
STATUTORY INSTRUMENTS

2010 No. 2955

The Family Procedure Rules 2010

PART 9

APPLICATIONS FOR A FINANCIAL REMEDY

CHAPTER 4

PROCEDURE ^{F1}... AFTER FILING AN APPLICATION

Textual Amendments

F1 Words in Pt. 9 Ch. 4 heading omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), rules 1, **25** (with [rule 137](#)); S.I. 2014/954, **art. 2**

Duties of the court and the applicant upon issuing an application

9.12.—(1) When an application under this Part is issued [^{F2}, except where Chapter 5 of this Part applies] —

- (a) the court will fix a first appointment not less than 12 weeks and not more than 16 weeks after the date of the filing of the application; and
- (b) subject to paragraph (2), within 4 days beginning with the date on which the application was filed, a court officer will—
 - (i) serve a copy of the application on the respondent; and
 - (ii) give notice of the date of the first appointment to the applicant and the respondent.

(2) Where the applicant wishes to serve a copy of the application on the respondent and on filing the application so notifies the court—

- (a) paragraph (1)(b) does not apply;
- (b) a court officer will return to the applicant the copy of the application and the notice of the date of the first appointment; and
- (c) the applicant must,—
 - (i) within 4 days beginning with the date on which the copy of the application is received from the court, serve the copy of the application and notice of the date of the first appointment on the respondent; and
 - (ii) file a certificate of service at or before the first appointment.

(Rule 6.37 sets out what must be included in a certificate of service.)

(3) The date fixed under paragraph (1), or for any subsequent appointment, must not be cancelled except with the court's permission and, if cancelled, the court must immediately fix a new date.

[^{F3}(4) In relation to an application to which the Maintenance Regulation [^{F4}or the 2007 Hague Convention] applies, where the applicant does not already know the address of the respondent at the

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time the application is issued, paragraph (2) does not apply and the court will serve the application in accordance with paragraph (1).]

Textual Amendments

- F2** Words in [rule 9.12\(1\)](#) substituted (22.4.2014) by [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 26](#) (with [rule 137](#)); S.I. 2014/954, art. 2
- F3** [Rule 9.12\(4\)](#) inserted (18.6.2011) by [The Family Procedure \(Amendment\) Rules 2011 \(S.I. 2011/1328\)](#), [rules 1, 8](#)
- F4** Words in [rule 9.12\(4\)](#) inserted (20.12.2012) by [The Family Procedure \(Amendment No. 4\) Rules 2012 \(S.I. 2012/2806\)](#), [rules 1, 8](#)

Service of application on mortgagees, trustees etc

9.13.—(1) Where an application for a financial remedy includes an application for an order for a variation of settlement, the applicant must serve copies of the application on—

- (a) the trustees of the settlement;
- (b) the settlor if living; and
- (c) such other persons as the court directs.

(2) In the case of an application for an avoidance of disposition order, the applicant must serve copies of the application on the person in whose favour the disposition is alleged to have been made.

(3) Where an application for a financial remedy includes an application relating to land, the applicant must serve a copy of the application on any mortgagee of whom particulars are given in the application.

(4) Any person served under paragraphs (1), (2) or (3) may make a request to the court in writing, within 14 days beginning with the date of service of the application, for a copy of the applicant's financial statement or any relevant part of that statement.

(5) Any person who—

- (a) is served with copies of the application in accordance with paragraphs (1), (2) or (3); or
- (b) receives a copy of a financial statement, or a relevant part of that statement, following an application made under paragraph (4),

may within 14 days beginning with the date of service or receipt file a statement in answer.

(6) Where a copy of an application is served under paragraphs (1), (2) or (3), the applicant must file a certificate of service at or before the first appointment.

(7) A statement in answer filed under paragraph (5) must be verified by a statement of truth.

Procedure before the first appointment

9.14.—(1) Not less than 35 days before the first appointment both parties must simultaneously exchange with each other and file with the court a financial statement in the form referred to in Practice Direction 5A.

(2) The financial statement must—

- (a) be verified by [^{F5}a statement of truth]; and
- (b) accompanied by the following documents only—
 - (i) any documents required by the financial statement;

- (ii) any other documents necessary to explain or clarify any of the information contained in the financial statement; and
- (iii) any documents provided to the party producing the financial statement by a person responsible for a pension arrangement, either following a request under rule 9.30 or as part of a relevant valuation; and
- (iv) any notification or other document referred to in rule 9.37(2), (4) or (5) which has been received by the party producing the financial statement.

[^{F6}(2ZA) Paragraph (2A) applies where the court has determined that the procedure in this Chapter should apply to an application under Article 56 of the Maintenance Regulation or Article 10 of the 2007 Hague Convention.]

[^{F7}(2A) The requirement of paragraph (2)(a) relating to verification by a statement of truth does not apply to the financial statement of either party where the application has been made under—

(a) Article 56 of the Maintenance Regulation, using the form in Annex VII to that Regulation; or

(b) Article 10 of the 2007 Hague Convention, using the Financial Circumstances Form, and the relief sought is limited to a type to which that Regulation or that Convention, as appropriate, applies, but the court may at any time direct that the financial statement of either party shall be verified by a statement of truth.]

(3) Where a party was unavoidably prevented from sending any document required by the financial statement, that party must at the earliest opportunity—

- (a) serve a copy of that document on the other party; and
- (b) file a copy of that document with the court, together with a written explanation of the failure to send it with the financial statement.

