

STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 7

**PROCEDURE FOR APPLICATIONS IN MATRIMONIAL
AND CIVIL PARTNERSHIP PROCEEDINGS**

CHAPTER 1

APPLICATION AND INTERPRETATION

Application and interpretation

7.1.—(1) The rules in this Part apply to matrimonial and civil partnership proceedings.

^{F1}(2)

(3) In this Part—

“defended case” means matrimonial proceedings or civil partnership proceedings in which—

- (a) an answer has been filed opposing the grant of a matrimonial or civil partnership order on the application, and has not been struck out; or
- (b) the respondent has filed an application for a matrimonial or civil partnership order in accordance with rule 7.14 and neither party's application has been disposed of; or
- (c) [^{F2}rule 7.12(11A) applies, in light of paragraph (11) of that rule], notice has been given of intention to rebut and that notice has not been withdrawn,

and in which no matrimonial or civil partnership order has been made; and

“undefended case” means matrimonial proceedings or civil partnership proceedings other than a defended case.

(4) In this Part—

- (a) a reference to a conditional order is a reference to a civil partnership order (other than a separation order) which has not been made final; and
- (b) a reference to a final order is a reference to a conditional order which has been made final.

Textual Amendments

F1 Rule 7.1(2) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 12](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

F2 Words in [rule 7.1\(3\)](#) substituted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), [rules 1, 4](#) (with [rule 14](#))

District Registries

^{F3}**7.2.**

Status: Point in time view as at 01/07/2015.

Changes to legislation: There are currently no known outstanding effects for the The Family Procedure Rules 2010, PART 7. (See end of Document for details)

Textual Amendments

F3 Rule 7.2 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013](#) (S.I. 2013/3204), [rules 1, 12](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Principal Registry

F47.3.

Textual Amendments

F4 Rule 7.3 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013](#) (S.I. 2013/3204), [rules 1, 12](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

References to respondents

7.4.—(1) Where a respondent makes an application for a matrimonial order or a civil partnership order, unless the context otherwise requires, the rules in this Part shall apply with necessary modifications as if the reference to a respondent is a reference to the applicant in the other party's application for a matrimonial order or a civil partnership order.

(2) Where a respondent makes an application for a matrimonial order, unless the context otherwise requires, the rules in this Part shall apply with necessary modifications as if the reference to a co-respondent is a reference to a party cited in the respondent's application for a matrimonial order.

CHAPTER 2

RULES ABOUT STARTING AND RESPONDING TO PROCEEDINGS

Starting proceedings

F57.5.

Textual Amendments

F5 Rule 7.5 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013](#) (S.I. 2013/3204), [rules 1, 12](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Statement of reconciliation

7.6.—^{F6}(1) Where the applicant is legally represented, the legal representative must, unless the court directs otherwise, complete and file with the application a statement in the form for this purpose referred to in Practice Direction 5A, certifying whether the legal representative has discussed with the applicant the possibility of a reconciliation and given the applicant the names and addresses of persons qualified to help effect a reconciliation.

- ^{F7}(2) This rule applies to an application for—
- (a) a decree of divorce made under section 1 of the 1973 Act;
 - (b) a decree of judicial separation made under section 17 of the 1973 Act;
 - (c) a dissolution order as mentioned in section 37(1)(a) of the 2004 Act; or
 - (d) a separation order as mentioned in section 37(1)(d) of the 2004 Act.]

Textual Amendments

- F6** Rule 7.6 renumbered as rule 7.6(1) (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 7\(a\)](#) (with [rule 30](#))
- F7** Rule 7.6(2) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 7\(b\)](#) (with [rule 30](#))

Limitation on applications in respect of same marriage or civil partnership

7.7.—(1) Subject to paragraph (2), a person may not make more than one application for a matrimonial or civil partnership order in respect of the same marriage or civil partnership unless—

- (a) the first application has been dismissed or finally determined; or
 - (b) the court gives permission.
- (2) Where a person—
- (a) has, within one year of the date of the marriage or civil partnership, made an application for, as the case may be, a decree of judicial separation or an order for separation; and
 - (b) then, after that one-year period has passed, wishes to apply for a decree of divorce or a dissolution order on the same facts as those mentioned in the first application,

that person does not need the court's permission to make the application referred to in sub-paragraph (b).

Service of application

7.8.—(1) After an application for a matrimonial or civil partnership order has been issued by the court, a copy of it must be served on the respondent and on any co-respondent. (Rule 6.4 provides for who may serve an application for a matrimonial or civil partnership order.)

