

Family Procedure Rules (Amendments) Statutory Instrument

Amendments to Part 6 (Service) of the Family Procedure Rules – Keeling Schedule

Please note – all text appearing in red font are amendments to Part 6

6.1 Part 6 rules about service apply generally

This Part applies to the service of documents, except where –

- (a) another Part, any other enactment or a practice direction makes a different provision; or
- (b) the court directs otherwise.

6.2 Interpretation

In this Part ‘solicitor’ includes any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the conduct of litigation (within the meaning of that Act)

II SERVICE OF THE APPLICATION FOR A MATRIMONIAL OR CIVIL PARTNERSHIP ORDER IN THE JURISDICTION

6.3 Interpretation

In this Chapter, unless the context otherwise requires, a reference to an application –

- (a) is a reference to an application for a matrimonial or civil partnership order; and
- (b) includes an application by a respondent **as referred to in rule 7.4.**

(‘Jurisdiction’ is defined in rule 2.3)

(Part 7 deals with applications in matrimonial or civil partnership proceedings.)

6.4 Methods of service

An application may be served by any of the following methods –

- (a) personal service in accordance with rule 6.7;
- (b) first class post, or other service which provides for delivery on the next business day, in accordance with Practice Direction 6A; ~~or~~
- (c) where rule 6.11 applies, document exchange, **or**
- (d) **email service in accordance with rule 6.7A.**

6.5 Who is to serve the application

(1) Subject to the provisions of this rule, an application may be served by –

- (a) ~~the applicant a court officer~~; or
- (b) ~~the applicant court officer~~, if so requested by the applicant.

(2) A court officer will not serve the application if the party to be served is—

- (a) a child or protected party; **or**
- (b) **out of the jurisdiction.**

(3) An application must not be served personally by the applicant himself or herself.

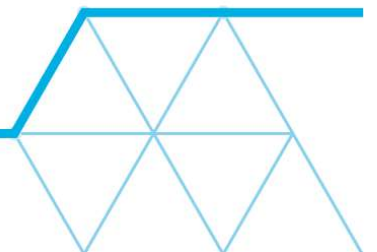
(Rule 6.14 deals with service of the application on children and protected parties)

6.6 ~~Every~~ Respondent to be served

The application must be served on ~~every~~ the respondent.

6.6A Time for serving an application by the applicant

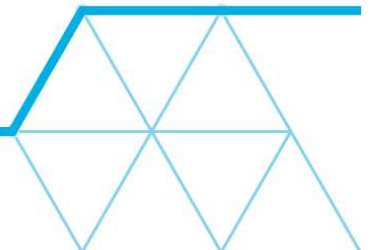
Where the applicant serves the application, the applicant must complete the step required by the following table in relation to the method of service chosen before 12.00 midnight on the day 28 days after the date of issue of the application.



Method of service	Step required
First class post, document exchange or other service which provides for delivery on the next business day	Posting, leaving with, delivering to or collection by the relevant service provider
Personal service under rule 6.7, by someone other than the applicant personally	Leaving it with the person to be served
Email service under rule 6.7A	Sending the application by e-mail and sending the notice required by rule 6.7A(2) by posting, leaving with, delivering to or collection by the relevant service provider

6.6B Extension of time for serving the application

- (1) The applicant may apply for an order extending the time for compliance with rule 6.6A.
- (2) The general rule is that an application under paragraph (1) must be made –
 - (a) within the period for service specified by rule 6.6A; or
 - (b) where an order has been made under this rule, within the period specified by that order.
- (3) Where an applicant asserts that they have a good reason for not making an application under paragraph (1) within the periods specified in paragraph (2) an application under paragraph (1) may be made—
 - (a) after the period specified by rule 6.6A; or
 - (b) where an order has been made under this rule, after the period specified by that order.
- (4) On an application under paragraph (1), the court must consider all the circumstances including whether –
 - (a) the court has failed to serve the application;
 - (b) the applicant has taken reasonable steps to comply with rule 6.6A, and
 - (c) the applicant has acted promptly.
- (5) An application for an order extending the time for compliance with rule 6.6A –
 - (a) must be supported by evidence; and
 - (b) may be made without notice.
- (6) Where an order is made without notice—



- (a) a copy of the order; and
 - (b) a copy of the application for an order extending time together with any statement supporting it,
- must be served on the respondent when the application for a matrimonial or civil partnership order is served.

6.7 Personal service

An application is served personally on a respondent by leaving it with that respondent.

6.7A Email service

(1) Subject to paragraph 2, an application is served on a respondent by email by sending it to—

- (a) the respondent's usual email address, or
- (b) the email address provided by the respondent in accordance with rule 6.12.

(2) Where an application is served by email, a notice confirming such service must be sent to the respondent's postal address, by first class post or other service which provides for delivery on the next business day.

6.8 Service of application by the court

(1) Where the application is to be served by a court officer, the applicant must give the court officer—

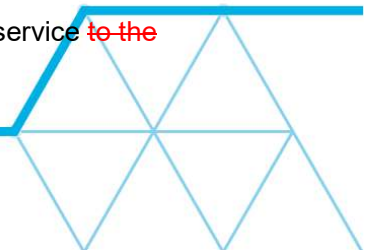
- (a) ~~an~~ the respondent's usual email address (if known); and
 - (b) the respondent's last known or usual postal address,
- at which the respondent is to be served in accordance with rule 6.4.

(2) Subject to paragraph (3), a court officer will serve the application by email in accordance with rule 6.7A.

(3) Where—

- (a) an email address for service on the respondent is not provided; or
 - (b) the applicant does not seek email service on the respondent,
- a court officer will serve the application by first class post or other service which provides for delivery on the next business day.

(4) Where the court officer has sent ~~to the applicant~~ a notification of failure of service ~~to the~~



applicant in accordance with rule 6.21 (**postal service**) or 6.21A (**email service**), the applicant may request the court officer to serve the document on the respondent at an alternative address.

(3) Where the court officer has served the respondent following a request in accordance with paragraph (4), the court will not try to serve the application again.

6.9 Service by the bailiff

(1) An applicant may request that an application be served by a bailiff delivering a copy of the application to the respondent personally.

(2) The request must be made in accordance with Practice Direction 6A.

(3) Where the bailiff is unable to serve the application, the applicant may apply to the court for an order under rule 6.19 (service by an alternative method or at an alternative place).

(Practice Direction 6A contains provision about when a request under this rule is appropriate.)

(Rule 6.22 provides for notice of non-service by a bailiff.)

6.10 Where to serve the application – general provisions

(1) The application must be served within the jurisdiction except as provided for by Chapter 4 of this Part (service out of the jurisdiction).

