
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Preparations for trial

Medical examination in proceedings for nullity

2.22.—(1) In proceedings for nullity on the ground of incapacity to consummate the marriage the petitioner shall, subject to paragraph (2), apply to the district judge to determine whether medical inspectors should be appointed to examine the parties.

(2) An application under paragraph (1) shall not be made in an undefended cause—

(a) if the husband is the petitioner, or

(b) if the wife is the petitioner and

(i) it appears from the petition that she was either a widow or divorced at the time of the marriage in question, or

(ii) it appears from the petition or otherwise that she has borne a child, or

(iii) a statement by the wife that she is not a virgin is filed;

unless, in any such case, the petitioner is alleging his or her own incapacity.

(3) References in paragraphs (1) and (2) to the petitioner shall, where the cause is proceeding only on the respondent's answer or where the allegation of incapacity is made only in the respondent's answer, be construed as references to the respondent.

(4) An application under paragraph (1) by the petitioner shall be made—

(a) where the respondent has not given notice of intention to defend, after the time limited for giving the notice has expired;

(b) where the respondent has given notice of intention to defend, after the expiration of the time allowed for filing his answer or, if he has filed an answer, after it has been filed;

and an application under paragraph (1) by the respondent shall be made after he has filed an answer.

(5) Where the party required to make an application under paragraph (1) fails to do so within a reasonable time, the other party may, if he is prosecuting or defending the cause, make an application under that paragraph.

(6) In proceedings for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent, either party may apply to the district judge for the appointment of medical inspectors to examine the parties.

(7) If the respondent has not given notice of intention to defend, an application by the petitioner under paragraph (1) or (6) may be made *ex parte*.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(8) If the district judge hearing an application under paragraph (1) or (6) considers it expedient to do so, he shall appoint a medical inspector or, if he thinks it necessary, two medical inspectors to examine the parties and report to the court the result of the examination.

(9) At the hearing of any such proceedings as are referred to in paragraph (1) the court may, if it thinks fit, appoint a medical inspector or two medical inspectors to examine any party who has not been examined or to examine further any party who has been examined.

(10) The party on whose application an order under paragraph (8) is made or who has the conduct of proceedings in which an order under paragraph (9) has been made for the examination of the other party, shall serve on the other party notice of the date, time and place appointed for his or her examination.