(2) When the application is served on a respondent [^{F8}or co-respondent] it must be accompanied by—

- (a) a form for acknowledging service; [^{F9}and]
- (b) a notice of proceedings [^{F10}.]
- ^{F11}(c)

Textual Amendments

- F8** Words in [rule 7.8\(2\)](#) inserted (6.4.2015) by [The Family Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/3296\)](#), [rules 1\(3\), 5](#) (with [rule 15](#))
- F9** Word in [rule 7.8\(2\)\(a\)](#) inserted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 6\(a\)](#)
- F10** [Rule 7.8\(2\)\(b\)](#): full stop substituted for word (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 6\(b\)](#)
- F11** [Rule 7.8\(2\)\(c\)](#) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 6\(c\)](#)

Withdrawal of application before service

7.9. An application for a matrimonial or civil partnership order may be withdrawn at any time before it has been served by giving notice in writing to the court where the proceedings were started.

Status: Point in time view as at 01/07/2015.

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The Family Procedure Rules 2010, PART 7. (See end of Document for details)*

Who the parties are

7.10.—(1) The parties to matrimonial proceedings or civil partnership proceedings are—

- (a) the parties to the marriage or civil partnership concerned; and
- (b) any other person who is to be a party in accordance with a provision of the rules in this Part.

(2) Subject to paragraph (3), where an application for a matrimonial order or an answer to such an application alleges that the other party to the marriage has committed adultery with a named person, that named person is to be the co-respondent.

(3) The named person referred to in paragraph (2) is not to be a co-respondent where—

- (a) the court so directs;
- (b) that person has died; or
- (c) unless the court directs otherwise—
 - (i) that person is under 16 years of age; or
 - (ii) the other party to the marriage is alleged in the application or answer to have committed rape on the named person.

(4) Where an application for a matrimonial or civil partnership order or an answer alleges that the other party to the marriage or civil partnership has had an improper association with a named person, the court may direct that the named person is to be ^{F12}the co-respondent] to the application, unless the named person has died.

(5) An application for directions under paragraph (3)(a) or (c) may be made without notice if the acknowledgment of service indicates that no party intends to defend the case.

Textual Amendments

F12 Words in rule 7.10(4) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 8](#) (with [rule 30](#))

Nullity: Interim and full gender recognition certificates

7.11.—(1) Where the application is for—

- (a) nullity of marriage under ^{F13}section 12(1)(g)] of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act ^{M1}; ^{F14}...

^{F15}(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) an order of nullity of civil partnership under section 50(1)(d) of the 2004 Act,

the court officer must send to the Secretary of State a notice in writing that the application has been made.

(2) Where a copy of an interim gender recognition certificate has been filed with the application, that certificate must be attached to the notice.

(3) Where no copy of an interim gender recognition certificate has been filed the notice must also state—

- (a) in matrimonial proceedings—
 - (i) the names of the parties to the marriage and the date and place of the marriage, and
 - (ii) the last address at which the parties to the marriage lived together as ^{F16}a married couple];

- (b) in civil partnership proceedings—
- (i) the names of the parties to the civil partnership and the date on, and the place at which, the civil partnership was formed, and
 - (ii) the last address at which the parties to the civil partnership lived together as civil partners of each other; and
- (c) in either case, such further particulars as the court officer considers appropriate.

(4) Where—

[^{F17}(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]

(b) a full gender recognition certificate has been issued to the respondent,

the applicant must file a copy of that full certificate with the application unless the court, on an application made without notice, directs otherwise.

[^{F18}(In relation to paragraphs (1)(aa), (3)(a) and (4)(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.)]

Textual Amendments

- F13** Words in rule 7.11(1)(a) substituted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **5(a)(i)(aa)** (with rule 14)
- F14** Word in rule 7.11(1)(a) omitted (1.7.2015) by virtue of [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **5(a)(i)(bb)** (with rule 14)
- F15** Rule 7.11(1)(aa) inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **5(a)(ii)** (with rule 14)
- F16** Words in rule 7.11(3)(a)(ii) substituted (13.3.2014) by [The Family Procedure \(Amendment\) Rules 2014 \(S.I. 2014/524\)](#), rules 1, **3**
- F17** Rule 7.11(4)(a) substituted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **5(b)** (with rule 14)
- F18** Words in rule 7.11 inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **5(c)** (with rule 14)

Marginal Citations

- M1** [Section 12\(g\)](#) was inserted by section 4(4) of and paragraph 2 of Schedule 2 to the Gender Recognition Act 2004.

What the respondent and co-respondent should do on receiving the application

7.12.—(1) The respondent, and any co-respondent, must file an acknowledgment of service within 7 days beginning with the date on which the application for a matrimonial or civil partnership order was served.

(2) This rule is subject to rule 6.42 (which specifies how the period for filing an acknowledgment of service is calculated where the application is served out of the jurisdiction).