(2) The applicant must include in the application—

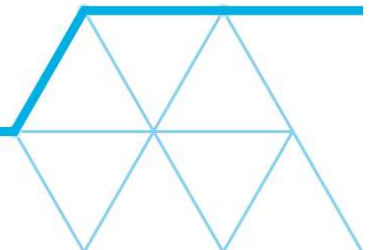
(a) an **email address (if this is known); and**

(b) a **postal address,**

at which the respondent may be served.

(3) Paragraph (2) does not apply where an order made by the court under rule 6.19 (service by an alternative method or at an alternative place) specifies the place or method of service of the application.

6.11 Service of the application on a solicitor within the jurisdiction ~~or in any EEA state~~



(1) Where a solicitor acting for the respondent has notified the applicant in writing that the solicitor is instructed by the respondent to accept service of the application on behalf of the respondent at a business address within the jurisdiction, the application must be served at the business address of that solicitor.

(‘Solicitor’ has the extended meaning set out in rule 6.2)

6.12 Service of the application where the respondent gives an address at which the respondent may be served

Subject to rule 6.13, the respondent may be served with the application at an **email address in accordance with rule 6.7A or at a postal** address within the jurisdiction which the respondent has given for the purpose of being served with the proceedings.

6.13 Service of the application where the respondent does not give an address at which the respondent may be served

(1) This rule applies where –

(a) rule 6.11 (service of application on solicitor); and

(b) rule 6.12 (respondent gives address at which respondent may be served),

do not apply and the applicant does not wish the application to be served personally under rule 6.7.

(2) Subject to paragraphs (3) to (5) the application must be served on the respondent

(a) if the respondent’s usual email address is known at that address in accordance with rule 6.7A; or

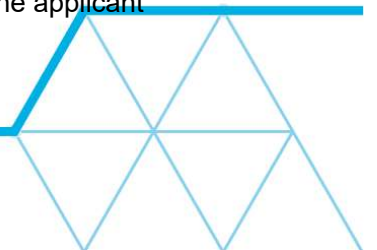
(b) if that usual email address is not known, or if the applicant does not seek email service on the respondent, at the respondent’s usual or last known postal address.

(3) Where the applicant has reason to believe that the respondent no longer resides at his usual or last known **postal** address, **or no longer has access to the usual email address**, the applicant must take reasonable steps to ascertain the current **postal and email** address of the respondent.

(4) Where, having taken the reasonable steps required by paragraph (3), the applicant –

(a) ascertains the respondent’s current **email and postal** address, the application must be served **in accordance with paragraph (2) at that address**; or

(b) is unable to ascertain the respondent’s current **email and postal** address, the applicant must consider whether there is –



- (i) an alternative place where; or
- (ii) an alternative method by which, service may be effected.

(5) If, under paragraph (4)(b), there is such a place where or a method by which service could be effected, the applicant must make an application under rule 6.19.

6.14 Service of the application on children and protected parties

(1) Where the respondent is a child, the application form must be served on –

- (a) one of the child's parents or guardians; or
- (b) if there is no parent or guardian, an adult with whom the child resides or in whose care the child is.

(2) Where the respondent is a protected party, the application must be served on –

- (a) one of the following persons with authority in relation to the protected party –
 - (i) the attorney under a registered enduring power of attorney;
 - (ii) the donee of a lasting power of attorney; or
 - (iii) the deputy appointed by the Court of Protection; or
- (b) if there is no such person, an adult with whom the protected party resides or in whose care the protected party is.

(3) Any reference in this Chapter to a respondent or party to be served includes the person to be served with the application form on behalf of a child or protected party under paragraph (1) or (2).

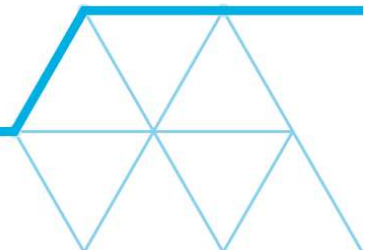
(4) The court may make an order permitting an application form to be served on a child or protected party, or on a person other than the person specified in paragraph (1) or (2).

(5) An application for an order under paragraph (4) may be made without notice.

(6) The court may order that, although an application form has been sent or given to someone other than the person specified in paragraph (1) or (2), it is to be treated as if it had been properly served.

(7) Where a document is served in accordance with this rule –

- (a) it must be endorsed with the notice set out in Practice Direction 6A; and



(b) the person commencing the proceedings must file a witness statement by the person on whom the application form was served stating whether –

- (i) the contents of the application form; or
- (ii) the purpose and intention of the application, were communicated to the child or protected party and, if not, why not.

(8) Paragraph (7)(b) does not apply where the Official Solicitor is, as the case may be –

- (a) the litigation friend of the protected party; or
- (b) the litigation friend or children's guardian of the child.

6.15 Deemed service – receipt of acknowledgment of service

(1) Subject to paragraph (2), an application is deemed to be served if the acknowledgment of service, signed by the party served or the solicitor acting on that party's behalf, is returned to the court office.

(2) Where the signature on the acknowledgment of service purports to be that of the other party to the marriage or civil partnership, the applicant must prove that it is the signature of that party by –

- (a) giving oral evidence to that effect at the hearing; or
- (b) if the application is ~~not disputed undefended~~, confirming it to be so in the statement the applicant files under rule ~~7.19(4)~~ 7.9(4).

6.16 Deemed service by post or alternative service where no acknowledgment of service filed

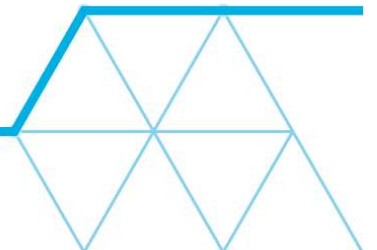
(1) Subject to paragraph (2), if –

- (a) an application has been served on a respondent by ~~email in accordance with rule 6.7A or by~~ post or other service which provides for delivery on the next business day;
- (b) no acknowledgment of service has been returned to the court office; and
- (c) the court is satisfied that the respondent has received the application, the court may direct that the application is deemed to be served.

~~(2) Where –~~

~~(a) the application alleges 2 years' separation and the respondent consents to a matrimonial or civil partnership order being granted; and~~

~~(b) none of the other facts mentioned in section 1(2) of the 1973 Act² or section 44(5) of the 2004 Act, as the case may be, is alleged,~~



~~paragraph (1) applies only if—~~

~~(i) the court is satisfied that the respondent has received notice of the proceedings; and
(ii) the applicant produces a written statement, signed by the respondent, containing the respondent's consent to the grant of an order.~~

6.17 Proof of personal service where no acknowledgment of service filed

(1) This rule applies where –

- (a) an application has been served on a respondent personally; and
- (b) no acknowledgment of service has been returned to the court office.

