

2015 No. 913 (L. 13)

FAMILY PROCEEDINGS

SENIOR COURTS OF ENGLAND AND WALES

FAMILY COURT, ENGLAND AND WALES

The Family Procedure (Amendment) Rules 2015

<i>Made</i> - - - -	<i>23rd March 2015</i>
<i>Laid before Parliament</i>	<i>26th March 2015</i>
<i>Coming into force</i> - -	<i>1st July 2015</i>

The Family Procedure Rule Committee makes the following rules in exercise of the powers conferred by section 48 of the Civil Jurisdiction and Judgments Act 1982(a) and by sections 75 and 76 of the Courts Act 2003(b), after consulting in accordance with section 79 of the Courts Act 2003.

Citation and commencement

1. These Rules may be cited as the Family Procedure (Amendment) Rules 2015 and come into force on 1st July 2015.

Amendments to the Family Procedure Rules 2010

2. The Family Procedure Rules 2010(c) are amended in accordance with rules 3 to 13.

3. In rule 2.3(1) (interpretation)(d), in the definition of “matrimonial order”, for “sections 11 or 12” substitute “section 11, 12 or 12A”.

4. In rule 7.1(3) (application and interpretation)(e), in the definition of “defended case”, in subparagraph (c), for “rule 7.12(11) applies” substitute “rule 7.12(11A) applies, in light of paragraph (11) of that rule”.

(a) 1982 c.27. See section 50 for the definition of “rules of court”. Section 48 was amended by paragraph 23 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c.12), paragraph 86 of Schedule 11 to the Crime and Courts Act 2013 (c.22) and by S.I. 2001/3929, 2011/1215, 2012/1770 and 2014/2947.

(b) 2003 c.39. Section 75 was amended by paragraph 338 of Schedule 4 and Part 2 of Schedule 18 to the Constitutional Reform Act 2005 (c.4) and by paragraph 91 of Schedule 10 to the Crime and Courts Act 2013 (c.22). Section 76 was amended by section 62(7) of the Children Act 2004 (c.31), paragraph 172 of Schedule 27 to the Civil Partnership Act 2004 (c.33), paragraph 29 of Schedule 1 to the Constitutional Reform Act 2005 and paragraph 92 of Schedule 10 to the Crime and Courts Act 2013.

(c) S.I. 2010/2955.

(d) There are amendments to rule 2.3(1), none of which is relevant to these Rules .

(e) Rule 7.1 was amended by S.I. 2013/3204.

5. In rule 7.11 (nullity: interim and full gender recognition certificates)(a)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a)—
 - (aa) for “section 12(g)” substitute “section 12(1)(g)”; and
 - (bb) omit “or” the second time it occurs;
 - (ii) after sub-paragraph (a), insert—
 - “(aa) nullity of marriage under section 12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies; or”;
- (b) in paragraph (4), for sub-paragraph (a) substitute—
 - “(a) the application is for—
 - (i) a decree of nullity of marriage under section 12(1)(h) of the 1973 Act;
 - (ii) a decree of nullity of marriage under section 12A(3) of the 1973 Act in a case where section 12(1)(h) of the 1973 Act applies ; or
 - (iii) an order of nullity of civil partnership under section 50(1)(e) of the 2004 Act; and”;
- (c) after paragraph (4), insert—
 - “(In relation to paragraphs (1)(aa), (3)(a) and (4)(a)(ii), section 9(6) of the Marriage (Same Sex Couples) Act 2013**(b)** provides that where a civil partnership is converted into a marriage, the civil partnership ends on the conversion, and the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.)”.

6. In rule 7.12 (what the respondent and co-respondent should do on receiving the application)(c)—

- (a) for paragraph (11), substitute—
 - “(11) Paragraph (11A) applies where—
 - (a) the application is for—
 - (i) nullity of marriage under section 12(1)(d) of the 1973 Act;
 - (ii) nullity of marriage under section 12A(3) of the 1973 Act in a case where section 12(1)(d) of the 1973 Act applies ; or
 - (iii) nullity of civil partnership under section 50(1)(b) of the 2004 Act; and
 - (b) the respondent files an answer containing no more than a simple denial of the facts stated in the application.

(11A) 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.”; and

- (b) after the words in parentheses at the end of the rule, insert—
 - “(In relation to paragraph (11)(a)(ii), section 9(6) of the Marriage (Same Sex Couples) Act 2013 provides that where a civil partnership is converted into a marriage, the civil partnership ends on the conversion, and the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.)”.

7. In rule 7.20 (what the court will do on an application for a decree nisi, a conditional order, a decree of judicial separation or a separation order)(d), in paragraph (9)—

- (a) in sub-paragraph (a)—
 - (i) for “section 12(g)” substitute “section 12(1)(g)”; and

(a) Rule 7.11 was amended by S.I. 2014/524.
(b) 2013 c.30.
(c) Rule 7.12 was amended by S.I. 2012/679 and 2014/843.
(d) Rule 7.20 was amended by S.I. 2012/679, 2013/3204 and 2014/843.

- (ii) omit “or” the second time it occurs; and
- (b) after sub-paragraph (a), insert—
 - “(aa) a decree of nullity of marriage under section 12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies; or”.

8. In rule 7.21 (further provisions about costs), for paragraph (2) substitute—

“(2) In the case of a hearing following a direction under rule 7.20(2)(a), a party will not be heard unless that party has, not less than 14 days before the hearing—

- (a) given written notice to the court of that party’s intention to attend the hearing and apply for, or oppose the making of, an order for costs; and
- (b) served that notice on every other party.

