
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Pleadings and amendment

Supplemental petition and amendment of petition

2.11.—(1) Subject to rule 2.14—

- (a) a supplemental petition may be filed without leave at any time before an answer is filed but thereafter only with leave; and
- (b) a petition may be amended without leave at any time before an answer is filed but thereafter only with leave.

(2) Subject to paragraph (3) an application for leave under this rule—

- (a) may, if every opposite party consents in writing to the supplemental petition being filed or the petition being amended, be made by lodging in the court office the supplemental petition or a copy of the petition as proposed to be amended; and
- (b) shall, in any other case, be made on notice (or in the High Court by summons) to be served, unless otherwise directed, on every opposite party.

(3) The district judge may, if he thinks fit, require an application for leave to be supported by an affidavit.

(4) An order granting leave shall—

- (a) where any party has given notice of intention to defend, fix the time within which his answer must be filed or amended;
- (b) where the order is made after directions for trial have been given, provide for a stay of the hearing until after the directions have been renewed.

(5) An amendment authorised to be made under this rule shall be made by filing a copy of the amended petition.

(6) Rules 2.5 and 2.7 shall apply to a supplemental or amended petition as they apply to the original petition.

(7) Unless otherwise directed, a copy of a supplemental or amended petition, together with a copy of the order (if any) made under this rule shall be served on every respondent and co-respondent named in the original petition or in the supplemental or amended petition.

(8) The petitioner shall file the documents required by paragraph (7) to be served on any person and thereupon, unless otherwise directed, rules 2.6(6) and 2.9 shall apply in relation to that person as they apply in relation to a person required to be served with an original petition.

Filing of answer to petition

2.12.—(1) Subject to paragraph (2) and to rules 2.10, 2.14 and 2.37, a respondent or co-respondent who—

- (a) wishes to defend the petition or to dispute any of the facts alleged in it,
- (b) being the respondent wishes to make in the proceedings any charge against the petitioner in respect of which the respondent prays for relief, or
- (c) being the respondent to a petition to which section 5(1) of the Act of 1973 applies, wishes to oppose the grant of a decree on the ground mentioned in that subsection,

shall, within 21 days after the expiration of the time limited for giving notice of intention to defend, file an answer to the petition.

(2) An answer may be filed notwithstanding that the person filing the answer has not given notice of intention to defend.

(3) Any reference in these rules to a person who has given notice of intention to defend shall be construed as including a reference to a person who has filed an answer without giving notice of intention to defend.

(4) Where in a cause in which relief is sought under section 12(d) of the Act of 1973(1) the respondent files an answer containing no more than a simple denial of the facts stated in the petition, he shall, if he intends to rebut the charges in the petition, give the court notice to that effect when filing his answer.

Filing of reply and subsequent pleadings

2.13.—(1) A petitioner may file a reply to an answer within 14 days after he has received a copy of the answer pursuant to rule 2.17.

(2) If the petitioner does not file a reply to an answer, he shall, unless the answer prays for a decree, be deemed, on making a request for directions for trial, to have denied every material allegation of fact made in the answer.

(3) No pleading subsequent to a reply shall be filed without leave.

Filing and amendment of pleadings after directions for trial

2.14 No pleading shall be filed or amended without leave after directions for trial have been given.

Contents of answer and subsequent pleadings

2.15.—(1) Where an answer, reply or subsequent pleading contains more than a simple denial of the facts stated in the petition, answer or reply, as the case may be, the pleading shall set out with sufficient particularity the facts relied on but not the evidence by which they are to be proved and, if the pleading is filed by the husband or wife, it shall, in relation to those facts, contain the information required in the case of a petition by paragraph 1(k) of Appendix 2.

(2) Unless otherwise directed, an answer by a husband or wife who disputes any statement required by paragraphs 1(f), (g) and (h) of Appendix 2 to be included in the petition shall contain full particulars of the facts relied on.

(3) Paragraph 4(a) of Appendix 2 shall, where appropriate, apply with the necessary modifications, to a respondent's answer as it applies to a petition:

(1) Section 12(d) was amended by the Mental Health Act 1983 (c. 20), Schedule 4, paragraph 34.

Provided that it shall not be necessary to include in the answer any claim for costs against the petitioner.

(4) Where an answer to any petition contains a prayer for relief, it shall contain the information required by paragraph 1(j) of Appendix 2 in the case of the petition in so far as it has not been given by the petitioner.

(5) Where a party's pleading includes such a statement as is mentioned in rule 2.4, then if the opposite party—

- (a) denies the conviction, finding or adjudication to which the statement relates, or
- (b) alleges that the conviction, finding or adjudication was erroneous, or
- (c) denies that the conviction, finding or adjudication is relevant to any issue in the proceedings,

he must make the denial or allegation in his pleading.

(6) Rules 2.4 and 2.5 shall apply, with the necessary modifications, to a pleading other than a petition as they apply to a petition.

Allegation against third person in pleading

2.16.—(1) Rules 2.7 and 2.9 shall apply, with the necessary modifications, to a pleading other than a petition as they apply to a petition, so however that for the references in those rules to a co-respondent there shall be substituted references to a party cited.

(2) Rule 2.12 shall apply, with the necessary modifications, to a party cited as it applies to a co-respondent.

Service of pleadings

2.17 A party who files an answer, reply or subsequent pleading shall at the same time file a copy for service on every opposite party, and thereupon the proper officer shall annex to every copy for service on a party cited in the pleading a notice in Form M5 with Form M6 attached and shall send a copy to every other opposite party.

Supplemental answer and amendment of pleadings

2.18 Rule 2.11 shall apply, with the necessary modifications, to the filing of a supplemental answer, and the amendment of a pleading or other document not being a petition, as it applies to the filing of a supplemental petition and the amendment of a petition.

Particulars

2.19.—(1) A party on whom a pleading has been served may in writing request the party whose pleading it is to give particulars of any allegation or other matter pleaded and, if that party fails to give the particulars within a reasonable time, the party requiring them may apply for an order that the particulars be given.

(2) The request or order in pursuance of which particulars are given shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.

(3) A party giving particulars, whether in pursuance of an order or otherwise, shall at the same time file a copy of them.