(3) The acknowledgment of service must—

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- (a) subject to paragraph (4), be signed by the respondent or the respondent's legal representative or, as the case may be, the co respondent or the co respondent's legal representative;
 - (b) include the respondent's or, as the case may be, the co respondent's address for service; and
 - (c) where it is filed by the respondent, indicate whether or not the respondent intends to defend the case.
- (4) Where paragraph (5) or (6) applies, the respondent must sign the acknowledgment of service personally.
- (5) This paragraph applies where—
- (a) the application for a matrimonial order alleges that the respondent has committed adultery; and
 - (b) the respondent admits the adultery.
- (6) This paragraph applies where—
- (a) the application for a matrimonial or civil partnership order alleges that the parties to the marriage or civil partnership concerned have been separated for more than 2 years; and
 - (b) the respondent consents to the making of the matrimonial or civil partnership order.
- ^{F19}(7)
- (8) A respondent who wishes to defend the case must file and serve an answer within 21 days beginning with the date by which the acknowledgment of service is required to be filed.
- (9) An answer is not required where the respondent does not object to the making of the matrimonial or civil partnership order but objects to paying the costs of the application ^{F20}....
- (10) A respondent may file an answer even if the intention to do so was not indicated in the acknowledgment of service.
- ^{F21}(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.]
- ^{F21}(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.]
- (12) A respondent to an application for a matrimonial or civil partnership order alleging 2 years' separation and the respondent's consent may—
- (a) indicate consent to the making of the matrimonial or civil partnership order in writing at any time after service of the application, whether in the acknowledgment of service or otherwise;
 - (b) indicate lack of consent to the making of that order, or withdraw any such consent already given, by giving notice to the court.
- (13) Where a respondent gives a notice under paragraph (12)(b) and no other relevant fact is alleged, the proceedings must be stayed^(GL), and notice of the stay^(GL) given to the parties by the court officer.
- (14) In this rule, a “relevant fact” is—

- (a) in matrimonial proceedings, one of the facts mentioned in section (1)(2) of the 1973 Act; and
- (b) in civil partnership proceedings, one of the facts mentioned in section 44(5) of the 2004 Act.

[^{F22}(15) In paragraphs (3)(c), (8), (9) and (10), any reference to a respondent is to be read as including a reference to a co-respondent where the context so requires.]

(The form of the answer is referred to in Practice Direction 5A.)

[^{F23}(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.)]

Textual Amendments

- F19** Rule 7.12(7) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **7(a)**
- F20** Words in rule 7.12(9) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **7(b)**
- F21** Rule 7.12(11)(11A) substituted for rule 7.12(11) (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **6(a)** (with rule 14)
- F22** Rule 7.12(15) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **9** (with rule 30)
- F23** Words in rule 7.12 inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **6(b)** (with rule 14)

[^{F24}Supplemental application and amendment of application and answer]

[^{F24}7.13.—(1) In this rule—

- (a) paragraphs (2)(a) and (b) and (3) set out when a supplemental application may or may not be made or an application may or may not be amended before an answer has been filed and before an application has been made under rule 7.19(1);
- (b) paragraphs (2)(c) and (3) set out when an answer may or may not be amended before an application has been made under rule 7.19(1);
- (c) paragraph (5) sets out when a supplemental application may be made or an application may be amended after an answer has been filed or after an application has been made under rule 7.19(1); and
- (d) paragraph (6) sets out when an answer may be amended after an application has been made under rule 7.19(1).

(2) Unless paragraph (3) applies—

- (a) a party making an application for a matrimonial or civil partnership order may amend the application at any time before an answer to it has been filed;
- (b) a party making an application for a matrimonial or civil partnership order may make a supplemental application at any time before an answer has been filed;
- (c) a party who has filed an answer may amend the answer.

(3) No supplemental application may be made and no amendment to an application for a matrimonial or civil partnership order or to an answer may be made under paragraph (2) if an

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application under rule 7.19(1) has been made in relation to the marriage or civil partnership concerned.

(4) Where an amendment is made or a supplemental application is made under paragraph (2)—

(a) if the document amended is the application or if a supplemental application is made—

- (i) it must be served in accordance with rule 7.8; and
- (ii) rule 7.12 applies;

(b) rule 7.10 applies; and

(c) any person who becomes a co-respondent to the proceedings in accordance with rule 7.10 as a consequence of such an amendment or supplemental application must be served with the documents required to be served on a co-respondent with an application for a matrimonial or civil partnership order.

(5) Where an answer has been filed, or an application has been made under rule 7.19(1), an amendment may not be made to an application and a supplemental application may not be made except—

(a) with the written consent of all the other parties; or

(b) with the permission of the court.

(6) Where an answer has been filed and an application has been made under rule 7.19(1), an amendment may not be made to the answer except—

(a) with the written consent of all the other parties; or

(b) with the permission of the court.

(7) Where paragraph (5) or (6) applies, the court may give directions as to—

(a) the service of the amended application, the amended answer or the supplemental application, as the case may be, and the service of any accompanying documents;

(b) the joining of any additional parties in accordance with rule 7.10; and

(c) the extent to which rule 7.12 must be complied with in respect of any amended application or any supplemental application.