(4) No disclosure or inspection of documents may be requested or given between the filing of the application for a financial remedy and the first appointment, except—

- (a) copies sent with the financial statement, or in accordance with paragraph (3); or
- (b) in accordance with paragraphs (5) and (6).

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

(5) Not less than 14 days before the hearing of the first appointment, each party must file with the court and serve on the other party—

- (a) a concise statement of the issues between the parties;
- (b) a chronology;
- (c) a questionnaire setting out by reference to the concise statement of issues any further information and documents requested from the other party or a statement that no information and documents are required; and
- (d) a notice stating whether that party will be in a position at the first appointment to proceed on that occasion to a FDR appointment.

(6) Not less than 14 days before the hearing of the first appointment, the applicant must file with the court and serve on the respondent confirmation—

- (a) of the names of all persons served in accordance with rule 9.13(1) to (3); and
- (b) that there are no other persons who must be served in accordance with those paragraphs.

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Textual Amendments

- F5** Words in rule 9.14(2)(a) substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), [rules 1, 16\(a\)](#) (with [rule 30](#))
- F6** [Rule 9.14\(2ZA\)](#) inserted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), [rules 1, 8](#) (with [rule 45](#))
- F7** [Rule 9.14\(2A\)](#) substituted (20.12.2012) by [The Family Procedure \(Amendment No. 4\) Rules 2012 \(S.I. 2012/2806\)](#), [rules 1, 9\(a\)](#)

Duties of the court at the first appointment

9.15.—(1) The first appointment must be conducted with the objective of defining the issues and saving costs.

(2) At the first appointment the court must determine—

- (a) the extent to which any questions seeking information under rule 9.14(5)(c) must be answered; and
- (b) what documents requested under rule 9.14(5)(c) must be produced,

and give directions for the production of such further documents as may be necessary.

(3) The court must give directions where appropriate about—

- (a) the valuation of assets (including the joint instruction of joint experts);
- (b) obtaining and exchanging expert evidence, if required;
- (c) the evidence to be adduced by each party; and
- (d) further chronologies or schedules to be filed by each party.

(4) If the court decides that a referral to a FDR appointment is appropriate it must direct that the case be referred to a FDR appointment.

(5) If the court decides that a referral to a FDR appointment is not appropriate it must direct one or more of the following—

- (a) that a further directions appointment be fixed;
- (b) that an appointment be fixed for the making of an interim order;
- (c) that the case be fixed for a final hearing and, where that direction is given, the court must determine the judicial level at which the case should be heard.

([F8]Under Part 3] the court may also direct that the case be adjourned if it considers that [F9]non-court dispute resolution] is appropriate.)

(6) In considering whether to make a costs order under rule 28.3(5), the court must have particular regard to the extent to which each party has complied with the requirement to send documents with the financial statement and the explanation given for any failure to comply.

(7) The court may—

- (a) where an application for an interim order has been listed for consideration at the first appointment, make an interim order;
- (b) having regard to the contents of the notice filed by the parties under rule 9.14(5)(d), treat the appointment (or part of it) as a FDR appointment to which rule 9.17 applies;
- (c) in a case where a pension sharing order or a pension attachment order is requested, direct any party with pension rights to file and serve a Pension Inquiry Form, completed in full or in part as the court may direct; and

- (d) in a case where a pension compensation sharing order or a pension compensation attachment order is requested, direct any party with PPF compensation rights to file and serve a Pension Protection Fund Inquiry Form, completed in full or in part as the court may direct.
- (8) Both parties must personally attend the first appointment unless the court directs otherwise.

Textual Amendments

- F8** Words in rule 9.15(5) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **14(a)**
- F9** Words in rule 9.15(5) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 3\) Rules 2014 \(S.I. 2014/843\)](#), rules 1, **14(b)**

After the first appointment

9.16.—(1) Between the first appointment and the FDR appointment, a party is not entitled to the production of any further documents except—

- (a) in accordance with directions given under rule 9.15(2); or
 - (b) with the permission of the court.
- (2) At any stage—
- (a) a party may apply for further directions or a FDR appointment;
 - (b) the court may give further directions or direct that parties attend a FDR appointment.

The FDR appointment

9.17.—(1) The FDR appointment must be treated as a meeting held for the purposes of discussion and negotiation.

(2) The judge hearing the FDR appointment must have no further involvement with the application, other than to conduct any further FDR appointment or to make a consent order or a further directions order.

(3) Not less than 7 days before the FDR appointment, the applicant must file with the court details of all offers and proposals, and responses to them.

(4) Paragraph (3) includes any offers, proposals or responses made wholly or partly without prejudice^(GL), but paragraph (3) does not make any material admissible as evidence if, but for that paragraph, it would not be admissible.

(5) At the conclusion of the FDR appointment, any documents filed under paragraph (3), and any filed documents referring to them, must, at the request of the party who filed them, be returned to that party and not retained on the court file.

(6) Parties attending the FDR appointment must use their best endeavours to reach agreement on matters in issue between them.

(7) The FDR appointment may be adjourned from time to time.

(8) At the conclusion of the FDR appointment, the court may make an appropriate consent order.

(9) If the court does not make an appropriate consent order as mentioned in paragraph (8), the court must give directions for the future course of the proceedings including, where appropriate—

- (a) the filing of evidence, including up to date information; and
- (b) fixing a final hearing date.

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(10) Both parties must personally attend the FDR appointment unless the court directs otherwise.

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