

Financial Scheme (FS) and Children Scheme (CS) Rules & Forms 2018

Rule/s	Changes from previous rule, or addition in 2 nd edition (from Jan 2018) and 3 rd edition (from July 2018)	Reason
CS 1.4; FS 1.4	Amended: '... after the appointment of an arbitrator commencement of the arbitration unless ...'	Improvement.
CS 4.5 and 17.1; ARB1CS 7, 8.3 and Safeguarding Questionnaire	Provision requiring parties to CS arbitrations to supply, or apply for, safeguarding documentation before the arbitration starts; and prohibiting the arbitrator from starting the arbitration until such documentation has been received and considered.	Enhances and strengthens safeguarding provisions.
CS 4.6; FS 4.6	Amended: 'by a lawyer or other person chosen by him that party;'	Avoids possible misreading that the lawyer should choose the other person.
CS 5.3; FS 5.3	The previous rule prevented arbitrators from acting as mediator or similar following their role as arbitrator. The amendment extends the prohibition to arbitrators having so acted before, or so acting at the same time as, their role as arbitrator.	Desirable as a matter of policy.
CS 7.4; FS 7.5	Introducing a positive provision for the joinder of third parties to an existing arbitration.	Makes express provision for what was understood as possible.
CS 8.4(b)	Amended: '... for their inspection, photographing, valuation, preservation, custody or detention of the property by the tribunal, an expert or a party.'	Improvement of wording.
FS 8.4(b)	Expanded: to encompass <i>documents or other materials</i> as well as property.	Consistency with corresponding CS rule.

FS 13.3(d); ARB1FS 6.4(d)	New provision to include reference to an assessment made by the Child Maintenance Service as a possible supervening event.	Added for completeness.
CS 15.2 (d) and deletions at 13.2; also 18.3.	Expanded to introduce express provision that if a children case settles, parties may not seek a consent determination from the arbitrator (but should, if appropriate, take their settlement agreement directly to the court and request an order).	It would arguably never be appropriate for an arbitrator to accede to a request for a consent determination in a children case because they may not have been able to check for themselves the appropriateness of the order; and the absence of reasons in a consent determination would preclude the possibility of appeal on a question of law, which conflicts with CS 1.4 (which provides that such an appeal may not be avoided).
CS 17.2.2; see also 16.1(b)	Last sentence, 'may' becomes 'must'.	Changing an option to inform IFLA into an arbitrator's obligation to inform, when an arbitration is declined or terminated on safeguarding grounds.