

PART 4

PROCEEDINGS UNDER PART I OF THE CHILD CUSTODY ACT 1987

31. Interpretation of Part 4

In this Part-

"the 1987 Act" means the Child Custody Act 1987;

"the appropriate court" means-

- (a) in relation to England and Wales, the High Court of Justice in England and Wales;
- (b) in relation to Scotland, the Court of Session;
- (c) in relation to Northern Ireland, Her Majesty's High Court of Justice in Northern Ireland;

"the appropriate officer" means-

- (a) in relation to England and Wales, the secretary of the principal registry of the Family Division of the High Court of Justice in England and Wales;
- (b) in relation to Scotland, the Deputy Principal Clerk of Session;
- (c) in relation to Northern Ireland, the Master (Care and Protection) of Her Majesty's High Court of Justice in Northern Ireland;

"British jurisdiction" means England and Wales, Scotland or Northern Ireland;

"custody order" means a custody order within the meaning of section 20 of the 1987 Act;

"the register" means the register kept for the purposes of Part I of the 1987 Act;

"registration" means registration under Part I of the 1987 Act or, in relation to a custody order made by the Court, under Part I of the Family Law Act 1986 (an Act of Parliament)⁸.

32. Application to register Manx custody order

- (1) An application under section 12 of the 1987 Act for the registration of a custody order made by the Court must be made by lodging in the General Registry a certified copy of the order, together with a copy of any order which has varied any of the terms of the original order and an affidavit by the applicant, with a copy thereof, which must state —
 - (a) the name and address of the applicant and his interest under the order;
 - (b) the name and date of birth of the child in respect of whom the order was made, his whereabouts or suspected whereabouts and the name of any person with whom he is alleged to be;
 - (c) the name and address of any other person who is known to the applicant to have an interest under the order and whether it has been served on him;
 - (d) in which jurisdiction or jurisdictions the order is to be registered;

⁸ 1986 c.55

- (e) that, to the best of the applicant's information and belief, the order is in force;
- (f) whether, and if so where, the order is already registered; and
- (g) details of any order known to the applicant which affects the child and is in force in the jurisdiction in which the custody order is to be registered.

Where the order is to be registered in more than one jurisdiction, there must be lodged, for each additional jurisdiction, one additional copy each of the order, any varying order and the affidavit.

- (2) There must be exhibited to the affidavit any document relevant to the application.
- (3) Where the documents referred to in paragraphs (1) and (2) are to be sent to the appropriate court the Chief Registrar shall —
 - (a) retain the affidavit and send the copy thereof and the other documents to the appropriate officer, indicating, where the order relates to more than one child, with respect to which child or children it is to be registered; and
 - (b) record the fact of transmission in the General Registry.
- (4) On receipt of notice of the registration of a custody order in the appropriate court the Chief Registrar shall record the fact of registration in the court file.
- (5) If it appears to the Chief Registrar that the custody order is no longer in force with respect to the child or more than one child, or that a child or more than one child has attained the age of 16, he shall refuse to send the documents referred to in paragraphs (1) and (2) to the appropriate court, or shall indicate thereon with respect to which child or children the order is not to be registered, and he shall within 14 days give notice to the applicant of his refusal or indication and the reason for it.
- (6) If the Chief Registrar refuses to send the documents to the appropriate court, the applicant may apply for an order that the documents be sent to the appropriate court or that they be sent with respect to a particular child or children.

33. Registration of UK custody orders

On receipt of a certified copy of a custody order made in a British jurisdiction for registration, the Chief Registrar shall —

- (a) register the order in the register by entering particulars of —
 - (i) the name and address of the applicant and his interest under the order;
 - (ii) the name and whereabouts or suspected whereabouts of the child, his date of birth and the date on which he will attain the age of 16; and
 - (iii) the terms of the order, its date and the court which made it;
- (b) file the certified copy and accompanying documents in the General Registry; and
- (c) give notice to the court which sent the certified copy and to the applicant for registration that the order has been registered.

34. Revocation and variation of Manx order

- (1) Where a custody order which is registered in the appropriate court is revoked or varied by the Court, the Chief Registrar shall —
 - (a) send a copy of the subsequent order to the appropriate officer and, if the custody order was made by a court of summary jurisdiction, to that court;

- (b) record the fact of transmission in the General Registry; and
 - (c) retain the subsequent order.
- (2) On receipt from the appropriate court of any amendment of its register, the Chief Registrar shall record the fact of amendment in the General Registry.

35. Registration of revoked, recalled or varied UK order

- (1) On receipt of a certified copy of an order made in a British jurisdiction which revokes, recalls or varies a registered custody order, the Chief Registrar shall enter particulars of the revocation, recall or variation, as the case may be, in the register, and give notice of the entry to —
- (a) the court which sent the certified copy;
 - (b) if different, the court which made the custody order;
 - (c) the applicant for registration; and
 - (d) if different, the applicant for the revocation, recall or variation of the order.
- (2) An application under section 8(2) of the 1987 Act (cancellation of registration) shall be made by application.
- (3) If the applicant for the custody order is not the applicant under section 8(2) of the 1987 Act, he shall be made a respondent to the application.
- (4) Where the Court cancels a registration on its own initiative or on an application under paragraph (2), the Chief Registrar shall amend the register accordingly and shall give notice of the amendment to the court which made the custody order.

36. Interim directions

- (1) This rule applies to an application for interim directions under section 9(2) of the 1987 Act.
- (2) The parties to the proceedings for enforcement and, if he is not a party thereto, the applicant for the custody order, shall be made parties to the application.

37. Staying and dismissal of enforcement proceedings

- (1) This rule applies to an application under section 10 or 11 of the 1987 Act.
- (2) The parties to the proceedings for enforcement which are sought to be stayed and, if he is not a party thereto, the applicant for the custody order, shall be made parties to the application.
- (3) Where the Court makes an order under section 10(2) or (3) or section 11(2), the Chief Registrar shall amend the register accordingly and shall give notice of the amendment to the court which made the custody order and to the applicants for registration, for enforcement and for the stay or dismissal of the proceedings for enforcement.

38. Particulars of other proceedings

A party to proceedings for or relating to a custody order who knows of other proceedings (including proceedings out of the jurisdiction and concluded proceedings) which relate to the child concerned shall file an affidavit which shall state-

- (a) in which jurisdiction and court the other proceedings were instituted;
- (b) the nature and current state of such proceedings and the relief claimed or sought;

- (c) the names of the parties to the proceedings and their relationship to the child;
- (d) if applicable, and if known, the reasons why the relief claimed in the proceedings for or relating to the custody order was not claimed in the other proceedings.

39. Inspection of register

Any of the following persons-

- (a) the applicant for registration of a registered custody order;
- (b) any person who satisfies the Chief Registrar that he has an interest under the custody order, and
- (c) any person who obtains the leave of the Chief Registrar,

may inspect any entry in the register relating to the order and may bespeak copies of the order and of any document relating thereto.