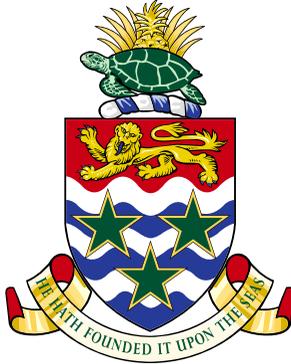


CAYMAN ISLANDS



Children Law (2012 Revision)

CHILDREN LAW (GRAND COURT) RULES, 2013

(SL 17 of 2013)

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**CHILDREN LAW (GRAND COURT) RULES,
2013**

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Arrangement of Rules

Rule	Page
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PART I - OVERRIDING OBJECTIVE

1.1	Citation and commencement	5
1.2	The overriding objective	5
1.3	Application by the court of the overriding objective	6
1.4	Duty of parties to proceedings	6
1.5	Court's duty to manage cases	6
1.6	The court's general powers of management	6
1.7	Court officer's power to refer to the court	8
1.8	Court's power to make order of its own initiative	8
1.9	Sanctions have effect unless defaulting party obtains relief	8
1.10	Relief from sanctions	9
1.11	General power of the court to rectify matters where there has been an error of procedure	9

PART II – PRELIMINARY

2.1	Application of other rules	10
2.2	Computation of time	10

**PART III - PROCEEDINGS UNDER THE CHILDREN LAW
(2012 REVISION)**

3.1	Interpretation and application	10
-----	--------------------------------------	----



3.2	Matters prescribed for the purposes of the Law	12
3.3	Application for leave to commence proceedings	12
3.4	Application.....	13
3.5	Withdrawal of application	14
3.6	Transfer from summary court to Grand Court.....	15
3.7	Parties	15
3.8	Service	16
3.9	Answer to application.....	18
3.10	Appointment of guardian <i>ad litem</i>	18
3.11	Powers and duties of guardian <i>ad litem</i>	19
3.12	Attorney-at-law for child	21
3.13	Welfare officer	22
3.14	Directions	22
3.15	Timing of proceedings	24
3.16	Attendance at directions appointment and hearing.....	24
3.17	Documentary evidence	25
3.18	Expert evidence - examination of child.....	26
3.19	Amendment	26
3.20	Oral evidence	27
3.21	Hearing.....	27
3.22	Appeals	28
3.23	Confidentiality of documents	29
3.24	Notification of consent	29
3.25	Secure accommodation - evidence.....	30
3.26	Investigation under section 39	30
3.27	Direction to the Chief Education Officer to apply for education supervision order	30
3.28	Transitional provisions	31

PART IV- WARDSHIP

4.1	Application to make a child a ward of court	31
4.2	Enforcement of order by bailiffs	32
4.3	Where child ceases to be a ward of court	32
4.4	Adoption of child who is a ward of court	33

SCHEDULE 35

Respondents to applications, persons to whom notice shall be given and minimum number of days prior to hearing or directions appointment for service under rule 3.4(1)(b)	35
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CAYMAN ISLANDS**Children Law (2012 Revision)****CHILDREN LAW (GRAND COURT) RULES,
2013****(SL 17 of 2013)**

These Rules are made by the Rules Committee of the Grand Court pursuant to section 86 of the Children Law (2012 Revision).

PART I - OVERRIDING OBJECTIVE**1.1 Citation and commencement**

These Rules may be cited as the *Children Law (Grand Court) Rules, 2013* and shall come into force on 29 April, 2013.

1.2 The overriding objective

- (1) These Rules are a new procedural code with the overriding objective of enabling the court to deal with cases brought under the *Children Law, (2012 Revision)* justly, having regard to any welfare issues involved.
- (2) Dealing with a case justly includes so far as is practicable —
 - (a) ensuring that it is dealt with expeditiously and fairly;
 - (b) dealing with the case in ways which are proportionate to the nature, importance and complexity of the issues;
 - (c) ensuring that the parties are on an equal footing;
 - (d) saving expense; and

- (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

1.3 Application by the court of the overriding objective

The court must seek to give effect to the overriding objective when it exercises any power given to it by these Rules or interprets any rule.

1.4 Duty of parties to proceedings

Parties are required to help the court to further the overriding objective.

1.5 Court's duty to manage cases

- (1) The court must further the overriding objective by actively managing cases.
- (2) Active case management includes —
 - (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - (b) identifying at an early stage the issues and who should be a party to the proceedings;
 - (c) deciding promptly —
 - (i) which issues need full investigation and hearing and which do not; and
 - (ii) the procedure to be followed in the case;
 - (d) deciding the order in which issues are to be resolved;
 - (e) encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
 - (f) helping the parties to settle the whole or part of the case;
 - (g) fixing timetables or otherwise controlling the progress of the case;
 - (h) considering whether the likely benefits of taking a particular step justify the cost of taking it;
 - (i) dealing with as many aspects of the case as it can on the same occasion;
 - (j) dealing with the case without the parties needing to attend at court;
 - (k) making use of technology; and
 - (l) giving directions to ensure that the case proceeds quickly and efficiently.

1.6 The court's general powers of management

- (1) In this Part, "statement of case" means the whole or part of an application form or answer.



- (2) The list of powers in this rule is in addition to any powers given to the court by any other rule or practice direction or by any other enactment or any powers it may otherwise have.
- (3) Except where these Rules provide otherwise, the court may —
 - (a) extend or shorten the time for compliance with any rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired);
 - (b) make such order for disclosure and inspection, including specific disclosure of documents, as it thinks fit;
 - (c) adjourn or bring forward a hearing;
 - (d) require a party or a party's legal representative to attend the court;
 - (e) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
 - (f) direct that part of any proceedings be dealt with as separate proceedings;
 - (g) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
 - (h) consolidate proceedings;
 - (i) hear two or more applications on the same occasion;
 - (j) direct a separate hearing of any issue;
 - (k) decide the order in which issues are to be heard;
 - (l) exclude an issue from consideration;
 - (m) dismiss or give a decision on an application after a decision on a preliminary issue;
 - (n) direct any party to file and serve an estimate of costs; and
 - (o) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective.
- (4) When the court makes an order, it may —
 - (a) make it subject to conditions, including a condition to pay a sum of money into court; and
 - (b) specify the consequence of failure to comply with the order or a condition.
- (5) Where the court gives directions it will take into account whether or not a party has complied with any relevant pre-action protocol.
- (6) A power of the court under these rules to make an order includes a power to vary or revoke the order.
- (7) Any provision in these Rules —

- (a) requiring or permitting directions to be given by the court is to be taken as including provision for such directions to be varied or revoked; and
- (b) requiring or permitting a date to be set is to be taken as including provision for that date to be changed or cancelled.

1.7 Court officer's power to refer to the court

Where a step is to be taken by a court officer —

- (a) the court officer may consult the court before taking that step; and
- (b) the step may be taken by the court instead of the court officer.