(8) The court may direct that any person cease to be a party if, in consequence of any amendment made or supplemental application made under this rule, that person—

(a) no longer falls within rule 7.10(2) or (4); or

(b) falls within rule 7.10(4), but it is no longer desirable for that person to be a party to the proceedings.

(Practice Direction 7A contains information regarding amending applications, making supplemental applications and making second (or further) applications.)]

Textual Amendments

F24 Rule 7.13 substituted (6.4.2015) by [The Family Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/3296\)](#), [rules 1\(3\), 6](#) (with [rule 15](#))

How the respondent can make an application

7.14.—(1) A respondent who wishes to make an application for a matrimonial or civil partnership order must make the application for that order within 21 days beginning with the date by which the respondent's acknowledgment of service is required to be filed, unless the court gives permission to make the application after that time has passed.

(2) Where the respondent makes an application under this rule, that application is to be treated as an application in the same proceedings for the purposes of this Part.

Further information about the contents of the application and the answer

7.15.—(1) The court may at any time order a party—

- (a) to clarify any matter which is in dispute in the proceedings; or
- (b) to give additional information in relation to any such matter,

whether or not the matter is contained or referred to in the application for a matrimonial or civil partnership order or in the answer.

(2) Paragraph (1) is subject to any rule of law to the contrary.

(3) Where the court makes an order under paragraph (1), the party against whom it is made must—

- (a) file the reply to the order made under paragraph (1); and
- (b) serve a copy of it on each of the other parties,

within the time specified by the court.

(4) The court may direct that information provided by a party to another party (whether given voluntarily or following an order made under paragraph (1)) must not be used for any purpose except for the proceedings in which it is given.

CHAPTER 3

HOW THE COURT DETERMINES MATRIMONIAL AND CIVIL PARTNERSHIP PROCEEDINGS

General rule – hearing to be in public

7.16.—(1) The general rule is that a hearing to which this Part applies is to be in public.

(2) The requirement for a hearing to be in public does not require the court to make special arrangements for accommodating members of the public.

(3) A hearing, or any part of it, may be in private if—

- (a) publicity would defeat the object of the hearing;
- (b) it involves matters relating to national security;
- (c) it involves confidential information (including information relating to personal financial matters) and publicity would damage that confidentiality;
- (d) a private hearing is necessary to protect the interests of any child or protected party;
- (e) it is a hearing of an application made without notice and it would be unjust to any respondent for there to be a public hearing; or
- (f) the court considers this to be necessary, in the interests of justice.

(4) A hearing of an application for rescission of an order by consent under rule 7.28 is, unless the court directs otherwise, to be in private.

(5) The court may order that the identity of any party or witness must not be disclosed if it considers non-disclosure necessary in order to protect the interests of that party or witness.

Exercise of jurisdiction in cases heard at place other than the court in which the case is proceeding

^{F25}7.17.

Status: Point in time view as at 01/07/2015.

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Textual Amendments

F25 Rule 7.17 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 12](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

Notice of hearing

7.18. The court officer will give notice to the parties—

- (a) of the date, time and place of every hearing which is to take place in a case to which they are a party; and
- (b) in the case of a hearing following a direction under [rule 7.20\(2\)\(a\)](#), of the fact that, unless the person wishes or the court requires, the person need not attend.

Applications for a decree nisi or a conditional order

7.19.—(1) An application may be made to the court for it to consider the making of a decree nisi, a conditional order, a decree of judicial separation or a separation order in the proceedings—

- (a) at any time after the time for filing the acknowledgment of service has expired, provided that no party has filed an acknowledgment of service indicating an intention to defend the case; and
- (b) in any other case, at any time after the time for filing an answer to every application for a matrimonial or civil partnership order made in the proceedings has expired.

(2) An application under paragraph (1) may be made—

- (a) in a case within paragraph (1)(a), by the applicant; and
- (b) in any other case, by either party to the marriage or civil partnership in question.

(3) An application under this rule must, if the information which was required to be provided by the application form is no longer correct, be accompanied by a statement setting out particulars of the change.

(4) If [^{F26}no] party has filed an answer opposing the making of a decree nisi, a conditional order, a decree of judicial separation or a separation order on [^{F27}another party's] application, then an application under this rule must be accompanied by [^{F28}a statement]—

- (a) stating whether there have been any changes in the information given in the application ^{F29}...;
- (b) confirming that, subject to any changes stated, the contents of the application ^{F30}... are true; and
- (c) where the acknowledgment of service has been signed by the other party [^{F31}to the marriage or civil partnership], confirming that party's signature on the acknowledgment of service.

[^{F32}(5) A statement under paragraph (4) must be verified by a statement of truth.]