(2) The person serving the application must file a certificate of service stating the date and time of personal service.

(Practice Direction 6A makes provision for a certificate of service by a bailiff.)

(3) If the respondent served was the other party to the marriage or civil partnership, the certificate of service must show the means by which the person serving the application knows the identity of the party served.

6.18 Proof of service by the court etc.

(1) Where a court officer serves an application by post, or other service which provides for delivery on the next business day, the court officer must note in the court records the date of –

- (a) posting; or
- (b) leaving with, delivering to or collection by the relevant service provider.

~~(1A) Where a court officer serves an application by email in accordance with rule 6.7A, the court officer must note in the court records the date and time of the email and the date on which the accompanying notice was posted.~~

(2) A record made in accordance with paragraph (1) is evidence of the facts stated in it.

(3) This rule does not affect the operation of section 31N of the 1984 Act.

(Section 31N of the 1984 Act provides that where a summons or other process issued from the family court is served by an officer of a court, service may be proved by a certificate in a prescribed form.)



6.19 Service of the application by an alternative method or at an alternative place

(1) Where it appears to the court that there is a good reason to authorise service by a method or at a place not otherwise permitted by this Part, the court may direct that service is effected by an alternative method or at an alternative place.

(2) On an application under this rule, the court may direct that steps already taken to bring the application form to the attention of the respondent by an alternative method or at an alternative place is good service.

(3) A direction under this rule must specify –

- (a) the method or place of service;
- (b) the date on which the application form is deemed served; and
- (c) the period for filing an acknowledgment of service or answer.

6.20 Power of the court to dispense with service of the application

(1) The court may dispense with service of the application where it is impracticable to serve the application by any method provided for by this Part.

(2) An application for an order to dispense with service may be made at any time and must be supported by evidence.

(3) The court may require the applicant to attend when it decides the application.

6.21 Notification of failure of **postal service by the court**

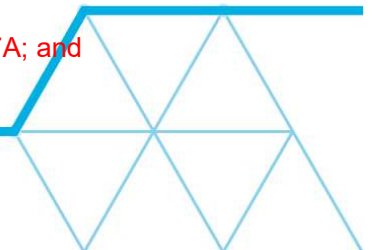
Where –

- (a) the court serves the application by post or other service which provides for delivery on the next business day; and
 - (b) the application is returned to the court,
- the court will send notification to the applicant that the application has been returned.

6.21A Notification of failure of **email service by the court**

Where –

- (a) the court officer serves the application by email in accordance with rule 6.7A; and



(b) the court is notified that the email was undeliverable,
the court officer will send notification to the applicant that the application was undeliverable.

6.22 Notice of non-service by bailiff

Where –

- (a) the bailiff is to serve an application; and
- (b) the bailiff is unable to serve it on the respondent,
the court officer will send notification to the applicant.

III SERVICE OF DOCUMENTS OTHER THAN AN APPLICATION FOR A MATRIMONIAL ORDER OR CIVIL PARTNERSHIP ORDER IN THE UNITED KINGDOM

6.23 Method of service

A document may be served by any of the following methods –

- (a) personal service, in accordance with rule 6.25;
- (b) first class post, document exchange or other service which provides for delivery on the next business day, in accordance with Practice Direction 6A;
- (c) leaving it at a place specified in rule 6.26; or
- (d) fax or e-mail in accordance with Practice Direction 6A.

(Rule 6.35 provides for the court to permit service by an alternative method or at an alternative place.)

6.24 Who is to serve

(1) A party to proceedings will serve a document which that party has prepared, or which the court has prepared or issued on behalf of that party, except where –

- (a) a rule or practice direction provides that the court will serve the document; or
- (b) the court directs otherwise.

(2) Where a court officer is to serve a document, it is for the court to decide which method of service is to be used.

(3) Where the court officer is to serve a document prepared by a party, that party must provide a copy for the court and for each party to be served.

6.25 Personal service

(1) Where required by another Part, any other enactment, a practice direction or a court order, a document must be served personally.

(2) In other cases, a document may be served personally except where the party to be served has given an address for service under rule 6.26(2)(a).

(3) A document is served personally on an individual by leaving it with that individual.

6.26 Address for service

(1) A party to proceedings must give an address at which that party may be served with documents relating to those proceedings.

(2) Subject to paragraph (4), a party's address for service must be –

(a) the business address within the United Kingdom of a solicitor acting for the party to be served; or

(b) where there is no solicitor acting for the party to be served, an address within the United Kingdom at which the party resides or carries on business.

(3) Where there is no solicitor acting for the party to be served and the party does not have an address within the United Kingdom at which that party resides or carries on business, the party must, subject to paragraph (4), give an address for service within the United Kingdom.

(4) A party who –

(a) has been served with an application for a matrimonial or civil partnership order outside the United Kingdom; and

(b) apart from acknowledging service of the application, does not take part in the proceedings,

need not give an address for service within the United Kingdom.

(5) Any document to be served in proceedings must be sent, or transmitted to, or left at, the party's address for service unless it is to be served personally or the court orders otherwise.

(6) Where, in accordance with Practice Direction 6A, a party indicates or is deemed to have indicated that they will accept service by fax, the fax number given by that party must be at the address for service.

(7) Where a party indicates in accordance with Practice Direction 6A, that they will accept service by e-mail, the e-mail address given by that party will be deemed to be the address for service.

(8) This rule does not apply where an order made by the court under rule 6.35 (service by an alternative method or at an alternative place) specifies where a document may be served.

6.27 Change of address for service

Where the address for service of a party changes, that party must give notice in writing of the change, as soon as it has taken place, to the court and every other party.

6.28 Service of an application form commencing proceedings on children and protected parties

(1) This rule applies to the service of an application form commencing proceedings other than an application for a matrimonial or civil partnership order.

(2) An application form commencing proceedings which would otherwise be served on a child or protected party must be served –

(a) where the respondent is a child, in accordance with rule 6.14(1); and

(b) where the respondent is a protected party, in accordance with rule 6.14(2).

6.29 Service of other documents on or by children and protected parties where a litigation friend has been or will be appointed

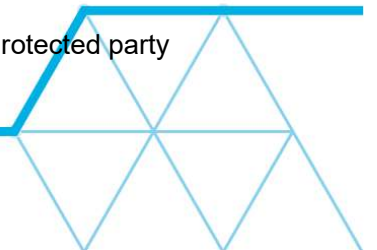
(1) This rule applies to –

(a) a protected party; or

(b) a child to whom the provisions of rule 16.5 and Chapter 5 of Part 16 apply (litigation friends).