1.8 Court's power to make order of its own initiative

- (1) Except where an enactment provides otherwise, the court may exercise its powers on an application or of its own initiative.
- (2) Where the court proposes to make an order of its own initiative —
 - (a) it may give any person likely to be affected by the order an opportunity to make representations; and
 - (b) where it does so it must specify the time by and the manner in which the representations must be made.
- (3) Where the court proposes —
 - (a) to make an order of its own initiative; and
 - (b) to hold a hearing to decide whether to make the order,
it shall give each party likely to be affected by the order at least 5 days' notice of the hearing.
- (4) The court may make an order of its own initiative without hearing the parties or giving them an opportunity to make representations.
- (5) Where the court has made an order under paragraph (4) —
 - (a) a party affected by the order may apply to have it set aside, varied or stayed; and
 - (b) the order must contain a statement of the right to make such an application.
- (6) An application under paragraph (5)(a) must be made —
 - (a) within such period as may be specified by the court; or
 - (b) if the court does not specify a period, within 7 days beginning with the date on which the order was served on the party making the application.

1.9 Sanctions have effect unless defaulting party obtains relief

- (1) Where a party has failed to comply with a rule, practice direction or court order, any sanction for failure to comply imposed by the rule, practice



direction or court order has effect unless the party in default applies for and obtains relief from the sanction.

- (2) Where the sanction is the payment of costs, the party in default may only obtain relief by appealing against the order for costs.
- (3) Where a rule, practice direction or court order —
 - (a) requires a party to do something within a specified time; and
 - (b) specifies the consequence of failure to comply,the time for doing the act in question may not be extended by agreement between the parties.

1.10 Relief from sanctions

- (1) On an application for relief from any sanction imposed for a failure to comply with any rule, practice direction or court order the court shall consider all the circumstances including —
 - (a) the interests of the administration of justice;
 - (b) whether the application for relief has been made promptly;
 - (c) whether the failure to comply was intentional;
 - (d) whether there is a good explanation for the failure;
 - (e) the extent to which the party in default has complied with other rules, practice directions, court orders and any relevant pre-action protocol;
 - (f) whether the failure to comply was caused by the party or the party's legal representative;
 - (g) whether the hearing date or the likely hearing date can still be met if relief is granted;
 - (h) the effect which the failure to comply had on each party; and
 - (i) the effect which the granting of relief would have on each party or a child whose interest the court considers relevant.
- (2) An application for relief must be supported by evidence.

1.11 General power of the court to rectify matters where there has been an error of procedure

Where there has been an error of procedure such as a failure to comply with a rule or practice direction —

- (a) the error does not invalidate any step taken in the proceedings unless the court so orders; and
- (b) the court may make an order to remedy the error.

PART II – PRELIMINARY

2.1 Application of other rules

- (1) Subject to the provisions of these Rules and of any enactment, the Grand Court Rules shall apply, with the necessary modifications, to family proceedings in the Grand Court.
- (2) For the purposes of paragraph (1), any provision of these Rules authorising or requiring anything to be done in Children Law proceedings shall be treated as if it were, in the case of proceedings pending in the Grand Court, a provision of the Rules of the Grand Court.
- (3) Subject to the provisions of these Rules and of any enactment, the *Children Law (Forms) Rules, 2013* shall apply, with the necessary modifications, to proceedings under these Rules.

2.2 Computation of time

- (1) Any period of time fixed by these Rules, or by any rules applied by these Rules, or by any decree, judgment, order or direction for doing any act shall be reckoned in accordance with the following provisions of this rule.
- (2) Where the act is required to be done not less than a specified period before a specified date, the period starts immediately after the date on which the act is done and ends immediately before the specified date.
- (3) Where the act is required to be done within a specified period after or from a specified date, the period starts immediately after that date.
- (4) Where, apart from this paragraph, the period in question, being a period of 7 days or less, would include a day which is not a business day, that day shall be excluded.
- (5) Where the time so fixed for doing an act in the court office expires on a day on which the office is closed, and for that reason the act cannot be done on that day, the act shall be in time if done on the next day on which the office is open.
- (6) In these Rules, “business day” means any day other than —
 - (a) a Saturday, Sunday, Christmas Day or Good Friday; or
 - (b) a public holiday as defined by the *Public Holidays Law (2007 Revision)*

PART III - PROCEEDINGS UNDER THE CHILDREN LAW (2012 REVISION)

3.1 Interpretation and application

- (1) In this Part of these Rules, unless a contrary intention appears —



“**application**” means an application made under or by virtue of the Law or under these Rules, and “**applicant**” shall be construed accordingly;

“**care order**” has the meaning assigned by section 33(8);

“**child**” has the meaning assigned by section 2(1);

“**court**” means the Grand Court or a Grand Court Judge;

“**Department**” means the Department having responsibility for the welfare of children;

“**directions appointment**” means a hearing for directions under rule 3.14(2);

“**education supervision order**” has the meaning assigned by section 38(2);

“**emergency protection order**” means an order under section 46;

“**family proceedings**” has the meaning assigned by section 10(3);

“**form**” means a form in the *Children Law (Forms) Rules, 2013* with such variation as the circumstances of the particular case may require;

“**guardian ad litem**” means a guardian *ad litem*, appointed under section 43, of the child with respect to whom the proceedings are brought;

“**Law**” means the *Children Law (2012 Revision)*;

“**leave**” includes permission and approval;

“**note**” includes a record of proceedings made by mechanical means;

“**parental responsibility**” has the meaning assigned by section 5;

“**proper officer**” means the Clerk of Court or other officer of the court acting on his behalf with directions given by the Chief Justice;

“**recovery order**” means an order under section 53;

“**schedule**” means the Schedule so numbered in the Law;

“**section**” means the section so numbered in the Law;

“**section 10 order**” has the meaning assigned by section 10(2);

“**specified proceedings**” has the meaning assigned to it by section 43(6) and rule 3.2(2);

“**supervision order**” has the meaning ascribed by section 33(8) of the Law; and

“**welfare officer**” means a person who has been asked to prepare a welfare report under section 9.

- (2) Except where the contrary intention appears, the provisions of this Part apply to proceedings in the Grand Court —
- (a) on an application for a section 10 order;
 - (b) on an application for a care order or a supervision order;

- (c) on an application under section 6(1)(a), 6(3), 7(1), 8(7), 15(1), 18(6), 35(6), 36(2), 36(3), 36(4), 36(9), 38(1), 40(8)(b), 41(1), 41(2), 41(3), 41(4), 45(1), 45(12), 46, 48, 49(7), 51(9), or 53(1);
- (d) under Schedule 1, except where financial relief is also sought by or on behalf of an adult;
- (e) on an application under paragraph 6(2), 14(2) or 16(1) of Schedule 3;
- (f) on an application under paragraph 11(3) or 13(2) of Schedule 10; and
- (g) under section 27.

3.2 Matters prescribed for the purposes of the Law

- (1) The parties to proceedings in which directions are given under section 40(6), and any person named in such a direction, form the prescribed class for the purposes of section 40(8) (application to vary directions made with interim care or interim supervision order).
- (2) The following proceedings are specified for the purposes of section 43 (6) —
 - (a) proceedings under section 27;
 - (b) applications under section 35(6);
 - (c) applications under paragraph 6(2) of Schedule 3; and
 - (d) appeals against the determination of proceedings of a kind set out in subparagraphs(a) to (c).
- (3) The applicant for an order that has been made under section 45(1) and the persons referred to in section 45(11) may, in any circumstances, apply under section 45(12) for a child assessment order to be varied or discharged.
- (4) The following persons form the prescribed class for the purposes of section 47(3)(b) (application to vary directions) —
 - (a) the parties to the application for the order in respect of which it is sought to vary the directions;
 - (b) the guardian *ad litem*;
 - (c) the Department; and
 - (d) any person who is named in the directions.

