
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Commencement etc of proceedings

Cause to be begun by petition

2.2.—(1) Every cause shall be begun by petition.

(2) Where a petition for divorce, nullity or judicial separation discloses that there is a minor child of the family who is under 16 or who is over that age and is receiving instruction at an educational establishment or undergoing training for a trade or profession, the petition shall be accompanied by a statement, signed by the petitioner personally and if possible agreed with the respondent, containing the information required by Form M4, to which shall be attached a copy of any medical report mentioned therein.

Contents of petition

2.3 Unless otherwise directed, every petition shall contain the information required by Appendix 2 to these rules.

Petitioner relying on section 11 or 12 of the Civil Evidence Act 1968(1)

2.4.—(1) A petitioner who, in reliance on section 11 or 12 of the Civil Evidence Act 1968, intends to adduce evidence that a person—

- (a) was convicted of an offence by or before a court in the United Kingdom or by a court-martial there or elsewhere, or
- (b) was found guilty of adultery in matrimonial proceedings or to be the father of a child in relevant proceedings before any court in England and Wales, or was adjudged to be the father of a child in affiliation proceedings before a court in the United Kingdom,

must include in his petition a statement of his intention with particulars of—

- (i) the conviction, finding or adjudication and the date thereof,
- (ii) the court or court-martial which made the conviction, finding or adjudication and, in the case of a finding or adjudication, the proceedings in which it was made, and
- (iii) the issue in the proceedings to which the conviction, finding or adjudication is relevant.

(2) In this rule “matrimonial proceedings”, “relevant proceedings” and “affiliation proceedings” have the same meanings as in the said section 12.

(1) **1968 c. 64.** Section 11 was amended by the Powers of Criminal Courts Act 1973 (c. 62), Schedule 5, paragraph 31 and section 12 was amended by the Family Law Reform Act 1987 (c. 42), section 29.

Signing of petition

2.5 Every petition shall be signed by counsel if settled by him or, if not, by the petitioner's solicitor in his own name or the name of his firm, or by the petitioner if he sues in person.

Presentation of petition

2.6.—(1) A petition may be presented to any divorce county court.

(2) Unless otherwise directed on an application made ex parte, a certificate of the marriage to which the cause relates shall be filed with the petition.

(3) Where a solicitor is acting for a petitioner for divorce or judicial separation, a certificate in Form M3 shall be filed with the petition, unless otherwise directed on an application made ex parte.

(4) Where there is before a divorce county court or the High Court a petition which has not been dismissed or otherwise disposed of by a final order, another petition by the same petitioner in respect of the same marriage shall not be presented without leave granted on an application made in the pending proceedings:

Provided that no such leave shall be required where it is proposed, after the expiration of the period of one year from the date of the marriage, to present a petition for divorce alleging such of the facts mentioned in section 1(2) of the Act of 1973 as were alleged in a petition for judicial separation presented before the expiration of that period.

(5) The petition shall be presented by filing it, together with any statement and report required by rule 2.2(2) in the court office, with as many copies of the petition as there are persons to be served and a copy of the statement and report required by rule 2.2(2) for service on the respondent.

(6) CCR Order 3, rule 4(2) (which, as applied by rule 5 of that Order, deals with the filing and service of petitions) shall not apply, but on the filing of the petition the proper officer shall annex to every copy of the petition for service a notice in Form M5 with Form M6 attached and shall also annex to the copy petition for service on a respondent the copy of any statement and report filed pursuant to paragraph (5) of this rule.

Parties

2.7.—(1) Subject to paragraph (2), where a petition alleges that the respondent has committed adultery, the person with whom the adultery is alleged to have been committed shall be made a co-respondent in the cause unless—

- (a) that person is not named in the petition, or
- (b) the court otherwise directs.

(2) Where a petition alleges that the respondent has been guilty of rape upon a person named, then, notwithstanding anything in paragraph (1) that person shall not be made a co-respondent in the cause unless the court so directs.

(3) Where a petition alleges that the respondent has been guilty of an improper association (other than adultery) with a person named, the court may direct that the person named be made co-respondent in the cause, and for that purpose the district judge may require the proper officer to give notice to the petitioner and to any other party who has given notice of intention to defend of a date, time and place at which the court will consider giving such a direction.

(4) An application for directions under paragraph (1) may be made ex parte if no notice of intention to defend has been given.

(5) Paragraphs (1) and (3) of this rule do not apply where the person named has died before the filing of the petition.

Discontinuance of cause before service of petition

2.8 Before a petition is served on any person, the petitioner may file a notice of discontinuance and the cause shall thereupon stand dismissed.