(2) An application for an order appointing a litigation friend where a protected party or child has no litigation friend must be served in accordance with rule 15.8 or rule 16.13 as the case may be.

(3) Any other document which would otherwise be served on or by a child or protected party



must be served on or by the litigation friend conducting the proceedings on behalf of the child or protected party.

6.30 Service on or by children where a children's guardian has been or will be appointed under rule 16.4

(1) This rule applies to a child to whom the provisions of rule 16.4 and Chapter 7 apply.

(2) An application for an order appointing a children's guardian where a child has no children's guardian must be served in accordance with rule 16.26.

(3) Any other document which would otherwise be served on or by a child must be served on or by the children's guardian conducting the proceedings on behalf of the child.

6.31 Service on or by children where a children's guardian has been appointed under rule 16.3

(1) This rule applies where a children's guardian has been appointed for a child in accordance with rule 16.3.

(2) Any document which would otherwise be served on the child must be served on –
(a) the solicitor appointed by the court in accordance with section 41(3) of the 1989 Act; and
(b) the children's guardian.

(3) Any document which would otherwise be served by the child must be served by –
(a) the solicitor appointed by the court in accordance with section 41(3) of the 1989 Act or by the children's guardian; or
(b) if no solicitor has been appointed as mentioned in paragraph (a), the children's guardian.

6.32 Supplementary provisions relating to service on children and protected parties

(1) The court may direct that a document be served on a protected party or child or on some person other than a person upon whom it would be served under rules 6.28 to 6.31 above.

(2) The court may direct that, although a document has been sent or given to someone other than a person upon whom it should be served under rules 6.28 to 6.31 above, the document is to be treated as if it had been properly served.

(3) This rule and rules 6.28 to 6.31 do not apply where the court has made an order under rule 16.6 allowing a child to conduct proceedings without a children's guardian or litigation friend.

6.33 Supplementary provision relating to service on children

(1) This rule applies to proceedings to which Part 12 applies.

(2) Where a rule requires –

- (a) a document to be served on a party;
- (b) a party to be notified of any matter; or
- (c) a party to be supplied with a copy of a document,

in addition to the persons to be served in accordance with rules 6.28 to 6.32, the persons or bodies mentioned in paragraph (3) must be served, notified or supplied with a copy of a document, as applicable, unless the court directs otherwise.

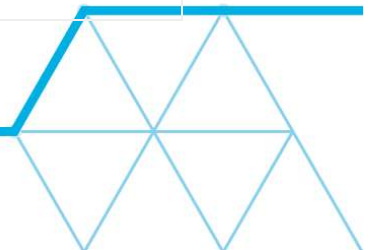
(3) The persons or bodies referred to in paragraph (2) are –

- (a) such of the following who are appointed in the proceedings-
 - (i) the children's guardian (if the children's guardian is not otherwise to be served);
 - (ii) the welfare officer;
 - (iii) the children and family reporter;
 - (iv) the officer of the Service, Welsh family proceedings officer or local authority officer acting under a duty referred to in rule 16.38; and
- (b) a local authority preparing a report under section 14A(8) or (9) of the 1989 Act.

6.34 Deemed service

A document, other than an application for a matrimonial or civil partnership order, served in accordance with these rules or a practice direction is deemed to be served on the day shown in the following table –

Method of service	Deemed day of service
First class post (or other service which provides for delivery on the next business	The second day after it was posted, left with, delivered to or collected by the relevant service provider, provided that day is a business day; or, if not, the next business day



Method of service	Deemed day of service
day)	after that day
Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider, provided that day is a business day; or, if not, the next business day after that day
Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30p.m., on that day; or in any other case, on the next business day after that day
Fax.	If the transmission of the fax is completed on a business day before 4.30p.m., on that day; or, in any other case, the next business day after the day on which it was transmitted
Other electronic method	If the e-mail or other electronic transmission is sent on a business day before 4.30p.m., on that day; or in any other case, on the next business day after the day on which it was sent
Personal service	If the document is served personally before 4.30p.m. on a business day, on that day; or, in any other case, on the next business day after that day

(Practice Direction 6A contains examples of how the date of deemed service is calculated.)

6.35 Service by an alternative method or at an alternative place

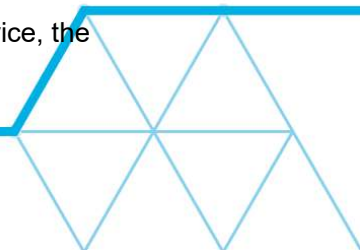
Rule 6.19 applies to any document in proceedings as it applies to an application for a matrimonial or civil partnership order and reference to the respondent in that rule is modified accordingly.

6.36 Power to dispense with service

The court may dispense with the service of any document which is to be served in proceedings.

6.37 Certificate of service

(1) Where a rule, practice direction or court order requires a certificate of service, the



certificate must state the details set out in the following table –

Method of service	Details to be certified
Personal service	Date and time of personal service and method of identifying the person served
First class post, document exchange or other service which provides for delivery on the next business day	Date of posting, leaving with, delivering to or collection by the relevant service provider
Delivery of document to or leaving it at a permitted place	Date and time when the document was delivered to or left at the permitted place
Fax.	Date and time of completion of transmission
Other electronic method	Date and time of sending the email or other electronic transmission
Alternative method or place permitted by court	As required by the court

(2) An applicant who is required to file a certificate of service of an application form must do so at or before the earlier of –

- (a) the first directions appointment in; or
- (b) the hearing of,

the proceedings unless a rule or practice direction provides otherwise.

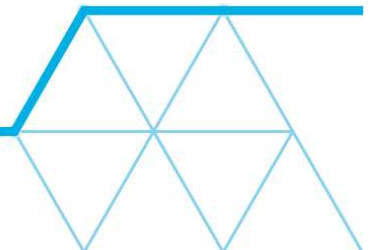
(Rule 17.2 requires a certificate of service to contain a statement of truth.)

6.38 Notification of outcome of service by the court

Where –

- (a) a document to be served by a court officer is served by post or other service which provides for delivery on the next working day; and
 - (b) the document is returned to the court,
- the court officer will send notification to the party who requested service that the document has been returned.

6.39 Notification of non-service by bailiff



Where –

- (a) the bailiff is to serve a document; and
- (b) the bailiff is unable to serve it,

the court officer must send notification to the party who requested service.