3.3 Application for leave to commence proceedings

- (1) Where the leave of the court is required to bring any proceedings to which this Part applies, the person seeking leave shall file —
 - (a) a written request for leave in Form C3 setting out the reasons for the application; and
 - (b) a draft of the application (being the documents referred to in rule 3.4(2)) for the making of which leave is sought, together with sufficient copies for one to be served on each respondent.



- (2) On considering a request for leave filed under paragraph (1), the court shall —
 - (a) grant the request, whereupon the proper officer shall inform the person making the request of the decision; or
 - (b) direct that a date be fixed for the hearing of the request, whereupon the proper officer shall fix such a date and give such notice of the date so fixed as the court directs to the person making the request and to such other persons as the court requires to be notified.
- (3) Where leave is granted to bring proceedings to which this Part applies the application shall proceed in accordance with rule 3.4 but paragraph (1)(a) of that rule shall not apply.
- (4) In the case of a request for leave to bring any proceedings specified under the *Children Law* (Forms) Rules, 2013, the draft application under paragraph (1) (b) shall be accompanied by a statement in Form C10 setting out the financial details which the person seeking leave believes to be relevant to the request and containing a declaration that it is true to the maker's best knowledge and belief, together with sufficient copies for one to be served on each respondent.

3.4 Application

- (1) Subject to paragraph (5), an applicant shall —
 - (a) file the documents referred to in paragraph (2) (which documents shall together be called 'the application') together with sufficient copies for one to be served in each respondent, and
 - (b) serve a copy of the application, together with Form C4 and such (if any) of Forms C6 and C10 as are given to him by the proper officer under paragraph (2)(c) on each respondent such minimum number of days prior to the date fixed under paragraph 2(a) as is specified for that application in the Schedule to these Rules.
- (2) The documents to be filed under paragraph (1)(a) are —
 - (a) whichever is appropriate in Forms C1 to C5 and such of the supplemental Forms C9 or C11 to C21 as may be appropriate; or
 - (b) where there are no appropriate forms a statement in writing of the order sought,and, where the application is made in respect of more than one child, all the children shall be included in the application.
- (3) On receipt of the documents filed under paragraph (1)(a) the proper officer shall —
 - (a) fix the date for a hearing or a directions appointment, allowing sufficient time for the applicant to comply with paragraph (1)(b);

- (b) endorse the date so fixed upon Form C4 and, where appropriate, Form 5; and
 - (c) return forthwith to the applicant the copies of the application and Form C10 if filed with it, together with Form C4 and such Forms C5 and C6 as are appropriate.
- (4) The applicant shall, at the same time as complying with paragraph (1)(b), serve Form C5 on the persons set out for the relevant class of proceedings as specified in the Schedule to these Rules.
- (5) An application for —
- (a) a section 10 order;
 - (b) an emergency protection order;
 - (c) a warrant under section 51 (9); or
 - (d) a recovery order,
- may be made *ex parte* in which case the applicant shall —
- (i) file the application in the appropriate form —
 - a. where the application is made by telephone, within 24 hours after the making of the application; or
 - b. in any other case, at the time when the application is made; and
 - (ii) in the case of an application for a section 10 order or an emergency protection order, serve a copy of the application on each respondent within 48 hours after the making of the order.
- (6) Where the court refuses to make an order on an *ex parte* application it may direct that the application be made inter partes.
- (7) In the case of proceedings specified under the *Children Law* (Forms) Rules, 2013 the application under paragraph (1) shall be accompanied by a statement in Form C10 setting out the financial details which the applicant believes to be relevant to the application, together with sufficient copies for one to be served on each respondent.

3.5 Withdrawal of application

- (1) An application may be withdrawn only with leave of the court.
- (2) Subject to paragraph (3), a person seeking leave to withdraw an application shall file and serve on the parties a written request for leave setting out the reasons for the request.
- (3) The request under paragraph (2) may be made orally to the court if the parties and either the guardian *ad litem* or the welfare officer are present.
- (4) Upon receipt of a written request under paragraph (2) the court shall —
 - (a) if —



- (i) the parties consent in writing;
 - (ii) the guardian *ad litem* has had an opportunity to make representations; and
 - (iii) the court thinks fit,
- grant the request, in which case the proper officer shall notify the parties, the guardian *ad litem* and the welfare officer of the granting of the request; or
- (b) direct that a date be fixed for the hearing of the request, in which case, the proper officer shall give at least 7 days' notice to the parties, the guardian *ad litem* and the welfare officer, of the date fixed.

3.6 Transfer from summary court to Grand Court

- (1) Where an application is made, in accordance with the Children (Allocation of Proceedings) Order, 2013 under the provisions of section 85 for directions transferring proceedings from the summary court (whether or not following the refusal of the summary court to order such a transfer), the applicant shall —
 - (a) file the application in Form C3, together with a copy of any certificate issued by the summary court; and
 - (b) serve a copy of the documents mentioned in sub-paragraph (a) personally on all parties to the proceedings which the applicant is seeking to have transferred,
within 2 days after receipt by the applicant of the certificate.
- (2) Within 2 days after receipt of the documents served under paragraph (1)(b), any party other than the applicant may file written representations.
- (3) The court shall, not before the fourth day after the filing of the application under paragraph (1), unless the parties consent to earlier consideration, consider the application and either —
 - (a) grant the application, whereupon the proper officer shall inform the parties of that decision; or
 - (b) direct that a date be fixed for the hearing of the application, whereupon the proper officer shall fix such a date and give not less than 1 day's notice to the parties of the date so fixed.

3.7 Parties

- (1) The respondents to proceedings to which this Part applies shall be those persons set out in the relevant part in the Schedule to these Rules.
- (2) In proceedings to which this Part applies, a person may file a request in Form C3 that he or another person —
 - (a) be joined as a party; or

- (b) cease to be a party.
- (3) On considering a request under paragraph (2) the court shall, subject to paragraph (4) —
 - (a) grant it without a hearing or representations, save that this shall be done only in the case of a request under paragraph (2)(a), whereupon the proper officer shall inform the parties and the person making the request of that decision; or
 - (b) order that a date be fixed for the consideration of the request, whereupon the proper officer shall give notice of the date so fixed, together with a copy of the request —
 - (i) in the case of a request under paragraph (2)(a), to the applicant; and
 - (ii) in the case of a request under paragraph (2)(b), to the parties, or
 - (c) invite the parties or any of them to make written representations, within a specified period, as to whether the request should be granted; and upon the expiry of the period the court shall act in accordance with sub-paragraph (a) or (b).
- (4) Where a person with parental responsibility requests that he be joined under paragraph (2)(a), the court shall grant his request.
- (5) In proceedings to which this Part applies the court may direct —
 - (a) that a person who would not otherwise be a respondent under these Rules be joined as a party to the proceedings; or
 - (b) that a party to the proceedings cease to be a party.