Textual Amendments

F26 Word in rule 7.19(4) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 10\(a\)\(i\)](#) (with [rule 30](#))

F27 Words in rule 7.19(4) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 10\(a\)\(ii\)](#) (with [rule 30](#))

- F28** Words in rule 7.19(4) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **10(a)(iii)** (with rule 30)
- F29** Words in rule 7.19(4)(a) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **8(a)**
- F30** Words in rule 7.19(4)(b) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **8(b)**
- F31** Words in rule 7.19(4)(c) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **10(b)** (with rule 30)
- F32** Rule 7.19(5) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **10(c)** (with rule 30)

What the court will do on an application for a decree nisi, a conditional order, a decree of judicial separation or a separation order

7.20.—(1) This rule applies where an application is made under rule 7.19.

(2) If at the relevant time the case is an undefended case, the court must—

(a) if satisfied that the applicant is entitled to—

(i) in matrimonial proceedings, a decree nisi or a decree of judicial separation (as the case may be); or

(ii) in civil partnership proceedings, a conditional order or a separation order (as the case may be),

so certify and direct that the application be listed before a [^{F33}judge] for the making of the decree or order at the next available date;

(b) if not so satisfied, direct—

(i) that any party to the proceedings provide such further information, or take such other steps, as the court may specify; or

(ii) that the case be listed for a case management hearing.

(3) If the applicant has applied for costs, the court may, on making a direction under paragraph (2)

(a)—

(a) if satisfied that the applicant is entitled to an order for costs, so certify; or

(b) if not so satisfied, make no direction about costs.

(4) If at the relevant time the case is a defended case, the court must direct that the case be listed for a case management hearing.

(5) The court may, when giving a direction under paragraph (2)(b), direct that the further information provided be verified by an affidavit [^{F34}or a statement of truth].

(6) The court must not give directions under this rule unless at the relevant time it is satisfied—

(a) that a copy of each application for a matrimonial or civil partnership order or answer (including any amended application or answer) has been properly served on each party on whom it is required to be served; and

(b) that —

(i) in matrimonial proceedings, the application for a decree nisi or a decree of judicial separation; or

(ii) in civil partnership proceedings, the application for a conditional order or separation order,

was made at a time permitted by rule 7.19(1).

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(7) In this rule, “the relevant time” means the time at which the court is considering an application made under rule 7.19(1).

[^{F35}(8) Where a decree or order is made in accordance with a certificate under paragraph (2)(a), any person may, within 14 days after the making of the decree or order, inspect the certificate and the evidence filed under rule 7.19(4) ^{F36}... and may obtain copies.

(9) Paragraph (8) does not apply to a certificate which relates to—

(a) a decree of nullity of marriage under [^{F37}section 12(1)(g)] of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act; ^{F38}...

[a decree of nullity of marriage under section 12A(3) of the 1973 Act in a case where ^{F39}(aa) section 12(1)(g) of the 1973 Act applies; or]

(b) an order for nullity of civil partnership under section 50(1)(d) of the 2004 Act, unless the court has given permission.]

Textual Amendments

- F33** Word in rule 7.20(2)(a) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\), rules 1, 13](#) (with rule 137); S.I. 2014/954, [art. 2](#)
- F34** Words in rule 7.20(5) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\), rules 1, 11\(a\)](#) (with rule 30)
- F35** Rule 7.20(8)(9) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\), rules 1, 11\(b\)](#) (with rule 30)
- F36** Words in rule 7.20(8) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\), rules 1, 9](#)
- F37** Words in rule 7.20(9)(a) substituted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\), rules 1, 7\(a\)\(i\)](#) (with rule 14)
- F38** Word in rule 7.20(9)(a) omitted (1.7.2015) by virtue of [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\), rules 1, 7\(a\)\(ii\)](#) (with rule 14)
- F39** Rule 7.20(9)(aa) inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\), rules 1, 7\(b\)](#) (with rule 14)

Further provisions about costs

7.21.—(1) Subject to paragraph (2), any party to matrimonial or civil partnership proceedings may be heard on any question as to costs at the hearing of the proceedings.

[^{F40}(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.]

Textual Amendments

- F40** Rule 7.21(2)(3) substituted for rule 7.21(2) (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\), rules 1, 8](#) (with rule 14)

What the court must do for the case management hearing

7.22.—(1) This rule applies to a case in which the court has directed a case management hearing under rule 7.20.

- (2) Where a hearing has been directed under rule 7.20(4) the court must—
 - (a) decide where the hearing in the case should take place;
 - (b) set a timetable for the filing and service of evidence;
 - (c) make such order for the disclosure and inspection of documents as it considers appropriate; and
 - (d) give directions as to the conduct of the final hearing and the attendance of witnesses.

(Rule 21.1 explains what is meant by disclosure and inspection.)

