, in the second column (respondent)—

(i) in paragraph (i) after "is in issue" insert "except where that person is a child"; and

(ii) in paragraph (ii) after "is the applicant" insert "or is a child"; and

(b) after paragraph (1) insert—

(**1**) 1981 c.54.

(**2**) 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.

(**3**) S.I. 2010/2955. Relevant amending instruments are S.I. 2012/679 and 2013/530 and 1472.

"(Under rule 16.2 the court may make a child a party to certain proceedings (including applications for declarations of parentage) where it considers that to be in the best interests of the child.)".

Insertion of new rule 9.9A

4. After rule 9.9 (application for periodical payments order at same rate as an order for maintenance pending outcome of proceedings) insert—

"**Application to set aside a financial remedy order**

9.9A.—(1) In this rule—

(a) "financial remedy order" means an order or judgment that is a financial remedy, and includes—

(i) part of such an order or judgment; or

(ii) a consent order; and

(b) "set aside" means—

(i) in the High Court, to set aside a financial remedy order pursuant to section 17(2) of the Senior Courts Act 1981 and this rule;

(ii) in the family court, to rescind or vary a financial remedy order pursuant to section 31F(6) of the 1984 Act(**4**).

(2) A party may apply under this rule to set aside a financial remedy order where no error of the court is alleged.

(3) An application under this rule must be made within the proceedings in which the financial remedy order was made.

(4) An application under this rule must be made in accordance with the Part 18 procedure, subject to the modifications contained in this rule.

(5) Where the court decides to set aside a financial remedy order, it shall give directions for the rehearing of the financial remedy proceedings or make such other orders as may be appropriate to dispose of the application.".

Amendment of rule 16.4

5. In rule 16.4 (appointment of a children's guardian in proceedings not being specified proceedings or proceedings to which Part 14 applies)—

(a) in paragraph (1) for "Without" substitute "Except in proceedings under section 55A of the 1986 Act(**5**) and without";

(b) after paragraph (1) insert—

"(1A) Without prejudice to rule 16.6, in proceedings under section 55A of the 1986 Act, the court must appoint a children's guardian for a child where—

(a) the court has made the child a party in accordance with rule 16.2; and

(b) the child is the person whose parentage is in dispute in those proceedings."; and

(c) in paragraph (2), after "paragraph (1)" insert "or paragraph (1A)".

(**4**) 1984 c. 42. Section 31F was inserted by paragraph 1 of Schedule 10 to the Crime and Courts Act 2013.
(**5**) 1986 c. 55. Section 55A was inserted by section 83 of the Child Support, Pensions and Social Security Act 2000 (c. 19) and was amended by paragraph 97 of Schedule 11 to the Crime and Courts Act 2013.