3.8 Service

- (1) Subject to the requirement in rule 3.6(1)(b) of personal service and to any Practice Direction, where service of a document is required under this Part (and not by a provision to which section 97(1) applies (service of notice or other document under the Law) it may be effected —
 - (a) if the person to be served is not known by the person serving to be acting by an attorney-at-law —
 - (i) by delivering it to him personally; or
 - (ii) by delivering it at, or by sending it by registered post to his residence or his last known residence; or
 - (b) if the person to be served is known by the person serving to be acting by an attorney-at-law —
 - (i) by delivering the document at, or sending it by registered post to, the address for service of the attorney-at-law;
 - (ii) where the address for service of the attorney-at-law includes a numbered P.O. Box, by posting the document to that P.O. Box; or



- (iii) by sending a legible copy of the document by facsimile transmission to the office of the attorney-at-law.
- (2) Where a child who is a party to proceedings to which this Part applies is required by these Rules or other rules of court to serve a document, service shall be effected by —
- (a) the attorney-at-law acting for the child;
 - (b) where there is no such attorney-at-law, the guardian *ad litem*; or
 - (c) where there is neither such an attorney-at-law nor a guardian *ad litem*, the court.
- (3) Service of any document on a child shall, subject to any direction of the court, be effected by service on —
- (a) the attorney-at-law acting for the child;
 - (b) where there is no such attorney-at-law, the guardian *ad litem*; or
 - (c) where there is neither such an attorney-at-law nor a guardian *ad litem*, with leave of the court, the child.
- (4) Where the court refuses leave under paragraph (3)(c) it shall give a direction under paragraph (7).
- (5) A document shall, unless the contrary is proved, be deemed to have been served —
- (a) in the case of service by registered post on the third business day after posting; and
 - (b) in the case of service in accordance with paragraph (1)(b)(ii), on the third business day after the day on which it is posted to the P.O. Box.
- (6) At or before the first directions appointment in, or hearing of, proceedings to which this Part applies the applicant shall file a statement in Form C8 that service of —
- (a) a copy of the application has been effected on each respondent; and
 - (b) notice of the proceedings has been effected under rule 3.4(4),
- and the statement shall indicate —
- (i) the manner, date, time and place of service; or
 - (ii) where service was effected by post, the date, time and place of posting.
- (7) In proceedings to which this Part applies, where these Rules or other rules of court require a document to be served, the court may, without prejudice to any power under rule 3.14, direct that —
- (a) the requirement shall not apply;

- (b) the time specified by the rules for complying with the requirement shall be abridged to such extent as may be specified in the direction; and
- (c) service shall be effected in such manner as may be specified in the direction.

3.9 Answer to application

- (1) Within 14 days of service of an application for a section 10 order or an application specified under the *Children Law* (Forms) Rules, 2013, each respondent shall file, and serve on the parties, an acknowledgement of the application in Form C6.
- (2) Following service of an application to which this Part applies, other than an application under rule 3.3 or for a section 10 order, a respondent may, subject to paragraph (3), file a written answer, which shall be served on the other parties.
- (3) An answer under paragraph (2) shall, except in the case of an application under section 27, 33, 36, 40, 45, 46, 48, 49, 51 or 53, be filed, and served, not less than 2 days before the date fixed for the hearing of the application.

3.10 Appointment of guardian *ad litem*

- (1) As soon as practicable after the commencement of specified proceedings, or the transfer of such proceedings to the court, the court shall appoint a guardian *ad litem*, unless —
 - (a) such an appointment has already been made by the court which made the transfer and is subsisting; or
 - (b) the court considers that such an appointment is not necessary to safeguard the interests of the child.
- (2) At any stage in specified proceedings a party may apply, without notice to the other parties unless the court directs otherwise, for the appointment of a guardian *ad litem*.
- (3) The court shall grant an application under paragraph (2) unless it considers such an appointment not to be necessary to safeguard the interests of the child, in which case it shall give its reasons; and a note of such reasons shall be taken by the court or the proper officer.
- (4) At any stage in specified proceedings the court may, of its own motion, appoint a guardian *ad litem*.
- (5) The proper officer shall, as soon as practicable, notify the parties and any welfare officer of an appointment under this rule or of a decision not to make such an appointment.



- (6) Upon the appointment of a guardian *ad litem* the proper officer shall, as soon as practicable, notify him of the appointment and serve on him copies of the application and of documents filed under rule 3.17(1).
- (7) When appointing a guardian *ad litem* the court shall consider the appointment of anyone who has previously acted as guardian *ad litem* of the same child.
- (8) The appointment of a guardian *ad litem* under this rule shall continue for such time as is specified in the appointment or until terminated by the court.
- (9) When terminating an appointment in accordance with paragraph (8), the court shall give its reasons in writing for so doing in Form C44.
- (10) Where the court appoints a guardian *ad litem* in accordance with this rule or refuses to make such an appointment, the court or the proper officer shall record the appointment or refusal in Form C45.

3.11 Powers and duties of guardian *ad litem*

- (1) In carrying out his duty under section 43(2), the guardian *ad litem* shall have regard to the principle set out in section 3(1) and the matters set out in section 3(3)(a) to (f) as if for the word “court” in that section there were substituted the words “guardian *ad litem*”.
- (2) The guardian *ad litem* shall —
 - (a) appoint an attorney-at-law to represent the child unless such an attorney-at-law has already been appointed; and
 - (b) give such advice to the child as is appropriate having regard to his understanding and, subject to rule 3.12(1)(a), instruct the attorney-at-law representing the child on all matters relevant to the interests of the child, including possibilities for appeal, arising in the course of the proceedings.
- (3) Where it appears to the guardian *ad litem* that the child —
 - (a) is instructing his attorney-at-law directly; or
 - (b) intends to, and is capable of, conducting the proceedings on his own behalf,he shall so inform the court and thereafter —
 - (i) shall perform all of his duties set out in this rule, other than duties under paragraph (2)(a) and such other duties as the court may direct;
 - (ii) shall take such part in the proceedings as the court may direct; and
 - (iii) may, with leave of the court, have legal representation in his conduct of those duties.

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- (4) The guardian *ad litem* shall, unless excused by the court, attend all directions appointments in and hearings of the proceedings and shall advise the court on the following matters —
- (a) whether the child is of sufficient understanding for any purpose including the child's refusal to submit to a medical or psychiatric examination or other assessment that the court has power to require, direct or order;
 - (b) the wishes of the child in respect of any matter relevant to the proceedings, including his attendance at court;
 - (c) the appropriate forum for the proceedings;
 - (d) the appropriate timing of the proceedings or any part of them;
 - (e) the options available to the court in respect of the child and the suitability of each such option including what order should be made in determining the application; and
 - (f) any other matter concerning which the court seeks his advice or concerning which he considers that the court should be informed.
- (5) The advice given under paragraph (4) may, subject to any order of the court, be given orally or in writing; and if the advice is given orally, a note of it shall be taken by the court or the proper officer.
- (6) The guardian *ad litem* shall, where practicable, notify any person whose joinder as a party to those proceedings would be likely, in the guardian *ad litem*'s opinion, to safeguard the interests of the child, of that person's right to apply to be joined under rule 3.7(2) and shall inform the court —
- (a) of any such notification given;
 - (b) of anyone whom he attempted to notify under this paragraph but was unable to contact; and
 - (c) of anyone whom he believes may wish to be joined to the proceedings.
- (7) The guardian *ad litem* shall, unless the court otherwise directs, not less than 7 days before the date fixed for the final hearing of the proceedings, file a written report advising on the interests of the child; and the proper officer shall, as soon as practicable, serve a copy of the report on the parties.
- (8) The guardian *ad litem* shall serve and accept service of documents on behalf of the child in accordance with rule 3.8(2)(b) and (3)(b) and, where the child has not himself been served, and has sufficient understanding, advise the child of the contents of any document so served.
- (9) The guardian *ad litem* shall conduct such investigations as may be necessary for him to carry out his duties and shall, in particular —
- (a) contact or seek to interview such persons as he thinks appropriate or as the court directs;



