
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 7

**PROCEDURE FOR APPLICATIONS IN MATRIMONIAL
AND CIVIL PARTNERSHIP PROCEEDINGS**

CHAPTER 2

RULES ABOUT STARTING AND RESPONDING TO PROCEEDINGS

Starting proceedings

- 7.5.**—(1) Matrimonial proceedings may be started in any divorce county court.
- (2) Civil partnership proceedings may be started in any civil partnership proceedings county court.

Statement of reconciliation

7.6. Where the applicant is legally represented, the legal representative must, unless the court directs otherwise, complete and file with the application a statement in the form for this purpose referred to in Practice Direction 5A, certifying whether the legal representative has discussed with the applicant the possibility of a reconciliation and given the applicant the names and addresses of persons qualified to help effect a reconciliation.

Limitation on applications in respect of same marriage or civil partnership

- 7.7.**—(1) Subject to paragraph (2), a person may not make more than one application for a matrimonial or civil partnership order in respect of the same marriage or civil partnership unless—
- (a) the first application has been dismissed or finally determined; or
 - (b) the court gives permission.
- (2) Where a person—
- (a) has, within one year of the date of the marriage or civil partnership, made an application for, as the case may be, a decree of judicial separation or an order for separation; and
 - (b) then, after that one-year period has passed, wishes to apply for a decree of divorce or a dissolution order on the same facts as those mentioned in the first application,
- that person does not need the court's permission to make the application referred to in subparagraph (b).

Service of application

- 7.8.**—(1) After an application for a matrimonial or civil partnership order has been issued by the court, a copy of it must be served on the respondent and on any co-respondent.

(Rule 6.4 provides for who may serve an application for a matrimonial or civil partnership order.)

- (2) When the application is served on a respondent it must be accompanied by—
- (a) a form for acknowledging service;
 - (b) a notice of proceedings; and
 - (c) where applicable, a copy of the statement of arrangements for children.

Withdrawal of application before service

7.9. An application for a matrimonial or civil partnership order may be withdrawn at any time before it has been served by giving notice in writing to the court where the proceedings were started.

Who the parties are

- 7.10.**—(1) The parties to matrimonial proceedings or civil partnership proceedings are—
- (a) the parties to the marriage or civil partnership concerned; and
 - (b) any other person who is to be a party in accordance with a provision of the rules in this Part.
- (2) Subject to paragraph (3), where an application for a matrimonial order or an answer to such an application alleges that the other party to the marriage has committed adultery with a named person, that named person is to be the co-respondent.
- (3) The named person referred to in paragraph (2) is not to be a co-respondent where—
- (a) the court so directs;
 - (b) that person has died; or
 - (c) unless the court directs otherwise—
 - (i) that person is under 16 years of age; or
 - (ii) the other party to the marriage is alleged in the application or answer to have committed rape on the named person.
- (4) Where an application for a matrimonial or civil partnership order or an answer alleges that the other party to the marriage or civil partnership has had an improper association with a named person, the court may direct that the named person is to be a party to the application, unless the named person has died.
- (5) An application for directions under paragraph (3)(a) or (c) may be made without notice if the acknowledgment of service indicates that no party intends to defend the case.

Nullity: Interim and full gender recognition certificates

- 7.11.**—(1) Where the application is for—
- (a) nullity of marriage under section 12(g) of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act⁽¹⁾; or
 - (b) an order of nullity of civil partnership under section 50(1)(d) of the 2004 Act,
- the court officer must send to the Secretary of State a notice in writing that the application has been made.
- (2) Where a copy of an interim gender recognition certificate has been filed with the application, that certificate must be attached to the notice.
- (3) Where no copy of an interim gender recognition certificate has been filed the notice must also state—

(1) Section 12(g) was inserted by section 4(4) of and paragraph 2 of Schedule 2 to the Gender Recognition Act 2004.

- (a) in matrimonial proceedings—
 - (i) the names of the parties to the marriage and the date and place of the marriage, and
 - (ii) the last address at which the parties to the marriage lived together as husband and wife;
- (b) in civil partnership proceedings—
 - (i) the names of the parties to the civil partnership and the date on, and the place at which, the civil partnership was formed, and
 - (ii) the last address at which the parties to the civil partnership lived together as civil partners of each other; and
- (c) in either case, such further particulars as the court officer considers appropriate.
- (4) Where—
 - (a) the application is for a decree of nullity of marriage under section 12(h) of the 1973 Act⁽²⁾ or for an order of nullity of civil partnership under section 50(1)(e) of the 2004 Act; and
 - (b) a full gender recognition certificate has been issued to the respondent,the applicant must file a copy of that full certificate with the application unless the court, on an application made without notice, directs otherwise.

What the respondent and co-respondent should do on receiving the application

7.12.—(1) The respondent, and any co-respondent, must file an acknowledgment of service within 7 days beginning with the date on which the application for a matrimonial or civil partnership order was served.

(2) This rule is subject to rule 6.42 (which specifies how the period for filing an acknowledgment of service is calculated where the application is served out of the jurisdiction).