- (3) Where a hearing has been directed under rule 7.20(2)(b)(ii), the court must—
 - (a) consider what further evidence is required properly to dispose of the proceedings and give directions about the filing and service of such evidence;

^{F41}(b)

- (c) give directions for the further conduct of the proceedings, including—
 - (i) giving a direction that on compliance with any directions under sub-paragraph (a) ^{F42}... a further application may be made under rule 7.19(1) for the proceedings to be dealt with under rule 7.20(2)(a); or
 - (ii) giving a direction that the case is not suitable for determination under that rule.

(4) Where the court gives a direction under paragraph (3)(c)(ii), it may also give directions under paragraph (2) or direct that the case be listed for a further hearing at which such directions will be given.

(5) Any party to proceedings which are not being dealt with under rule 7.20(2)(a) may apply to the court for further directions at any time. (Part 3 sets out the court's powers to encourage the parties to use ^{F43}[non-court dispute resolution] and Part 4 sets out the court's general case management powers.)

Textual Amendments

F41 Rule 7.22(3)(b) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 10\(a\)\(i\)](#)

F42 Words in rule 7.22(3)(c) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 10\(a\)\(ii\)](#)

F43 Words in rule 7.22(5) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), [rules 1, 10\(b\)](#)

Where proceedings under this Part may be heard

^{F44}7.23.

Textual Amendments

F44 Rule 7.23 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 14](#) (with [rule 137](#)); [S.I. 2014/954](#), [art. 2](#)

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The circumstances in which proceedings may be transferred between courts

^{F45}7.24.

Textual Amendments

F45 Rule 7.24 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **14** (with rule 137); S.I. 2014/954, **art. 2**

The procedure for complying with section 41 of 1973 Act or section 63 of 2004 Act

^{F46}7.25.

Textual Amendments

F46 Rule 7.25 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **11**

Medical examinations in proceedings for nullity of [^{F47}a marriage of an opposite sex couple]

7.26.—(1) Where the application is for a decree of nullity of [^{F48}a marriage of an opposite sex couple] on the ground of incapacity to consummate or wilful refusal to do so, the court must determine whether medical examiners should be appointed to examine the parties or either of them.

(2) The court must only appoint medical examiners under paragraph (1) where it considers that it is necessary for the proper disposal of the case.

(3) The person to be examined must, in the presence of the medical examiner, sign a statement identifying that person as the party to whom the order for examination applies.

(4) The medical examiner must certify on the same statement that it was signed in his or her presence by the person who has been examined.

(5) The person who carries out the examination must prepare a report and file it with the court by the date directed by the court.

(6) Either party is entitled to see a copy of a report filed under paragraph (5).

Textual Amendments

F47 Words in rule 7.26 heading substituted (13.3.2014) by virtue of [The Family Procedure \(Amendment\) Rules 2014 \(S.I. 2014/524\)](#), rules 1, **4(a)(i)**

F48 Words in rule 7.26(1) substituted (13.3.2014) by virtue of [The Family Procedure \(Amendment\) Rules 2014 \(S.I. 2014/524\)](#), rules 1, **4(b)(i)**

Stay of proceedings

7.27.—(1) Where—

(a) the court is considering an application in accordance with rule 7.20 or gives directions under rule 7.22;

(b) it appears to the court that there are proceedings continuing in any country outside England and Wales which are in respect of the marriage or civil partnership in question or which are capable of affecting its validity or subsistence; and

- (c) the court considers that the question whether the proceedings should be stayed^(GL) under paragraph 9 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973^{M2} or, for civil partnership proceedings, under rules made under sections 75 and 76 of the Courts Act 2003 [^{F49}ought to be determined by the court],

the court must give directions for the hearing of that question.

(2) Where at any time after the making of an application under this Part it appears to the court in matrimonial proceedings that, under Articles 16 to 19 of the Council Regulation, the court does not have jurisdiction to hear the application and is or may be required to stay^(GL) the proceedings, the court will—

- (a) stay^(GL) the proceedings; and
(b) fix a date for a hearing to determine the questions of jurisdiction and whether there should be a further stay^(GL) or other order.

(3) The court must give reasons for its decision under Articles 16 to 19 of the Council Regulation and, where it makes a finding of fact, state such finding of fact.

(4) An order under Article 17 of the Council Regulation that the court has no jurisdiction over the proceedings will be recorded by the court or the court officer in writing.

(5) The court may, if all parties agree, deal with any question about the jurisdiction of the court without a hearing.

Textual Amendments

F49 Words in rule 7.27(1)(c) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 12](#) (with [rule 30](#))

Marginal Citations

M2 [Paragraph 9](#) of Schedule 1 was amended by section 19(5) of and paragraphs 7(1), (2), (3), (4) and (5) of Schedule 3 to the Family Law Act 1996 and regulation 4 of the European Communities (Matrimonial Jurisdiction and Judgments) Regulations 2001([S.I. 2001/310](#)).

