
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 8

PROCEDURE FOR MISCELLANEOUS APPLICATIONS

CHAPTER 4

APPLICATION FOR QUESTION AS TO PROPERTY TO BE DECIDED IN SUMMARY WAY

Scope of this Chapter

8.12. The rules in this Chapter apply to an application under section 17 of the Married Women's Property Act 1882(1) or section 66 of the 2004 Act.

Procedure

8.13. Where an application for an order under section 17 of the Married Women's Property Act 1882(2) or section 66 of the 2004 Act is made in any proceedings for a financial order, the application must be made in accordance with the Part 18 procedure.

Where to start proceedings

- 8.14.—**(1) The application may be made in the High Court or a county court.
- (2) Where the application is made in a county court it must be made in the court—
- (a) in which any matrimonial proceedings or civil partnership proceedings have been started or are intended to be started by the applicant or the respondent; or
 - (b) in the absence of any such proceedings, for the district in which the applicant or respondent resides.
- (3) The application may be made to the principal registry as if it were a county court if—
- (a) any matrimonial proceedings or civil partnership proceedings have been started there or are intended to be started there by the applicant or the respondent; and
 - (b) those proceedings are or will be treated as pending in a divorce county court or civil partnership proceedings county court.

Mortgagees as parties

- 8.15.—**(1) Where particulars of a mortgage are provided with the application—
- (a) the applicant must serve a copy of the application on the mortgagee; and

(1) 1882 c.75.

(2) Section 17 was amended by the Statute Law (Repeals) Act 1969 (c.52) and section 43 of the Matrimonial and Family Proceedings Act 1984.

(b) the mortgagee may, within 14 days beginning with the date on which the application was received, file an acknowledgment of service and be heard on the application.

(2) The court must direct that a mortgagee be made a party to the proceedings where the mortgagee requests to be one.

Injunctions

8.16.—(1) The court may grant an injunction^(GL) only if the injunction^(GL) is ancillary or incidental to the assistance sought by the applicant.

(2) Applications for injunctive relief must be made in accordance with the procedure in rule 20.4 (how to apply for an interim remedy) and the provisions of rule 20.5 (interim injunction^(GL)) to cease if application is stayed^(GL) apply.

Application of other rules

8.17. Rule 9.24 applies where the court has made an order for sale under section 17 of the Married Women's Property Act 1882 or section 66 of the 2004 Act.