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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART III**

**OTHER MATRIMONIAL ETC PROCEEDINGS**

**Application for order for financial relief or avoidance of transaction order under Part III of Act of 1984**

**3.18.**—(1) An application for an order for financial relief under Part III of the Act of 1984 shall be made by originating summons issued in Form M26 out of the principal registry and at the same time the applicant, unless otherwise directed, shall file an affidavit in support of the summons giving full particulars of his property and income.

(2) The applicant shall serve a sealed copy of the originating summons on the respondent and shall annex thereto a copy of the affidavit in support, if one has been filed, and a notice of proceedings and acknowledgement of service in Form M28, and rule 10.8 shall apply to such an acknowledgement of service as if the references in paragraph (1) of that rule to Form M6 and in paragraph (2) of that rule to seven days were, respectively, references to Form M28 and 31 days.

(3) Rules 2.57, 2.59, 2.61, 2.62(5) and (6), 2.63 and 2.66(1) and (2) shall apply, with the necessary modifications, to an application for an order for financial relief under this rule as they apply to an application for ancillary relief made by notice in Form M11 and the court may order the attendance of any person for the purpose of being examined or cross-examined and the discovery and production of any document.

(4) An application for an interim order for maintenance under section 14 or an avoidance of transaction order under section 23 of the Act of 1984 may be made, unless the court otherwise directs, in the originating summons under paragraph (1) or by summons in accordance with rule 10.9(1) and an application for an order under section 23 shall be supported by an affidavit, which may be the affidavit filed under paragraph (1), stating the facts relied on.

(5) If the respondent intends to contest the application he shall, within 28 days after the time limited for giving notice to defend, file an affidavit in answer to the application setting out the grounds on which he relies and shall serve a copy on the applicant.

(6) In respect of any application for an avoidance of transaction order the court may give such a direction or make such appointment as it is empowered to give or make by paragraph (3), and rule 2.59 shall apply, with the necessary modifications, to an application for an avoidance of transaction order as it applies to an application for an avoidance of disposition order.

(7) Where the originating summons contains an application for an order under section 22 of the Act of 1984<sup>(1)</sup> the applicant shall serve a copy on the land]ord of the dwelling house and he shall be entitled to be heard on the application.

(8) An application for an order for financial relief under Part III of the Act of 1984 or for an avoidance of transaction order shall be determined by a judge.

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(1) Section 22 was amended by the Housing Act 1988 (c. 50), Schedule 17, paragraph 36.

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

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