CHAPTER 4

COURT ORDERS

The circumstances in which an order may be set aside (rescission)

7.28.—(1) The court must not hear an application by a respondent for—

- (a) the rescission of a decree of divorce under section 10(1) of the 1973 Act;
(b) the rescission of a dissolution order under section 48(1) of the 2004 Act,

less than 14 days after service of the application.

(2) Either party to the marriage concerned may apply—

- (a) after the decree nisi has been made but before it has been made absolute; or
(b) after a decree of judicial separation has been made

for the rescission of the decree on the grounds that the parties are reconciled and both consent to the rescission.

(3) Either party to the civil partnership concerned may apply—

- (a) after a conditional order has been made but before it has been made final; or

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(b) after a separation order has been made,
for the rescission of the order on the grounds that the parties are reconciled and both consent to the rescission.

Applications under section 10(2) of 1973 Act or section 48(2) of 2004 Act

7.29. Where the court makes—

- (a) in the case of divorce, a decree absolute following an application under section 10(2) of the 1973 Act; or
- (b) in the case of dissolution, a final order following an application under section 48(2) of the 2004 Act,

it must make a written record of the reasons for deciding to make that decree absolute or final order.

Orders under section 10A(2) of the 1973 Act

7.30.—(1) Where the court has made an order under section 10A(2) of the 1973 Act, the declaration referred to in that section must—

- (a) be made and signed by both parties to the marriage concerned;
- (b) give particulars of the proceedings in which the order was obtained;
- (c) confirm that the steps required to dissolve the marriage in accordance with the religious usages appropriate to the parties have been taken;
- (d) be accompanied by—
 - (i) a certificate from a relevant religious authority that all such steps have been taken; or
 - (ii) such other documents showing the relevant steps have been taken as the court may direct; and
 - (iii) be filed at the court either before or together with an application to make the decree nisi absolute,

under rule 7.32 or 7.33.

(2) Where the certificate referred to in paragraph (1)(d)(i) is not in English it must be accompanied by a translation of that certificate into English, certified by a notary public or authenticated by statement of truth.

(3) The court may direct that the declaration need not be accompanied by the material mentioned in paragraph (1)(d).

(4) In this rule a religious authority is “relevant” if the party who made the application for the order under section 10A(2) of the 1973 Act considers that authority competent to confirm that the steps referred to in paragraph (1)(c) have been taken.

Applications to prevent decrees nisi being made absolute or conditional orders being made final

7.31.—(1) This rule applies to an application under section 8 or 9 of the 1973 Act ^{M3} or under section 39 or 40 of the 2004 Act to prevent —

- (a) in the case of divorce or nullity of marriage, a decree nisi being made absolute; or
- (b) in the case of dissolution or nullity of civil partnership, a conditional order being made final.

(2) An application to which this rule applies must be made using the Part 18 procedure, subject to paragraphs (3) to (6) of this rule.

(3) The person making an application to which this rule applies must within 28 days of filing the application apply to the court to give directions for the hearing of the application.

(4) Where the person making an application to which this rule applies does not apply for directions under paragraph (3), then the person in whose favour the decree nisi or conditional order (as the case may be) was made may do so.

(5) Rule 7.22(2) applies to an application to which this rule applies as it applies to an application for a matrimonial or civil partnership order.

(6) Where an application to which this rule applies is made by the Queen's Proctor—

(a) the Queen's Proctor may give written notice, to the court and to the party in whose favour the decree nisi or conditional order (as the case may be) was made, of the Queen's Proctor's intention to make an application to prevent the decree nisi being made absolute or the conditional order being made final; and

(b) where the Queen's Proctor does so the application under paragraph (1) must be made within 21 days beginning with the date on which the notice is given.

Marginal Citations

M3 Section 8 was amended by section 66(1) and (3) of and paragraph 5 of Schedule 8 to the Family Law Act 1996 and section 9 was prospectively repealed by section 66(3) of and Schedule 10 to the Family Law Act 1996.

Making decrees nisi absolute or conditional orders final by giving notice

7.32.—(1) Unless rule 7.33 applies—

(a) in matrimonial proceedings, a spouse in whose favour a decree nisi has been made may give notice to the court that he or she wishes the decree nisi to be made absolute; or

(b) in civil partnership proceedings, a civil partner in whose favour a conditional order has been made may give notice to the court that he or she wishes the conditional order to be made final.

