
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Ancillary relief

Evidence on application for property adjustment or avoidance of disposition order

2.59.—(1) Where an application is made for a property adjustment order or an avoidance of disposition order, the affidavit in support shall contain, so far as known to the applicant, full particulars—

- (a) in the case of an application for a transfer or settlement of property—
 - (i) of the property in respect of which the application is made,
 - (ii) of the property to which the party against whom the application is made is entitled either in possession or reversion;
- (b) in the case of an application for an order for a variation of settlement—
 - (i) of all settlements, whether ante-nuptial or post-nuptial, made on the spouses, and
 - (ii) of the funds brought into settlement by each spouse;
- (c) in the case of an application for an avoidance of disposition order—
 - (i) of the property to which the disposition relates,
 - (ii) of the person in whose favour the disposition is alleged to have been made,and in the case of a disposition alleged to have been made by way of settlement, of the trustees and the beneficiaries of the settlement.

(2) Where an application for a property adjustment order or an avoidance of disposition order relates to land, the notice in Form M11 or M13 shall identify the land and—

- (a) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number; and
- (b) give particulars, so far as known to the applicant, of any mortgage of the land or any interest therein.

(3) A copy of Form M11 or M13 as the case may be, together with a copy of the supporting affidavit, shall be served on the following persons as well as on the respondent to the application, that is to say—

- (a) in the case of an application for an order for a variation of settlement order, the trustees of the settlement and the settlor if living;
- (b) in the case of an application for an avoidance of disposition order, the person in whose favour the disposition is alleged to have been made;

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and such other persons, if any, as the district judge may direct.

(4) In the case of an application to which paragraph (3) refers, a copy of Form M11 or M13 as the case may be, shall be served on any mortgagee of whom particulars are given pursuant to that paragraph; any person so served may apply to the court in writing, within 14 days after service, for a copy of the applicant's affidavit.

(5) Any person who—

(a) is served with an affidavit pursuant to paragraph (3), or

(b) receives an affidavit following an application made in accordance with paragraph (4),

may, within 14 days after service or receipt, as the case may be, file an affidavit in answer.