- (b) if he inspects records of the kinds referred to in section 44, bring to the attention of the court and such other persons as the court may direct all such records and documents which may, in his opinion, assist in the proper determination of the proceedings; and
 - (c) obtain such professional assistance as is available to him which he thinks appropriate or which the court directs him to obtain.
- (10) In addition to his duties under other paragraphs of this rule, the guardian *ad litem* shall provide to the court such other assistance as it may require.
- (11) A party may question the guardian *ad litem* about oral or written advice tendered by him to the court under this rule.

3.12 Attorney-at-law for child

- (1) An attorney-at-law appointed under section 43(3) or in accordance with rule 3.11(2)(a) shall represent the child —
- (a) in accordance with instructions received from the guardian *ad litem* unless the attorney-at-law considers, having taken into account the views of the guardian *ad litem* and any direction of the court under rule 3.11(3), that the child wishes to give instructions which conflict with those of the guardian *ad litem* and that he is able, having regard to his understanding, to give such instructions on his own behalf, in which case, he shall conduct the proceedings in accordance with instructions received from the child;
 - (b) where no guardian *ad litem* has been appointed for the child and the condition in section 43(4)(b) is satisfied, in accordance with instructions received from the child; or
 - (c) in default of instructions under (a) or (b), in furtherance of the best interests of the child.
- (2) An attorney-at-law appointed under section 43(3) or in accordance with rule 3.11(2)(a) shall serve and accept service of documents on behalf of the child in accordance with rule 3.8(2)(a) and (3)(a) and, where the child has not himself been served and has sufficient understanding, advise the child of the contents of any document so served.
- (3) Where the child wishes an appointment of an attorney-at-law under section 43(3) or in accordance with rule 3.11(2)(a) to be terminated, he may apply to the court for an order terminating the appointment; and the attorney-at-law and the guardian *ad litem* shall be given an opportunity to make representations.
- (4) Where the guardian *ad litem* wishes an appointment of an attorney-at-law under section 43(3) to be terminated, he may apply to the court for an order terminating the appointment; and the attorney-at-law and, if he is of sufficient

understanding, the child, shall be given an opportunity to make representations.

- (5) When terminating an appointment in accordance with paragraph (3) or (4), the court shall give its reasons in Form C47 for so doing, a note of which shall be taken by the court or the proper officer.
- (6) Where the court appoints an attorney-at-law under section 43(3) or refuses to make such an appointment, the court or the proper officer shall record the appointment in Form C46 or refusal in Form C48.

3.13 Welfare officer

- (1) Where the court has directed that a written report be made by a welfare officer, the report shall be filed at or by such time as the court directs or, in the absence of such a direction, at least 14 days before a relevant hearing; and the proper officer shall, as soon as practicable, serve a copy of the report on the parties and any guardian *ad litem*.
- (2) In paragraph (1), a hearing is relevant if the proper officer has given the welfare officer notice that his report is to be considered at it.
- (3) The welfare officer shall, unless excused by the court, attend a hearing if the proper officer gives him notice that his report will be given or considered at that hearing; and any party may question the welfare officer about his report at such a hearing.
- (4) This rule is without prejudice to any power to give directions under rule 3.14.

3.14 Directions

- (1) In this rule, “party” includes the guardian *ad litem* and, where a request or a direction concerns a report under section 9, the welfare officer.
- (2) In proceedings to which this Part applies the court may, subject to paragraph (3), give, vary or revoke directions for the conduct of the proceedings, including —
 - (a) the timetable for the proceedings;
 - (b) varying the time within which or by which an act is required, by these Rules or by other rules or court, to be done;
 - (c) the attendance of the child;
 - (d) the appointment of a guardian *ad litem*, whether under section 43 or otherwise, or of an attorney-at-law under section 43(3);
 - (e) the service of documents;
 - (f) the submission of evidence including experts’ reports;
 - (g) the preparation of welfare reports under section 9;
 - (h) the transfer of the proceedings to another court; and



- (i) consolidation with other proceedings.
- (3) Directions under paragraph (2) may be given, varied or revoked either —
- (a) of the court’s own motion having given the parties notice of its intention to do so, and an opportunity to attend and be heard or to make written representations;
 - (b) on the application in Form C3 of a party specifying the direction which is sought, filed and served on the other parties; or
 - (c) on the application in Form C3 of a party specifying the direction which is sought, to which the other parties consent and which they or their representatives have signed.
- (4) In an urgent case the request under paragraph (3)(b) may, with the leave of the court, be made —
- (a) orally;
 - (b) without notice to the parties; or
 - (c) both as in sub-paragraphs (a) and (b).
- (5) On receipt of an application under paragraph (3)(b) the proper officer shall fix a date for the hearing of the request and give not less than 2 days’ notice in Form C4 to the parties of the date so fixed.
- (6) On considering an application under paragraph (3)(c) the court shall either —
- (a) grant the request, whereupon the proper officer shall inform the parties of the decision, or
 - (b) direct that a date be fixed for the hearing of the application, whereupon the proper officer shall fix such a date and give not less than 2 days’ notice to the parties of the date so fixed.
- (7) A party may apply for an order to be made under section 13(3) or, if he is entitled to apply for such an order, under section 40(1) in accordance with paragraph (3)(b) or (c).
- (8) Where a court is considering making, of its own motion, a section 10 order, or an order under section 33, 36 or 40, the power to give directions under paragraph (2) shall apply.
- (9) Directions of a court (which are still in force immediately prior to the transfer of proceedings to which this Part applies) to another court shall continue to apply following the transfer, subject to any changes of terminology which are required to apply those directions to the court to which the proceedings are transferred, unless varied or discharged by directions under paragraph (2).
- (10) The court or the proper officer shall take a note of the giving, variation or revocation of a direction under this rule and serve, as soon as practicable, a

copy of the note on any party who was not present at the giving, variation or revocation.

3.15 Timing of proceedings

- (1) Where these Rules or other rules of court provide a period of time within which or by which a certain act is to be performed in the course of proceedings to which this Part applies, that period may not be extended otherwise than by direction of the court under rule 3.14.
- (2) At the —
 - (a) transfer to a court of proceedings to which this Part applies;
 - (b) postponement or adjournment of any hearing or directions appointment in the course of proceedings to which this Part applies; or
 - (c) conclusion of any such hearing or directions appointment other than one at which the proceedings are determined, or so soon thereafter as is practicable,the court or the proper officer shall —
 - (i) fix a date upon which the proceedings shall come before the court again for such purposes as the court directs, which date shall, where paragraph (a) applies, be as soon as possible after the transfer; and
 - (ii) give notice to the parties, the guardian *ad litem* or the welfare officer of the date so fixed.