(2) Subject to paragraphs (3) and (4), where the court receives a notice under paragraph (1) it will make the decree nisi absolute or the conditional order final (as the case may be) if it is satisfied that—

(a) no application for rescission of the decree nisi or the conditional order is pending;

(b) no appeal against the making of the decree nisi or the conditional order is pending;

(c) no order has been made by the court extending the time for bringing an appeal of the kind mentioned in sub-paragraph (b), or if such an order has been made, that the time so extended has expired;

(d) no application for an order of the kind mentioned in sub-paragraph (c) is pending;

(e) no application to prevent the decree nisi being made absolute or the conditional order being made final is pending;

^{F50}(f)

(g) the provisions of section 10(2) to (4) of the 1973 Act or section 48(2) to (4) of the 2004 Act do not apply or have been complied with;

(h) any order under section 10A(2) of the 1973 Act has been complied with; and

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- (i) where the decree nisi was made on the ground in [^{F51}section 12(1)(g)] of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act [^{F52}, or was made under section 12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies], or the conditional order was made under section 50(1)(d) of the 2004 Act—
- (i) there is not pending a reference under section 8(5) of the Gender Recognition Act 2004 [^{F53}, or an application under section 8(5A) of that Act,] in respect of the application on which the interim gender recognition certificate to which the application relates was granted;
 - (ii) that interim certificate has not been revoked under section 8(6)(b) of that Act; and
 - (iii) no appeal is pending against an order under section 8(6)(a) of that Act.
- (3) Where the notice is received more than 12 months after the making of the decree nisi or the conditional order, it must be accompanied by an explanation in writing stating—
- (a) why the application has not been made earlier;
 - (b) whether the applicant and respondent have lived together since the decree nisi or the conditional order was made, and, if so, between what dates;
 - (c) if the applicant is female, whether she has given birth to a child since the decree nisi or the conditional order was made and whether it is alleged that the child is or may be a child of the family;
 - (d) if the respondent is female, whether the applicant has reason to believe that she has given birth to a child since the decree nisi or the conditional order was made and whether it is alleged that the child is or may be a child of the family.
- (4) Where paragraph (3) applies, the court may—
- (a) require the applicant to file an affidavit verifying the explanation [^{F54}or to verify the explanation with a statement of truth]; and
 - (b) make such order on the application as it thinks fit, but where it orders the decree nisi to be made absolute or the conditional order to be made final that order is not to take effect until the court is satisfied that none of the matters mentioned in paragraph (2)(a) to (i) applies.

Textual Amendments

- F50** Rule 7.32(2)(f) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **12**
- F51** Words in rule 7.32(2)(i) substituted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **9(a)** (with rule 14)
- F52** Words in rule 7.32(2)(i) inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **9(b)** (with rule 14)
- F53** Words in rule 7.32(2)(i) inserted (1.7.2015) by [The Family Procedure \(Amendment\) Rules 2015 \(S.I. 2015/913\)](#), rules 1, **9(c)** (with rule 14)
- F54** Words in rule 7.32(4) inserted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **13** (with rule 30)

Applications to make decrees nisi absolute or conditional orders final

7.33.—(1) An application must be made—

- (a) in matrimonial proceedings, for the decree nisi to be made absolute; or
- (b) in civil partnership proceedings, for the conditional order to be made final,

where the conditions set out in paragraph (2) apply.

- (2) The conditions referred to in paragraph (1) are—
- (a) the Queen's Proctor gives notice to the court under rule 7.31(6)(a) and has not withdrawn that notice;
 - (b) there are other circumstances which ought to be brought to the attention of the court before the application is granted; or
 - (c) the application is made—
 - (i) in matrimonial proceedings, by the spouse against whom the decree nisi was made; or
 - (ii) in civil partnership proceedings, by the civil partner against whom the conditional order was made.

[^{F55}(3) An application under this rule to which paragraph (2)(a) applies must be served on the Queen's Proctor.]

- (4) Where the court orders—
- (a) in matrimonial proceedings, a decree to be made absolute under this rule; or
 - (b) in civil partnership proceedings, a conditional order to be made final under this rule,
- that order is not to take effect until the court is satisfied about the matters mentioned in rule 7.32(2) (a) to (i) .

Textual Amendments

F55 Rule 7.33(3) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 15](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

What the court officer must do when a decree nisi is made absolute

- 7.34.** In matrimonial proceedings, where a decree nisi is made absolute the court officer must—
- (a) endorse that fact on the decree nisi together with the precise time at which the decree was made absolute; and
 - (b) send a certificate that a decree nisi has been made absolute to the applicant, the respondent, any co-respondent and any other party.

What the court officer must do when a conditional order is made final

- 7.35.** Where a conditional order is made final the court officer must—
- (a) endorse that fact on the conditional order together with the precise time at which the order was made final; and
 - (b) send the final order to the applicant, the respondent and any other party.

Records of decrees absolute and final orders

7.36.—(1) A central index of decrees absolute and final orders must be kept under the control of the principal registry.

(2) Any person ^{F56}... may require a search to be made of that index and to be provided with a certificate showing the results of that search.

(3) Any person who requests it must ^{F56}... be issued with a copy of the decree absolute or final order.

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Textual Amendments

F56 Words in rule 7.36(2)(3) omitted (6.4.2012) by virtue of [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules [1](#), [14](#) (with rule [30](#))

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