IV SERVICE OUT OF THE JURISDICTION

6.40 Scope and interpretation

(1) This Chapter contains rules about –

- (a) service of application forms and other documents out of the jurisdiction; and
- (b) the procedure for service.

(‘Jurisdiction’ is defined in rule 2.3.)

(2) In this Chapter –

‘application form’ includes an application notice;

‘Commonwealth State’ means a State listed in Schedule 3 to the British Nationality Act 1981; and

‘the Hague Convention’ means the Convention on the service abroad of judicial and extra-judicial documents in civil or commercial matters signed at the Hague on November 15, 1965.

6.41 Permission to serve not required

Any document to be served for the purposes of these rules may be served out of the jurisdiction without the permission of the court.

6.41A Time for serving an application for a matrimonial or civil partnership order out of the jurisdiction

(1) The applicant must complete the step required by the table in paragraph (2) or (3), as applicable, in relation to the method of service chosen before 12.00 midnight on the day 28 days after the date of issue of the application.

(2) Where service of an application for a matrimonial or civil partnership order is to be effected on a party in Scotland or Northern Ireland

Method of service	Step required
First class post, document exchange or other service which provides for delivery	Posting, leaving with, delivering to or collection by the relevant service provider

on the next business day	
Personal service under rule 6.7, by someone other than the applicant personally	Leaving it with the person to be served
Email service under rule 6.7A	Sending the application by e-mail and sending the notice required by rule 6.7A(2) by posting, leaving with, delivering to or collection by the relevant service provider

(3) Where service of an application for a matrimonial or civil partnership order is to be effected on a respondent out of the United Kingdom

Method of service	Step required
Where service is to be effected by a method provided for by rule 6.45	The steps required by rule 6.46(2)
Where service is to be effected by another method permitted by the law of the country in which it is to be served	Sending or delivering the application to, or leaving it with, the person to be served or taking such other such steps to effect service as are permitted by the law of the country in which it is to be served

6.41B Extension of time for serving the application for a matrimonial or civil partnership order

(1) The applicant may apply for an order extending the time for compliance with rule 6.41A.

(2) The general rule is that an application under paragraph (1) must be made –

(a) within the period for service specified by rule 6.41A; or

(b) where an order has been made under this rule, within the period specified by that order.

(3) Where an applicant asserts that they have a good reason for not making an application under paragraph (1) within the periods specified in paragraph (2) an application may be made—

(a) after the period specified by rule 6.41A; or



(b) where an order has been made under this rule, after the period specified by that order.

(4) On an application under paragraph (1), the court must consider all the circumstances including whether –

(a) the applicant has taken reasonable steps to comply with rule 6.41A, and

(b) the applicant has acted promptly.

(5) An application for an order extending the time for compliance with rule 6.41A –

(a) must be supported by evidence; and

(b) may be made without notice.

6.42 Period for acknowledging service or responding to application where application is served out of the jurisdiction

(1) This rule applies where, under these rules, a party is required to file –

(a) an acknowledgment of service; or

(b) an answer to an application,

and sets out the time period for doing so where the application is served out of the jurisdiction.

(2) Where the applicant serves an application on a respondent in –

(a) Scotland or Northern Ireland; or

(b) a Hague Convention country within Europe,

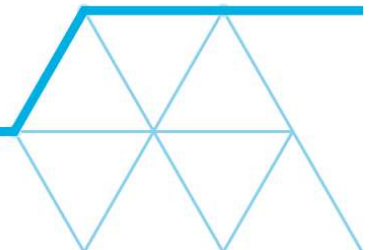
the period for filing an acknowledgment of service or an answer to an application is 21 days after service of the application.

(3) Where the applicant serves an application on a respondent in a Hague Convention country outside Europe, the period for filing an acknowledgment of service or an answer to an application is 31 days after service of the application.

(4) Where the applicant serves an application on a respondent in a country not referred to in paragraphs (2) and (3), the period for filing an acknowledgment of service or an answer to an application is set out in Practice Direction 6B.

6.43 Method of service – general provisions

(1) This rule contains general provisions about the method of service of an application for a matrimonial or civil partnership order, or other document, on a party out of the jurisdiction.



Where service is to be effected on a party in Scotland or Northern Ireland

(2) Where a party serves an application form or other document on a party in Scotland or Northern Ireland, it must be served by a method permitted by Chapter 2 (and references to 'jurisdiction' in that Chapter are modified accordingly) or Chapter 3 of this Part and rule 6.26(5) applies.

Where service is to be effected on a respondent out of the United Kingdom

(3) Where the applicant wishes to serve an application form, or other document, on a respondent out of the United Kingdom, it may be served by any method –

(a) provided for by –

(i) *rule 6.45 (service through foreign governments, judicial authorities and British Consular authorities); or*

(b) permitted by the law of the country in which it is to be served.

(4) Nothing in paragraph (3) or in any court order authorises or requires any person to do anything which is contrary to the law of the country where the application form, or other document, is to be served.

6.44 Omitted

6.45 Service through foreign governments, judicial authorities and British Consular authorities

(1) Where the applicant wishes to serve an application form, or other document, on a respondent in any country which is a party to the Hague Convention, it may be served –

(a) through the authority designated under the Hague Convention in respect of that country;

or

(b) if the law of that country permits –

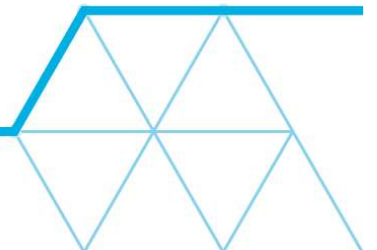
(i) through the judicial authorities of that country; or

(ii) through a British Consular authority in that country.

(2) Where the applicant wishes to serve an application form, or other document, on a respondent in any country which is not a party to the Hague Convention, it may be served, if the law of that country so permits –

(a) through the government of that country, where that government is willing to serve it; or

(b) through a British Consular authority in that country.



- (3) Where the applicant wishes to serve an application form, or other document, in –
- (a) any Commonwealth State which is not a party to the Hague Convention;
 - (b) the Isle of Man or the Channel Islands; or
 - (c) any British Overseas Territory,
- the methods of service permitted by paragraphs (1)(b) and (2) are not available and the applicant or the applicant's agent must effect service on a respondent in accordance with rule 6.43 unless Practice Direction 6B provides otherwise.
- (A list of British overseas territories is reproduced in Practice Direction 6B.)

