



Jersey

# **CHILD CUSTODY (JURISDICTION) RULES 2005**

## **Official Consolidated Version**

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## CHILD CUSTODY (JURISDICTION) RULES 2005

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## CHILD CUSTODY (JURISDICTION) RULES 2005

**THE SUPERIOR NUMBER OF THE ROYAL COURT**, in pursuance of Article 25 of the [Child Custody \(Jurisdiction\) \(Jersey\) Law 2005](#), has made the following Rules –

Commencement [[see endnotes](#)]

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### 1 Interpretation

In these Rules –

“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;

“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;

“Court” includes the Greffier;

“Law” means the [Child Custody \(Jurisdiction\) \(Jersey\) Law 2005](#); and

“registration” means registration under the Law and “register” and “registered” shall be construed accordingly (except in relation to the registration of a Jersey order under Part I of the Family Law Act 1986 of the United Kingdom).

### 2 Application to register a Jersey order

- (1) An application under Article 16 of the Law for the registration of a Jersey order shall be made by lodging with the Greffier 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 in support of the application, with a copy thereof.

- (2) The affidavit must state –
  - (a) the name and address of the applicant and the applicant's interest under the order;
  - (b) the name and date of birth of the child in respect of whom the order was made, the child's whereabouts or suspected whereabouts and the name of any person with whom the child 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 that person;
  - (d) in which jurisdiction or jurisdictions the order is to be registered;
  - (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 order is to be registered.
- (3) If 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.
- (4) There must be exhibited to the affidavit any document relevant to the application.
- (5) Where the documents referred to in paragraphs (1) to (4) are to be sent to the appropriate court the Greffier shall –
  - (a) retain the original affidavit and send the copy of the affidavit and the other documents to the appropriate officer, indicating, if the order relates to more than one child, with respect to which child or children it is to be registered; and
  - (b) by act record the fact of transmission.
- (6) On receipt of notice of the registration of a Jersey order in the appropriate court the Greffier shall by act record the fact of registration.
- (7) If it appears to the Greffier that the Jersey order is no longer in force with respect to the child or more than one child, or that the child or more than one child has attained the age of 16, the Greffier shall refuse to send the documents to the appropriate court, or shall indicate thereon with respect to which child or children the order is not to be registered, and shall within 14 days of such refusal or indication give notice of it, and the reason for it, to the applicant.
- (8) If the Greffier refuses to send the documents to the appropriate court, the applicant may apply to the Bailiff in chambers 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.

### **3 Registration of United Kingdom orders**

On receipt of a certified copy for registration of a Part I order made in a British jurisdiction, the Greffier shall –

- (a) register the order in the register by entering particulars of –
  - (i) the name and address of the applicant and the applicant's interest under the order;
  - (ii) the name and whereabouts or suspected whereabouts of the child, the child's date of birth and the date on which the child 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 Greffe; and
- (c) give notice to the court which sent the certified copy and to the applicant for registration that the order has been registered.

#### **4 Revocation and variation of Jersey order**

- (1) Where a Jersey order which is registered in the appropriate court is revoked or varied by the Court, the Greffier shall –
  - (a) send a copy of the subsequent order to the appropriate officer; and
  - (b) by act of Court record the fact of transmission; and
  - (c) retain the subsequent order.
- (2) On receipt from the appropriate court of any amendment of its register, the Greffier shall by act record the fact of amendment.

#### **5 Registration of revoked, recalled or varied Part I order**

- (1) On receipt of a certified copy of an order made in a British jurisdiction which revokes, recalls or varies a registered order, the Greffier 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 order;
  - (c) the applicant for registration; and
  - (d) if different, the applicant for the revocation, recall or variation of the order.
- (2) An application for cancellation of registration under Article 12(2) of the Law must be made by summons.
- (3) If the applicant for the order is not the applicant under Article 12(2) of the Law, he or she must be made a defendant to the application.
- (4) If the Court cancels a registration of its own motion or on an application under paragraph (2), the Greffier shall amend the register accordingly and shall give notice of the amendment to the court which made the order.

#### **6 Interim directions**

- (1) An application for interim directions under Article 13(2) of the Law must be made by summons.

- (2) The parties to the proceedings for enforcement and, if he or she is not a party thereto, the applicant for the Part I order, must be made parties to the application.

## **7 Staying and dismissal of enforcement proceedings**

- (1) An application under Article 14 or 15 of the Law must be made by summons.
- (2) The parties to the proceedings for enforcement which are sought to be stayed and, if he or she is not a party thereto, the applicant for the Part I order, must be made parties to an application under either of those Articles.
- (3) If the Court makes an order under Article 14(2) or (3) or Article 15(2) of the Law, the Greffier shall amend the register accordingly and shall give notice of the amendment to the court which made the Part I order and to the applicants for registration, for enforcement and for the stay or dismissal of the proceedings for enforcement.

## **8 Particulars of other proceedings**

A party to proceedings for or relating to a Jersey order or a Part I order who knows of other proceedings (including proceedings out of the jurisdiction and concluded proceedings) which relate to the child concerned must file an affidavit stating –

- (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; and
- (d) if applicable and if known, the reasons why the relief claimed in the proceedings for or relating to the order was not claimed in the other proceedings.

## **9 Inspection of register**

Any of the following persons –

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

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

## **10 Tracing and recovery of children**

An application under Article 17 or Article 18 of the Law may be made *ex parte* to the Bailiff and, if made under Article 18 of the Law, must be supported by an affidavit unless the Bailiff orders otherwise.

## **11 Citation**

These Rules may be cited as the Child Custody (Jurisdiction) Rules 2005.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Child Custody (Jurisdiction) Rules 2005	<a href="#">R&amp;O.189/2005</a>	1 January 2006

### Table of Renumbered Provisions

Original	Current
None	

### Table of Endnote References

*There are currently no endnote references*