
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Trial etc

Application for re-hearing

2.42.—(1) An application for re-hearing of a cause tried by a judge alone (whether in the High Court or a divorce county court) where no error of the court at the hearing is alleged, shall be made to a judge.

(2) Unless otherwise directed, the application shall be made to the judge by whom the cause was tried and shall be heard in open court.

(3) The application shall be made—

- (a) in the High Court, by a notice to attend before the judge on a day specified in the notice, and
- (b) in the county court, on notice in accordance with CCR Order 13, rule 1 (which deals with applications in the course of proceedings),

and the notice shall state the grounds of the application.

(4) Unless otherwise directed, the notice must be issued within six weeks after the judgment and served on every other party to the cause not less than 14 days before the day fixed for the hearing of the application.

(5) The applicant shall file a certificate that the notice has been duly served on each person required to be served therewith.

(6) The application shall be supported by an affidavit setting out the allegations on which the applicant relies or exhibiting a copy of any pleading which he proposes to file if the application is granted, and a copy of the affidavit shall be served on every other party to the cause.

(7) Not less than seven days before the application is heard the applicant shall file a copy of a transcript of so much as is relevant of any official shorthand note of the proceedings at the trial.

(8) Where a party wishes to appeal against a decree absolute of divorce or nullity of marriage, the question whether he has had the time and opportunity to appeal from the decree nisi on which the decree absolute was founded shall be determined on an application for a re-hearing under this rule.

(9) Any other application for re-hearing shall be made by way of appeal to the Court of Appeal.

(10) This rule shall apply, with the necessary modifications, to a cause disposed of under rule 2.36 as it applies to a cause tried by a judge alone, save that where in such a case the decree was pronounced by a district judge the application shall be made to a district judge.