3.16 Attendance at directions appointment and hearing

- (1) Subject to paragraph (2), a party shall attend a directions appointment of which he has been given notice in accordance with rule 3.14(5) unless the court otherwise directs.
- (2) Proceedings or any part of them shall take place in the absence of any party, including the child, if —
 - (a) the court considers it in the interests of the child, having regard to the matters to be discussed or the evidence likely to be given; and
 - (b) the party is represented by a guardian *ad litem* or attorney-at-law,and when considering the interests of the child under sub-paragraph (a) the court shall give the guardian *ad litem*, the attorney-at-law for the child and, if he is of sufficient understanding, the child an opportunity to make representations.
- (3) Subject to paragraph (4), where at the time and place appointed for a hearing or directions appointment the applicant appears but one or more of the respondents do not, the court may proceed with the hearing or appointment.



- (4) The court shall not begin to hear an application in the absence of a respondent unless —
 - (a) It is proved to the satisfaction of the court that he received reasonable notice of the date of the hearing; or
 - (b) the court is satisfied that the circumstances of the case justify proceeding with the hearing.
- (5) Where, at the time and place appointed for a hearing or directions appointment one or more of the respondents appear but the applicant does not, the court may refuse the application or, if sufficient evidence has previously been received, proceed in the absence of the applicant.
- (6) Where at the time and place appointed for a hearing or directions appointment neither the applicant nor any respondent appears, the court may refuse the application.
- (7) Unless the court otherwise directs, a hearing of, or directions appointment in, proceedings to which this Part applies shall be in chambers.

3.17 Documentary evidence

- (1) Subject to paragraphs (4) and (5), in proceedings to which this Part applies, a party shall file and serve on the parties, any welfare officer and any guardian *ad litem* of whose appointment he has been given notice under rule 3.10(5) —
 - (a) written statements of the substance of the oral evidence which the party intends to adduce at a hearing of, or a directions appointment in, those proceedings, which shall —
 - (i) be dated;
 - (ii) be signed by the person making the statement;
 - (iii) contain a declaration that the maker of the statement believes it to be true and understands that it may be placed before the court; and
 - (iv) show in the top right hand corner of the first page —
 - a. the initials and surname of the person making the statement;
 - b. the number of the statement in relation to the maker;
 - c. the date on which the statement was made; and
 - d. the party on whose behalf it is filed; and
 - (b) copies of any documents, including experts' reports, upon which the party intends to rely at a hearing of, or a directions appointment in, those proceedings,

at or by such time as the court directs or, in the absence of a direction, before the hearing or appointment.

- (2) A party may, subject to any direction of the court about the timing of statements under this rule, file and serve on the parties a statement which is supplementary to a statement served under paragraph (1).
- (3) At a hearing or a directions appointment a party may not, without the leave of the court —
 - (a) adduce evidence; or
 - (b) seek to rely on a document,in respect of which he has failed to comply with the requirements of paragraph (1).
- (4) In proceedings for a section 10 order a party shall —
 - (a) neither file nor serve any document other than as required or authorised by these Rules; and
 - (b) in completing a form prescribed by these Rules, neither give information, nor make a statement, which is not required or authorised by that form, without the leave of the court.
- (5) In proceedings for a section 10 order no statement or copy may be filed under paragraph (1) until such time as the court directs.

3.18 Expert evidence - examination of child

- (1) No person may, without the leave of the court, cause a child to be medically or psychiatrically examined, or otherwise assessed, for the purpose of the preparation of expert evidence for use in the proceedings.
- (2) An application for leave under paragraph (1) shall, unless the court otherwise directs, be served on all parties to the proceedings and on the guardian *ad litem*.
- (3) Where the leave of the court has not been given under paragraph (1), no evidence arising out of an examination or assessment to which that paragraph applies may be adduced without the leave of the court.

3.19 Amendment

- (1) Subject to rule 3.17(2), a document which has been filed or served in proceedings to which this Part applies, may not be amended without the leave of the court which shall, unless the court otherwise directs, be requested in writing.
- (2) On considering a request for leave to amend a document the court shall either —
 - (a) grant the request, whereupon the proper officer shall inform the person making the request of that decision; or



- (b) invite the parties or any of them to make representations, within a specified period, as to whether such an order should be made.
- (3) A person amending a document shall file it and serve it on those persons on whom it was served prior to amendment; and the amendments shall be identified.

3.20 Oral evidence

The court or the proper officer shall keep a note of the substance of the oral evidence given at a hearing of, or directions appointment in, proceedings to which this Part applies.

3.21 Hearing

- (1) The court may give directions as to the order of speeches and evidence at a hearing, or directions appointment, in the course of proceedings to which this Part applies.
- (2) Subject to directions under paragraph (1), at a hearing of, or directions appointment in, proceedings to which this Part applies, the parties and the guardian *ad litem* shall adduce their evidence in the following order —
 - (a) the applicant;
 - (b) any party with parental responsibility for the child;
 - (c) other respondents;
 - (d) the guardian *ad litem*; and
 - (e) the child, if he is a party to the proceedings and there is no guardian *ad litem*.
- (3) After the final hearing of proceedings to which this Part applies, the court shall deliver its judgment as soon as is practicable.
- (4) When making an order or when refusing an application, the court shall —
 - (a) where it makes findings of fact state such finding and complete Form C23; and
 - (b) state the reasons for the court's decision
- (5) An order made in proceedings to which this Part applies shall be recorded, by the court or the proper officer, either in the appropriate form or, where there is no such form, in writing.
- (6) Subject to paragraph (7), a copy of an order made in accordance with paragraph (5) shall, as soon as practicable after it has been made, be served by the proper officer on the parties to the proceedings in which it was made and on any person with whom the child is living.
- (7) Within 48 hours after the making *ex parte* of —

- (a) a section 10 order; or
 - (b) an order under section 46, 51(4), 51(9) or 53,
- the applicant shall serve a copy of the order in the appropriate form on —
- (i) each party;
 - (ii) any person who has actual care of the child or who had such care immediately prior to the making of the order; and
 - (iii) in the case of an order referred to in sub-paragraph (b), the Department.
- (8) At a hearing of, or directions appointment in, an application which takes place outside the hours during which the court office is normally open, the court or the proper officer shall take a note of the substance of the proceedings.