- (3) The acknowledgment of service must—
 - (a) subject to paragraph (4), be signed by the respondent or the respondent’s legal representative or, as the case may be, the co respondent or the co respondent’s legal representative;
 - (b) include the respondent’s or, as the case may be, the co respondent’s address for service; and
 - (c) where it is filed by the respondent, indicate whether or not the respondent intends to defend the case.
- (4) Where paragraph (5) or (6) applies, the respondent must sign the acknowledgment of service personally.
- (5) This paragraph applies where—
 - (a) the application for a matrimonial order alleges that the respondent has committed adultery; and
 - (b) the respondent admits the adultery.
- (6) This paragraph applies where—
 - (a) the application for a matrimonial or civil partnership order alleges that the parties to the marriage or civil partnership concerned have been separated for more than 2 years; and
 - (b) the respondent consents to the making of the matrimonial or civil partnership order.

(2) Section 12(h) was inserted by section 11 of and paragraphs 4 and 5 of Schedule 4 to the Gender Recognition Act 2004.

(7) Where the respondent does not agree with the proposals set out in the applicant's statement of arrangements for children, the respondent may file a statement of arrangements for children under section 41(1) of the 1973(3) Act or section 63(1) of the 2004 Act.

(8) A respondent who wishes to defend the case must file and serve an answer within 21 days beginning with the date by which the acknowledgment of service is required to be filed.

(9) An answer is not required where the respondent does not object to the making of the matrimonial or civil partnership order but objects to paying the costs of the application or to the applicant's statement of arrangements for children.

(10) A respondent may file an answer even if the intention to do so was not indicated in the acknowledgment of service.

(11) Where the application is for nullity of marriage under section 12(d) of the 1973 Act or for nullity of civil partnership under section 50(1)(b) of the 2004 Act and the respondent files an answer containing no more than a simple denial of the facts stated in the application, the respondent must, if intending to rebut the matters stated in the application, give notice to the court of that intention when filing the answer.

(12) A respondent to an application for a matrimonial or civil partnership order alleging 2 years' separation and the respondent's consent may—

- (a) indicate consent to the making of the matrimonial or civil partnership order in writing at any time after service of the application, whether in the acknowledgment of service or otherwise;
- (b) indicate lack of consent to the making of that order, or withdraw any such consent already given, by giving notice to the court.

(13) Where a respondent gives a notice under paragraph (12)(b) and no other relevant fact is alleged, the proceedings must be stayed^(GL), and notice of the stay^(GL) given to the parties by the court officer.

(14) In this rule, a "relevant fact" is—

- (a) in matrimonial proceedings, one of the facts mentioned in section (1)(2) of the 1973 Act; and
- (b) in civil partnership proceedings, one of the facts mentioned in section 44(5) of the 2004 Act.

(The form of the answer is referred to in Practice Direction 5A.)

Amendments to the application and the answer

7.13.—(1) Unless paragraph (2) applies—

- (a) a party making an application for a matrimonial or civil partnership order may amend the application at any time before an answer to it has been filed;
- (b) a party who has filed an answer may amend the answer.

(2) No amendment to an application for a matrimonial or civil partnership order or to an answer may be made under paragraph (1) if an application under rule 7.19(1) has been made in relation to the marriage or civil partnership concerned.

(3) Where an amendment is made under paragraph (1)—

- (a) if the document amended is the application—
 - (i) it must be served in accordance with rule 7.8 (service of application); and

(3) Section 41(1) has been prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.

- (ii) rule 7.12 (what the respondent and co respondent should do) applies;
 - (b) rule 7.10 (parties) applies; and
 - (c) any person who becomes a co-respondent to the proceedings in accordance with rule 7.10 as a consequence of such an amendment must be served with the documents required to be served on a co-respondent with an application for a matrimonial or civil partnership order.
- (4) Paragraphs (1) and (2) do not apply if the amendment is made—
- (a) with the written consent of all the other parties; or
 - (b) with the permission of the court.
- (5) Where the court gives permission for a party to amend that party's application for a matrimonial or civil partnership order or answer it may give directions as to—
- (a) the service of the amended application or answer and any accompanying documents;
 - (b) the joining of any additional parties in accordance with rule 7.10; and
 - (c) the extent to which rule 7.12 must be complied with in respect of any amended application.
- (6) The court may direct that any person cease to be a party if, in consequence of any amendment made under this rule, that person—
- (a) no longer falls within rule 7.10(2) or(4); or
 - (b) falls within rule 7.10(4) but it is no longer desirable for that person to be a party to the proceedings.

How the respondent can make an application

7.14.—(1) A respondent who wishes to make an application for a matrimonial or civil partnership order must make the application for that order within 21 days beginning with the date by which the respondent's acknowledgment of service is required to be filed, unless the court gives permission to make the application after that time has passed.

(2) Where the respondent makes an application under this rule, that application is to be treated as an application in the same proceedings for the purposes of this Part.

Further information about the contents of the application and the answer

7.15.—(1) The court may at any time order a party—

- (a) to clarify any matter which is in dispute in the proceedings; or
- (b) to give additional information in relation to any such matter,

whether or not the matter is contained or referred to in the application for a matrimonial or civil partnership order or in the answer.

(2) Paragraph (1) is subject to any rule of law to the contrary.

(3) Where the court makes an order under paragraph (1), the party against whom it is made must—

- (a) file the reply to the order made under paragraph (1); and
- (b) serve a copy of it on each of the other parties,

within the time specified by the court.

(4) The court may direct that information provided by a party to another party (whether given voluntarily or following an order made under paragraph (1)) must not be used for any purpose except for the proceedings in which it is given.

Status: *This is the original version (as it was originally made).*