6.46 Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities

- (1) This rule applies where the applicant wishes to serve an application form, or other document, under rule 6.45(1) or (2).
- (2) Where this rule applies, the applicant must file –
- (a) a request for service of the application form, or other document, by specifying one or more of the methods in rule 6.45(1) or (2);
 - (b) a copy of the application form or other document;
 - (c) any other documents or copies of documents required by Practice Direction 6B; and
 - (d) any translation required under rule 6.47.
- (3) When the applicant files the documents specified in paragraph (2), the court officer will –
- (a) seal, or otherwise authenticate with the stamp of the court, the copy of the application form or other document; and
 - (b) forward the documents to the Senior Master of the Queen's Bench Division.
- (4) The Senior Master will send documents forwarded under this rule –
- (a) where the application form, or other document, is being served through the authority designated under the Hague Convention, to that authority; or
 - (b) in any other case, to the Foreign and Commonwealth Office with a request that it arranges for the application form or other document to be served.
- (5) An official certificate which –
- (a) states that the method requested under paragraph (2)(a) has been performed and the date of such performance;
 - (b) states, where more than one method is requested under paragraph (2)(a), which method was used; and
 - (c) is made by –

- (i) a British Consular authority in the country where the method requested under paragraph (2)(a) was performed;
- (ii) the government or judicial authorities in that country; or
- (iii) the authority designated in respect of that country under the Hague Convention, is evidence of the facts stated in the certificate.

(6) A document purporting to be an official certificate under paragraph (5) is to be treated as such a certificate, unless it is proved not to be.

6.47 Translation of application form or other document

(1) Except where paragraphs (4) and (5) apply, every copy of the application form, or other document, filed under rule 6.45 (service through foreign governments, judicial authorities and British Consular authorities) must be accompanied by a translation of the application form or other document.

(2) The translation must be –

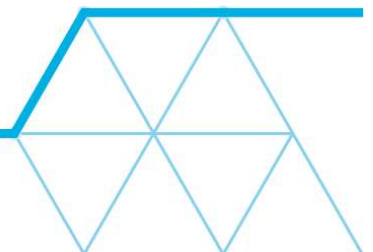
- (a) in the official language of the country in which it is to be served; or
- (b) if there is more than one official language of that country, in any official language which is appropriate to the place in the country where the application form or other document is to be served.

(3) Every translation filed under this rule must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include that person's name, address and qualifications for making the translation.

(4) The applicant is not required to file a translation of the application form, or other document, filed under rule 6.45 where it is to be served in a country of which English is an official language.

(5) The applicant is not required to file a translation of the application form or other document filed under rule 6.45 where –

- (a) the person on whom the document is to be served is able to read and understand English; and
- (b) service of the document is to be effected directly on that person.



6.48 Undertaking to be responsible for expenses of the Foreign and Commonwealth Office

Every request for service filed under rule 6.46 (procedure where service is to be through foreign governments, judicial authorities etc.) must contain an undertaking by the person making the request –

- (a) to be responsible for all expenses incurred by the Foreign and Commonwealth Office or foreign judicial authority; and
- (b) to pay those expenses to the Foreign and Commonwealth Office or foreign judicial authority on being informed of the amount.

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.

(2) This Part is subject to any provision made by or pursuant to Part 41 (proceeding by electronic means).

(3) In this Part—

“disputed case” means—

(a) nullity proceedings in which—

- (i) an answer has been filed opposing the grant of an order on the application, and has not been struck out; or
- (ii) the respondent has filed an application for a matrimonial or civil partnership order in accordance with rule 7.24 and neither party’s application has been disposed of; or
- (iii) rule 7.27(2) applies (in light of paragraph (1) 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

(b) matrimonial or civil partnership proceedings (excluding nullity proceedings) in which—

- (i) an answer has been filed disputing—
 - (aa) the validity or subsistence of the marriage or civil partnership; or
 - (ab) the jurisdiction of the court to entertain the proceedings,and has not been struck out; or
- (ii) the respondent has filed an application for a matrimonial or civil partnership order in accordance with rule 7.12(1) and neither party’s application has been disposed of, and in which no matrimonial or civil partnership order has been made;

“nullity proceedings” means proceedings for a nullity order or nullity of marriage order; and

“standard case” means matrimonial proceedings or civil partnership proceedings other than a disputed case.

(4) In this Part—

- (a) a reference to a conditional order is a reference to a matrimonial order or civil partnership order (other than a judicial separation order or 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.



CHAPTER 2

RULES ABOUT STARTING PROCEEDINGS

Who the parties are

- 7.2.** 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.

Statement of reconciliation

7.3.—(1) Where the applicant is, or in the case of joint applications either or both of the applicants are, 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.

- (2) This rule applies to an application for—
- (a) a divorce order made under section 1 of the 1973 Act⁽¹⁾;
 - (b) a judicial separation order made under section 17 of the 1973 Act⁽²⁾;
 - (c) a dissolution order as mentioned in section 37(1)(a) of the 2004 Act⁽³⁾; or
 - (d) a separation order as mentioned in section 37(1)(d) of the 2004 Act.

Limitation on applications in respect of same marriage or civil partnership

7.4.—(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 a judicial separation order or separation order; and
 - (b) then, after that one-year period has passed, wishes to apply for a divorce or a dissolution order,

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

Service of application

7.5.—(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 any respondent.

(Rule 6.5 provides for who is to serve an application for a matrimonial or civil partnership order; where the applicant serves the application, rule 6.6A and 6.41A provide a time limit of 28 days from the date of issue for taking the prescribed steps to serve the respondent.)

(1) The Matrimonial Causes Act 1973 (c. 18), as defined in rule 2.3(1) of the FPR. Section 1 has been amended by section 1 of the Divorce, Dissolution and Separation Act 2020.

(2) Section 17(2) was amended by section 17(4) of the Children and Families Act 2014 (c. 6). Section 17 has been amended by section 2 of the Divorce, Dissolution and Separation Act 2020.

(3) The Civil Partnership Act 2004 (c. 33), as defined in rule 2.3(1) of the FPR.

- (2) When the application is served on a respondent it must be accompanied by—
- (a) a form for acknowledging service; and
 - (b) a notice of proceedings.

(3) When the parties to the marriage or civil partnership have made a joint application for a matrimonial or civil partnership order (other than a nullity order) the court must send a copy of the notice of proceedings to both parties.

Withdrawal of application before service

7.6. An application for a matrimonial or civil partnership order, made by one party to the marriage or civil partnership, may be withdrawn at any time before it has been served, by giving notice in writing to the court.

What the respondent must do on receiving the application

7.7.—(1) The respondent must file an acknowledgment of service within 14 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—
- (a) be signed by the respondent or the respondent's legal representative;
 - (b) include the respondent's address for service; and
 - (c) indicate whether or not the respondent intends to dispute the proceedings.