3.22 Appeals

- (1) Where an appeal lies to the Grand Court under section 87, it shall be made in accordance with the provisions of this rule; and references to “the court below” are references to the court from which, or person from whom, the appeal lies.
- (2) The appellant shall file and serve on the parties to the proceedings in the court below, and on any guardian *ad litem* —
 - (a) notice of the appeal in writing, setting out the grounds upon which he relies;
 - (b) a certified copy of the summons or application and of the order appealed against, and of any order staying its execution;
 - (c) a copy of any notes of the evidence; and
 - (d) a copy of any reasons given for the decision.
- (3) The notice of appeal shall be filed and served —
 - (a) within 14 days after the determination against which the appeal is brought;
 - (b) in the case of an appeal against an order under section 40(1), within 7 days after the making of the order; or
 - (c) with the leave of the court to which, or judge to whom, the appeal is to be brought, within such other time as that court or judge may direct.
- (4) The documents mentioned in paragraph (2)(b) to (d) shall, subject to any direction of the court to which, or judge to whom, the appeal is to be brought, be filed and served as soon as practicable after the filing and service of the notice of appeal under paragraph (2)(a).
- (5) Subject to paragraph (6), a respondent who wishes —



- (a) to contend on the appeal that the decision of the court below should be varied, either in any event or in the event of the appeal being allowed in whole or in part; or
- (b) to contend that the decision of the court below should be affirmed on grounds other than those relied upon by that court; or
- (c) to contend by way of cross-appeal that the decision of the court below was wrong in whole or in part,

shall, within 14 days of receipt of notice of the appeal, file and serve on all other parties to the appeal a notice in writing, setting out the grounds upon which he relies.

- (6) No notice under paragraph (5) may be filed or served in an appeal against an order under section 40.
- (7) In the case of an appeal mentioned in paragraph (1), an application to —
 - (a) withdraw the appeal;
 - (b) have the appeal dismissed with the consent of all the parties; or
 - (c) amend the grounds of appeal,may be heard by the Clerk of Court.
- (8) An appeal of the kind mentioned in paragraph (1) shall, unless the Chief Justice otherwise directs, be heard and determined by a single judge.

3.23 Confidentiality of documents

- (1) Notwithstanding any rule of court to the contrary, no document, other than a record of an order, held by the court and relating to proceedings to which this Part applies shall be disclosed, other than to —
 - (a) a party;
 - (b) the legal representative of a party;
 - (c) the guardian *ad litem*; or
 - (d) a welfare officerwithout leave of the court.
- (2) Nothing in this rule shall prevent the notification by the court or the proper officer of a direction under section 39(1) to the Department.

3.24 Notification of consent

Consent for the purposes of section 18(3) or section 35(6) shall be given either orally in court or in writing to the court signed by the person giving his consent.

3.25 Secure accommodation - evidence

In proceedings under section 27, the court shall, if practicable, arrange for copies of all written reports before it to be made available before the hearing to —

- (a) the applicant;
- (b) the parent or guardian of the child;
- (c) any legal representative of the child;
- (d) the guardian *ad litem*; and
- (e) the child, unless the court otherwise directs;

and copies of such reports may, if the court considers it desirable, be shown to any person who is entitled to notice of the proceedings in accordance with these rules.

3.26 Investigation under section 39

- (1) This rule applies where a direction is given to the Department by the Grand Court under section 39(1).
- (2) On giving a direction the court shall adjourn the proceedings and the court or the proper officer shall record the direction in Form C39.
- (3) A copy of the direction recorded under paragraph (2) shall, as soon as practicable after the direction is given, be served by the proper officer on the parties to the proceedings in which the direction is given and, where the Department is not a party, on the Department.
- (4) When serving the copy of the direction on the Department the proper officer shall also serve copies of such of the documentary evidence which has been, or is to be, adduced in the proceedings as the court may direct.
- (5) Where the Department informs the court of any of the matters set out in section 39(3)(a) to (c) it shall do so in writing.

3.27 Direction to the Chief Education Officer to apply for education supervision order

- (1) For the purposes of section 17 of the *Education Law (2010 Revision)* a direction by the Grand Court to the Chief Education Officer to apply for an education supervision order shall be given in writing.
- (2) Where, following such a direction, the Chief Education Officer informs the court that he has decided not to apply for an education supervision order, he shall do so in writing.



3.28 Transitional provisions

Nothing in any provision of this Part of these Rules shall affect any proceedings which are pending (within the meaning of paragraph 5 of Schedule 10) immediately before these Rules come into force.

PART IV- WARDSHIP

4.1 Application to make a child a ward of court

- (1) No child shall be made a ward of court except by virtue of an order to that effect made by a Grand Court Judge and
 - (a) where an application is made for such an order in respect of a child, the child shall become a ward of court on the making of the application, but shall cease to be a ward of court at the end of the period prescribed in rule 4.3 unless within that period an order has been made in accordance with the application;
 - (b) sub-paragraph (a) does not apply with respect to a child who is the subject of a care order; and
 - (c) the Grand Court may, either upon an application in that behalf or without such an application, order that any child who is for the time being a ward of court shall cease to be a ward of court.
- (2) An application to make a child a ward of court shall be made by originating summons and, unless the court otherwise directs, the plaintiff shall file an affidavit in support of the application when the originating summons is issued.
- (3) Rule 3.3 shall, so far as applicable, apply to an application by the Department for the leave of the court under section 92(1).
- (4) Where there is no person other than the child who is a suitable defendant, an application may be made *ex parte* to a judge for leave to issue either an *ex parte* originating summons or an originating summons with the child as defendant thereto; and, except where such leave is granted, the child shall not be made a defendant to an originating summons under this rule in the first instance.
- (5) Particulars of any summons issued under this rule shall be sent to the proper officer for recording in the Register of Wards.
- (6) The date of the child's birth shall, unless otherwise directed, be stated in the summons, and the plaintiff shall —
 - (a) on issuing the summons or before or at the first hearing thereof lodge at the Court a certified copy of the entry in the Register of Births or, as the case may be, in the Adopted Children Register relating to the child; or

- (b) at the first hearing of the summons apply for directions as to proof of birth of the child in some other manner.
- (7) The name of each party to the proceedings shall be qualified by a brief description, in the body of the summons, of his interest in, or relation to, the child.
- (8) Unless the court otherwise directs, the summons shall state the whereabouts of the child or that the plaintiff is unaware of his whereabouts.
- (9) Upon being served with the summons, every defendant other than the child shall lodge at the Registry of the Family Division of the Court notice stating the address of the defendant and the whereabouts of the child or that the defendant is unaware of his whereabouts and, unless the court otherwise directs, serve a copy of the same upon the plaintiff.
- (10) Where any party other than the child changes his address or becomes aware of any change in the whereabouts of the child after the issue or service of the summons, he shall, unless the court otherwise directs, forthwith lodge notice of the change in the registry out of which the summons issued and serve a copy of the notice on every other party.
- (11) The summons shall contain a notice to the defendant informing him of the requirements of paragraphs (8) and (9).
- (12) In this rule any reference to the whereabouts of a child is a reference to the address at which and the person with whom he is living and any other information relevant to the question where he may be found.

4.2 Enforcement of order by bailiffs

The power of the Grand Court to secure, through an officer attending upon the court, compliance with any direction relating to a ward of court may be exercised by an order addressed to the bailiffs of the court or an officer of the Royal Cayman Islands Police Service.

4.3 Where child ceases to be a ward of court

- (1) A child who, by virtue of rule 4.1, becomes a ward of court on the issue of a summons under that rule shall cease to be a ward of court —
- (a) if an application for an appointment for the hearing of the summons is not made within the period of 21 days after the issue of the summons, at the expiration of that period; or
- (b) if an application for such an appointment is made within that period, on the determination of the application made by the summons unless the court hearing it orders that the child be made a ward of court.



