
STATUTORY INSTRUMENTS

1991 No. 1247

The Family Proceedings Rules 1991

PART II

MATRIMONIAL CAUSES

Decrees and orders

Decree absolute on lodging notice

2.49.—(1) Subject to rule 2.50(1) an application by a spouse to make absolute a decree nisi pronounced in his favour may be made by lodging with the court a notice in Form M8.

(2) On the lodging of such a notice, the district judge shall cause the records of the court to be searched, and if he is satisfied—

- (a) that no application for rescission of the decree or for re-hearing of the cause and no appeal against the decree or the dismissal of an application for re-hearing of the cause is pending;
- (b) that no order has been made by the court extending the time for making an application for re-hearing of the cause or by the Court of Appeal extending the time for appealing against the decree or the dismissal of an application for re-hearing of the cause or, if any such order has been made, that the time so extended has expired;
- (c) that no application for such an order as is mentioned in sub-paragraph (b) is pending;
- (d) that no intervention under rule 2.46 or 2.47 is pending;
- (e) that the court has complied with section 41(1) of the Act of 1973 and has not given any direction under section 41(2)(1);
- (f) where a certificate has been granted under section 12 of the Administration of Justice Act 1969(2) in respect of the decree—
 - (i) that no application for leave to appeal directly to the House of Lords is pending;
 - (ii) that no extension of the time to apply for leave to appeal directly to the House of Lords has been granted or, if any such extension has been granted, that the time so extended has expired; and
 - (iii) that the time for any appeal to the Court of Appeal has expired; and
- (g) that the provisions of section 10(2) to (4) of the Act of 1973 do not apply or have been complied with,

the district judge shall make the decree absolute:

Provided that if the notice is lodged more than 12 months after the decree nisi there shall be lodged with the notice an explanation in writing:

(1) Section 41 was substituted by the Children Act 1989 (c. 41), Schedule 12, paragraph 31.

(2) 1969 c. 58, section 12(2)(b) and 8 were repealed in part by the Courts Act 1971 (c. 23), Schedule 11, Part IV. Section 12(2)(a) was repealed in part by the Supreme Court Act 1981 (c. 54), Schedule 7.

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- (a) giving reasons for the delay;
- (b) stating whether the parties have lived with each other since the decree nisi and, if so, between what dates; and
- (c) stating whether the applicant being the wife has, or being the husband has reason to believe that his wife has, given birth to any child since the decree nisi and, if so, stating the relevant facts and whether or not it is alleged that the child is or may be a child of the family;

and the district judge may require the applicant to file an affidavit verifying the said explanation and may make such order on the application as he thinks fit.