(4) Where a notice of proceedings is sent to joint applicants under rule 7.5(3) each joint applicant must acknowledge receipt of the notice of proceedings within 14 days of receipt of such notice.

(5) A respondent who wishes to dispute proceedings must file and serve an answer within 21 days beginning with the date by which the acknowledgment of service is required to be filed.

(6) A respondent may file an answer even if the intention to do so was not indicated in the acknowledgment of service.

CHAPTER 3 STANDARD CASE

Amending an application

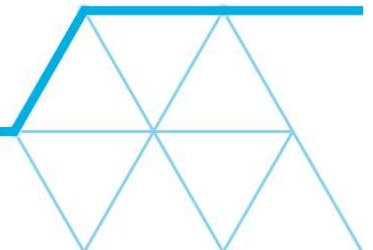
7.8.—(1) A party making an application for a matrimonial or civil partnership order may amend the application at any time before an application is made under rule 7.9(1) or (2).

- (2) Where an amendment to the application is made under paragraph (1)—
- (a) it must be served in accordance with rule 7.5; and
 - (b) rule 7.7 applies.

(3) Where an application has been made under rule 7.9(1) or (2), an amendment may not be made to an application except—

- (a) with the written consent of all the other parties; or
- (b) with the permission of the court.

(4) Where paragraph (3) applies, the court may give directions as to—



- (a) the service of the amended application and the service of any accompanying documents;
- (b) the joining of any additional parties; and
- (c) the extent to which rule 7.7 must be complied with in respect of any amended application.

(Practice Direction 7A contains information on amending applications.)

Applications for conditional order

7.9.—(1) An application may be made to the court for it to consider the making of a conditional order of divorce or dissolution in the proceedings at any time after the end of the period of 20 weeks from the date on which the application was issued provided that—

- (a) the time for filing the acknowledgment of service has expired and no party has filed an acknowledgement of service indicating an intention to dispute the proceedings; and
- (b) in any other case, 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 may be made to the court for it to consider the making of a conditional order of nullity of marriage or nullity, a judicial separation order 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 dispute the proceedings; 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 made in the proceedings has expired.

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

- (a) by the applicant; or
- (b) in a joint application, by both parties; or
- (c) in a joint application that is to proceed as an application by one party only, by that party.

(4) An application under this rule must be accompanied by a statement—

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

(5) A statement under paragraph (4) must be verified by a statement of truth.

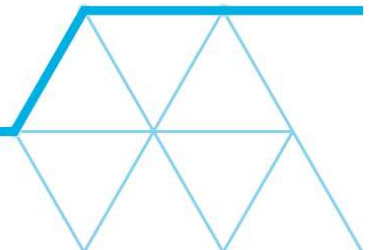
(6) A copy of the application made under paragraph (3)(c) must be served on the other party to the marriage or civil partnership.

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

7.10.—(1) This rule applies where an application is made under rule 7.9(1) or (2).

(2) If at the relevant time the case is a standard case, the court must—

- (a) if satisfied that the applicant is, or applicants are, entitled to—



- (i) in matrimonial proceedings, a conditional order or a judicial separation order (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 judge for the making of that 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), make directions in the costs application.

(4) The court may, when giving a direction under paragraph (2)(b), direct that the further information provided be verified by a statement of truth.

(5) 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 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 conditional order or a judicial separation order; or
 - (ii) in civil partnership proceedings, the application for a conditional order or separation order,was made at a time permitted by rule 7.9(1) or (2).

(6) In this rule, 'the relevant time' means the time at which the court is considering an application made under rule 7.9(1) or (2).

(7) Where an order is made in accordance with a certificate under paragraph (2)(a), any person may, within 14 days after the making of the order, inspect the certificate and the statement filed under rule 7.9(4) and may obtain copies.

What the court must do for the case management hearing

7.11.—(1) At a hearing that has been directed under rule 7.10(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;
- (b) give directions for the further conduct of the proceedings, including—
 - (i) giving a direction that on compliance with any directions under subparagraph (a) a further application may be made under rule 7.9(1) or (2) for the proceedings to be dealt with under rule 7.10(2)(a); or
 - (ii) giving a direction that the case is not suitable for determination under that rule.

(2) Where the court gives a direction under paragraph (1)(b)(ii), it may also give directions under rule 7.17 or direct that the case be listed for a further hearing at which such directions will be given.

(3) Any party to proceedings which are not being dealt with under rule 7.10(2)(a) may apply to the court for further directions at any time.

(Part 4 sets out the court's general case management powers.)



CHAPTER 4 DISPUTED CASE

How the respondent can make an application

7.12.—(1) Subject to rule 7.27—

- (a) a respondent may not make an application for a matrimonial or civil partnership order for the same relief in respect of the same marriage or civil partnership unless—
 - (i) the first application has been dismissed or finally determined; or
 - (ii) the court gives permission.
- (b) a respondent who wishes to make an application for a matrimonial or civil partnership order, other than an order for the same relief, 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.

References to respondents

7.13. 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.

Case management hearing

7.14. Where a respondent—

- (a) files an answer under rule 7.7(5);
- (b) obtains permission to file an application under 7.12(1)(a)(ii); or
- (c) files an application for a matrimonial or civil partnership order under rule 7.12(1)(b) or 7.24,

the case must be listed for a case management hearing within 6 weeks of the date on which the answer is filed, or permission is granted, or the application is filed under rule 7.12(1)(b) or 7.24.

Amendment of application and answer

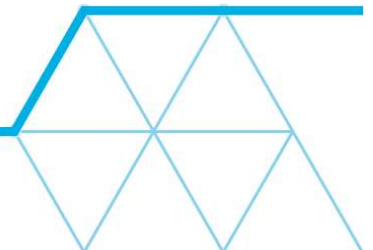
7.15.—(1) Unless paragraph (2) applies—

- (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 who has filed an answer may amend the answer.

(2) No amendment to an application for a matrimonial or civil partnership order or to an answer may be made under paragraph (1) if an application under rule 7.9(1) or (2) has been made in relation to the marriage or civil partnership concerned.

(3) Where an amendment to the application is made under paragraph (1)—

- (a) it must be served in accordance with rule 7.5; and
- (b) rule 7.7 applies.