(3) On receipt of such a written notice, the court may make such directions in relation to the hearing as it sees fit.”.

9. In rule 7.32 (making decrees nisi absolute or conditional orders final by giving notice)(a), in sub-paragraph (i) of paragraph (2)—

- (a) for “section 12(g)” substitute “section 12(1)(g)”;
- (b) after “1973 Act” insert “, or was made under section 12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies”; and
- (c) in paragraph (i), after “Gender Recognition Act 2004” insert “, or an application under section 8(5A) of that Act,”.

10. Omit rule 11.11 (orders containing provisions to which a power of arrest is attached).

11. For rule 11.12 (service where order contains a power of arrest), substitute—

“Service of an order on the officer for the time being in charge of a police station

11.12.—(1) Where the court makes a forced marriage protection order a copy of the order must be delivered to the officer for the time being in charge of—

- (a) the police station for the address of the person who is the subject of the proceedings; or
- (b) such other police station as the court may specify.

(2) A copy of the order delivered under paragraph (1) must be accompanied by a statement showing that the respondent(s) has been served with the order or informed of its terms (whether by being present when the order was made or by telephone or otherwise).

(3) The documents referred to in paragraphs (1) and (2) must be delivered by—

- (a) the applicant; or
- (b) the court officer, where the order was served following a request under rule 11.7(4).

(4) Where an order is made varying, extending or discharging a forced marriage protection order the court officer must—

- (a) immediately inform—
 - (i) the officer who received a copy of the order under paragraph (1); and
 - (ii) if the address of the person who is the subject of the proceedings has changed, the officer for the time being in charge of the police station for the new address; and

(a) Rule 7.32 was amended by S.I. 2012/679 and 2014/843.

- (b) deliver a copy of the order made varying, extending or discharging a forced marriage protection order, together with a copy of the order referred to in paragraph (1) to any officer so informed.”.

12. In rule 29.6 (documents in proceedings concerning gender recognition)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a)—
 - (aa) for “section 12(g) or (h)” substitute “section 12(1)(g) or (h)”; and
 - (bb) omit “or” the third time it occurs; and
 - (ii) after sub-paragraph (a), insert—
 - “(aa) section 12A(3) of the 1973 Act in a case where section 12(1)(g) or (h) of the 1973 Act applies; or”; and
- (b) after paragraph (2), insert—

“(In relation to paragraph (1)(aa), section 9(6) of the Marriage (Same Sex Couples) Act 2013 provides that where a civil partnership is converted into a marriage, the civil partnership ends on the conversion, and the resulting marriage is to be treated as having subsisted since the date the civil partnership was formed.)”.

13. In rule 34.36(2) (cancellation of registered orders)(a), for sub-paragraph (b) substitute—

- “(b) send to the Lord Chancellor—
 - (i) the information and documents relating to the registration;
 - (ii) a certificate of arrears, if applicable, signed by the court officer;
 - (iii) a statement giving such information as the court officer possesses as to the whereabouts of the payer and the nature and location of the payer’s assets; and
 - (iv) any other relevant documents which the court officer has relating to the case.(Practice Direction 34E makes further provision on this matter.)”.

Transitional provision

14.—(1) Subject to paragraph (2), the Family Procedure Rules 2010 as amended by these Rules apply from the date these Rules come into force to any proceedings which were commenced but not disposed of before that date, as they apply to proceedings commenced after that date.

(2) In any proceedings which were commenced but not disposed of before these Rules came into force, the court may give any directions for the purpose of ensuring that the proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision in rules of court which applied to the proceedings before these Rules came into force; or
- (b) disapply provisions of the Family Procedure Rules 2010 as amended by these Rules.

James Munby, P
Marie Brock
Paul Carr
Jane Harris
Michael Horton
Dylan Jones
Hannah Perry
HHJ Alison Raeside

(a) Rule 34.36 was amended by S.I. 2013/3204.

*Ernest Ryder, LJ
Lucy Theis, J
Will Tyler QC*

I allow these Rules

23rd March 2015

Simon Hughes
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Procedure Rules 2010 (S.I. 2010/2955) (“the FPR”).

Rules 3 to 7, 9(a) and (b) and 12 make amendments to the FPR which are consequential upon the coming into force of section 12A of the Matrimonial Causes Act 1973 (c.18), which makes provision in respect of the grounds on which a marriage converted from a civil partnership (under section 9 of the Marriage (Same Sex Couples) Act 2013 (c.30)) is void or voidable.

Rule 8 amends rule 7.21 of the FPR to change the period of notice to be given under that rule to not less than 14 days and to require notice to be given to the court, as well as to be served on every other party.

Rule 9(c) amends the FPR in consequence of the coming into force of section 8(5A) of the Gender Recognition Act 2004 (c.7), which was inserted by the Marriage (Same Sex Couples) Act 2013, and which makes provision for a spouse to apply to quash a decision to issue an interim gender recognition certificate on the grounds that its grant was secured by fraud.

Rules 10 and 11 make amendments to the FPR which are consequential upon the coming into force of section 63CA of the Family Law Act 1996 (c.27), which provides for an offence of breaching a forced marriage protection order.

Rule 13 makes a minor tidying amendment to rule 34.36 of the FPR, in consequence of an earlier amendment which omitted paragraph (2) to rule 34.35 of the FPR.

Rule 14 makes transitional provision.

No impact assessment has been produced for this instrument because no, or minimal, impact is anticipated to result from its provisions.

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