- (2) Nothing in paragraph (1) shall be taken as affecting the power of the court to order that any child who is for the time being a ward of court shall cease to be a ward of court.
- (3) If no application for an appointment for the hearing of a summons under rule 4.1 is made within the period of 21 days after the issue of the summons, a notice stating whether the applicant intends to proceed with the application made by the summons must be left at the registry in which the matter is proceeding immediately after the expiration of that period.
- (4) A ward of court shall cease to be a ward of court upon attaining the age of 18 unless the Court sooner makes an order to that effect.

4.4 Adoption of child who is a ward of court

- (1) An application for leave to commence proceedings to adopt a child who is a ward may be made *ex parte* to a judge.
- (2) Where the Department or the Adoption Board has been granted leave to place a child who is a ward with foster parents with a view to adoption it shall not be necessary for an application to be made for leave under paragraph (1) or unless the court otherwise directs.
- (3) If the applicant for leave under paragraph (1), the Department or Adoption Board which has applied for leave as referred to in paragraph (2), or a foster parent so requests, the court may direct that any subsequent proceedings shall be conducted with a view to securing that the proposed adopter is not seen by or made known to any respondent or prospective respondent who is not already aware of his identity except with his consent.
- (4) In paragraphs (1) and (3) “proceedings” means proceedings in the Grand Court.

SCHEDULE

Respondents to applications, persons to whom notice shall be given and minimum number of days prior to hearing or directions appointment for service under rule 3.4(1)(b)

1. All applications

Respondents- Subject to exceptions below, the respondent to an application shall be as follows —

- (a) persons who are caring for the child at the time when the proceedings are commenced;
- (b) every person whom the applicant believes to have parental responsibility for the child;
- (c) where the child is the subject of a care order, every person whom the applicant believes to have had parental responsibility immediately prior to the making of the care order;
- (d) in the case of an application to extend, vary or discharge an order, the parties to the proceedings leading to the order which it is sought to have extended, varied or discharged; and
- (e) in the case of specified proceedings, the child.

Notice- The persons who should be notified, subject to exceptions below, in any application are the following —

- (a) the Department; and
- (b) in the case of proceedings brought in respect of a child who is alleged to be staying in a refuge which is certificated under section 54(1) or (2), the person who is providing the refuge.

2. Applications made under section 10

Minimum number of days prior to hearing or directions appointment for service under rule 3.4(1)(b)- 21 days

Respondents- the respondents should be the same as for all applications above.

Notice- The persons who should be notified in any application under this paragraph are the following —

The same persons who are specified under for all applications above as well as, in the case of an application for a section 10 order, every person whom the applicant believes —

- (a) to be named in a court order with respect to the same child, which has not ceased to have effect;
- (b) to be a party to pending proceedings in respect of the same child; or

- (c) to be a person with whom the child has lived for at least 3 years prior to the application,

unless, in a case to which (i) or (ii) applies, the applicant believes that the court order or pending proceedings are not relevant to the application.

3. Applications made under the following sections —

Section 6(1)(a), 6(3), 7(1), 8(7), 15(1), 18(6), 35(6), Schedule 1, paragraph 11(3) of Schedule 10.

Minimum number of days prior to hearing or directions appointment for service under rule 4(1)(b)- 14 days

Respondents- the respondents should be the same as for all applications as well as —

- (a) in the case of proceedings under Schedule 1, those persons whom the applicant believes to be interested in or affected by the proceedings; and
- (b) in the case of an application under paragraph 11(3)(b) of Schedule 10, any person, other than the child, named in the order or directions which it is sought to discharge or vary.

Notice- The persons who should be notified in any application under this paragraph are the following —

The same persons as are specified under all applications above, and in the case of an application under section 7(1), the father of the child if he does not have parental responsibility.

4. Applications made under the following sections —

Section 38(1), 41(1), 41(2), 41(3), 41(4), 45(1), or paragraph 6(2), 14(2) or 16(1) of Schedule 3.

Minimum number of days prior to hearing or directions appointment for service under rule 4(1)(b)- 7 days.

Respondents- the respondents should be, the same as for all applications above, as well as the following —

- (a) in the case of an application under section 41(2) or (3), the supervisor;
- (b) in the case of proceedings under paragraph 16(1) of Schedule 3, the Education Department;
- (c) in the case of proceedings under section 38 or paragraph 14(2) or 16(1) of Schedule 3, the child.

Notice- The persons who should be notified in any application under this paragraph are the following —

The same persons as are specified under all applications above, and in the case of an application under section 45(1) —

- (a) every person whom the applicant believes to be a parent of the child;
- (b) every person whom the applicant believes to be caring for the child;



- (c) every person in whose favour a contact order is in force with respect to the child, and
- (d) every person who is allowed to have contact with the child by virtue of an order under section 36.

5. Applications made under the following sections —

Section 33, 36(2), 36(3), 36(4), 36(9) or 40(8)(b).

Minimum number of days prior to hearing or directions appointment for service under rule 4(1)(b)-3 days

Respondents- the respondents should be the same persons as are specified under all applications above, as well as in the case of an application under section 36, the person whose contact with the child is the subject of the application.

Notice- The persons who should be notified in any application under this paragraph are the following —

The same persons as are specified under all applications above, and in the case of an application under section 33 —

- (a) every person whom the applicant believes to be a party to pending relevant proceedings in respect of the same child, and
- (b) every person whom the applicant believes to be a parent without parental responsibility for the child.

6. Applications made under the following section —

Section 45 (12)

Minimum number of days prior to hearing or directions appointment for service under rule 4(1)(b)-2 days.

Respondents- the respondents should be the same persons as are specified under all applications above.

Notice- The persons who should be notified in any application under this paragraph are the following —

Those of the persons referred to in section 45(11)(a) to (e) who were not party to the application for the order which it is sought to have varied or discharged.

7. Applications made under the following sections —

Section 27, 46(1), 47(3)(b), 48(4), 48(8), 49(7), 51(9) or 53(1).

Minimum number of days prior to hearing or directions appointment for service under rule 4(1)(b)-1 day.

Respondents- the respondents should be the same persons as are specified under all applications above as well as —

- (a) in the case of an application under section 47(3)(b) —
 - (i) the parties to the application for the order in respect of which it is sought to vary the directions;

- (ii) any person who was caring for the child prior to the making of the order; and
- (iii) any person whose contact with the child is affected by the direction which it is sought to have varied;
- (b) in the case of an application under section 53, the person whom the applicant alleges to have effected or to have been or to be responsible for the taking or keeping of the child.

Notice- The persons who should be notified in any application under this paragraph are the following —

The same persons as are specified under all applications above and —

- (a) in the case of an application under section 46(1), every person whom the applicant believes to be a parent of the child; and
- (b) in the case of an application under section 47(3)(b) —
 - (i) the Department; and
 - (ii) any person whom the applicant believes to be affected by the direction which it is sought to have varied.

MADE by the Rules Committee of the Grand Court on the 15th day of April, 2013.

The Hon. Anthony Smellie, QC
Chief Justice

The Hon. Sam Bulgin, QC
Attorney General

Mr. Colin McKie
Legal Practitioner

Mr. Graham F. Ritchie, QC
Legal Practitioner

