
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART III

OTHER MATRIMONIAL ETC PROCEEDINGS

Married Women's Property Act 1882

3.6.—(1) Subject to paragraph (2) below, an application under section 17 of the Married Women's Property Act 1882 (1)(in this and the next following rule referred to as "section 17") shall be made—

- (a) in the High Court, by originating summons, which may be issued out of the principal registry or any district registry, or
- (b) in a county court, by originating application,

in Form M23 and shall be supported by affidavit.

(2) An order under section 17 may be made in any ancillary relief proceedings upon the application of any party thereto in Form M11 by notice of application or summons.

(3) An application under section 17 to a county court shall be filed—

- (a) subject to sub-paragraph (b), in the court for the district in which the applicant or respondent resides, or
- (b) in the divorce county court in which any pending matrimonial cause has been commenced by or on behalf of either the applicant or the respondent, or in which any matrimonial cause is intended to be commenced by the applicant.

(4) Where the application concerns the title to or possession of land, the originating summons or application shall—

- (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.

(5) The application shall be served on the respondent, together with a copy of the affidavit in support and an acknowledgement of service in Form M6.

(6) Where particulars of a mortgage are given pursuant to paragraph (4), the applicant shall file a copy of the originating summons or application, which shall be served on the mortgagee; and any person so served may apply to the court in writing, within 14 days after service, for a copy of the affidavit in support; and within 14 days of receiving such affidavit may file an affidavit in answer and shall be entitled to be heard on the application.

(7) If the respondent intends to contest the application, he shall, within 14 days after the time allowed for sending the acknowledgement of service, file an affidavit in answer to the application

(1) 1882 c. 75; section 17 was amended by section 43 of the Matrimonial and Family Proceedings Act 1984 (c. 42) and repealed in part by the Statute Law (Repeals) Act 1969 (c. 52).

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setting out the grounds on which he relies, and lodge in the court office a copy of the affidavit for service on the applicant.

(8) If the respondent fails to comply with paragraph (7), the applicant may apply for directions; and the district judge may give such directions as he thinks fit, including a direction that the respondent shall be debarred from defending the application unless an affidavit is filed within such time as the district judge may specify.

(9) A district judge may grant an injunction in proceedings under section 17 if, but only so far as, the injunction is ancillary or incidental to any relief sought in those proceedings.

(10) Rules 2.62(4) to (6) and 2.63 to 2.66 shall apply, with the necessary modifications, to an application under section 17 as they apply to an application for ancillary relief.

(11) Subject to the provisions of this rule, these rules shall apply, with the necessary modifications, to an application under section 17 as if the application were a cause, the originating summons or application a petition, and the applicant a petitioner.