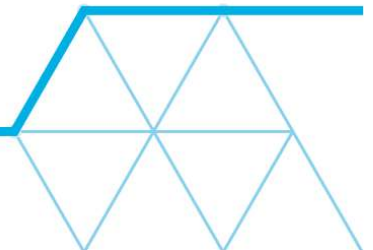
- (4) Where an answer has been filed, or an application has been made under rule 7.9(1) or (2), an amendment may not be made to an application except—
- (a) with the written consent of all the other parties; or
 - (b) with the permission of the court.
- (5) Where an answer has been filed and an application has been made under rule 7.9(1) or (2), 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.
- (6) Where paragraph (4) or (5) applies, the court may give directions as to—
- (a) the service of the amended application or the amended answer and the service of any accompanying documents;
 - (b) the extent to which rule 7.7 must be complied with in respect of any amended application.
- (Practice Direction 7A contains information regarding amending applications, making supplemental applications and making second (or further) applications.)

Further information about the contents of the application and the answer

- 7.16.**—(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, acknowledgment of service 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.

What the court must do for the case management hearing

- 7.17.**—(1) This rule applies to a case in which the court has listed a case management hearing under rule 7.14.
- (2) At a hearing which has been listed under rule 7.14 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) Any party to proceedings which are not being dealt with under rule 7.10(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 non-court dispute resolution and Part 4 sets out the court's general case management powers.)

CHAPTER 5

PROCEEDINGS AFTER CONDITIONAL ORDER (STANDARD AND DISPUTED CASE)

Applications to prevent conditional orders being made final

7.18.—(1) This rule applies to an application under section 8 or 9 of the 1973 Act⁽⁴⁾ or under section 39 or 40 of the 2004 Act ⁽⁵⁾ to prevent 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, or persons, in whose favour the conditional order was made may do so.

(5) Rule 7.17(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 or parties in whose favour the conditional order was made, of the Queen's Proctor's intention to make an application to prevent 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.

Making conditional orders final by giving notice

7.19.—(1) Unless rule 7.20 applies —

- (a) a party in whose favour a conditional order has been made may give notice to the court that they wish the conditional order to be made final;
- (b) both parties in whose favour a conditional order has been made may jointly give notice to the court that they wish the conditional order to be made final; or
- (c) subject to paragraph (2) below, where the conditional order is in favour of both parties, but the application is to proceed as a notice by one party only, that party may give notice to the court that they wish the conditional order to be made final.

(2) The party giving notice to the court under paragraph (1)(c) must first give the other party to the marriage or civil partnership 14 days' notice of their intention to give notice to the court that they wish the conditional order to be made final.

(3) The party giving notice under paragraph (2) must file a certificate of service after serving the notice.

(4) Subject to paragraphs (5) and (6), where the court receives a notice under paragraph (1) it will make the conditional order final if it is satisfied that—

- (a) no application for rescission of the conditional order is pending;

(4) Section 8 has been amended by paragraphs 1 and 8 of Part 1 of the Schedule to the Divorce, Dissolution and Separation Act 2020. Section 9 has been amended by paragraphs 1 and 9 of Part 1 of the Schedule to the Divorce, Dissolution and Separation Act 2020.

(5) Section 40 has been amended by paragraphs 34 and 35 of Part 2 of the Schedule to the Divorce, Dissolution and Separation Act 2020.

- (b) no appeal against the making of 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 conditional order being made final is pending;
- (f) the provisions of section 10(2) to (4) of the 1973 Act⁽⁶⁾ or section 48(2) to (4) of the 2004 Act⁽⁷⁾ do not apply or have been complied with;
- (g) any order under section 10A(2) of the 1973 Act⁽⁸⁾ has been complied with; and
- (h) where the conditional order was made on the ground in section 12(1)(g) of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act⁽⁹⁾, or was made under section 12A(3) of the 1973 Act⁽¹⁰⁾ 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⁽¹¹⁾, or an application under section 8(5A) of that Act⁽¹²⁾, 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.

(5) Where the notice is received more than 12 months after the making of the conditional order, it must include or be accompanied by an explanation in writing stating why the application has not been made earlier.

(6) Where paragraph (5) applies, the court may—

- (a) require the applicant 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 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 (4)(a) to (h) applies.

Applications to make conditional orders final

7.20.—(1) An application must be made 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 7.18(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 by the party against whom the conditional order was made.

⁽⁶⁾ Sections 10(2) and (4) have been amended by paragraphs 1 and 10(c) and (d) of Part 1 of the Schedule to the Divorce, Dissolution and Separation Act 2020.

⁽⁷⁾ Section 48 has been amended by paragraphs 34 and 41 of Part 2 of the Schedule to the Divorce, Dissolution and Separation Act 2020.

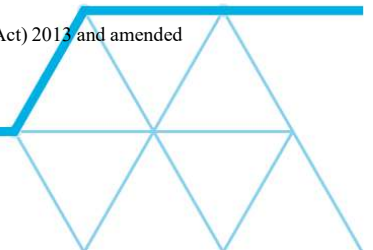
⁽⁸⁾ Section 10A(2) was inserted by section 1 of the Divorce (Religious Marriages) Act 2002 (c. 27) and has been amended by paragraphs 1 and 11(c) of Part 1 of the Schedule to the Divorce, Dissolution and Separation Act 2020.

⁽⁹⁾ Section 12(1)(g) was inserted by paragraphs 1 and 2 of Part 1 of Schedule 2 to the Gender Recognition Act 2004 (c. 7). Paragraph 11(1)(e) of Part 1 of Schedule 1 was inserted by paragraphs 1 and 4(2) of Part 1 of Schedule 2 to the Gender Recognition Act 2004.

⁽¹⁰⁾ Section 12A was inserted by S.I. 2014/3168.

⁽¹¹⁾ 2004 c. 7. Section 8(5) was amended by paragraphs 1 and 8(b) of Part 1 of Schedule 5 to the Marriage (Same Sex Couples Act) 2013 (c. 30) and section 250(1) and (5)(b) of the Civil Partnerships Act 2004 and paragraph 160 of Part 1 of Schedule 11 to the Crime and Courts Act 2013 (c. 22).

⁽¹²⁾ Section 8(5A) was inserted by paragraphs 1 and 8(c) of Part 1 of Schedule 5 to the Marriage (Same Sex Couples Act) 2013 and amended by S.I. 2019/1458.



(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 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 7.19(4)(a) to (h).

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

7.21. 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 or applicants, any respondent and any other party.

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

7.22. Where the court makes—

- (a) in the case of divorce, a final order 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 final order.

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

7.23.—(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 conditional order final, under rule 7.19 or 7.20.

(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.



CHAPTER 6

PROVISIONS SPECIFIC TO NULLITY PROCEEDINGS

Respondent to nullity application

7.24.—(1) A respondent to a nullity application 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.

Supplemental applications

7.25. In nullity proceedings rule 7.8 and 7.15 apply to supplemental applications as they apply to amended applications.

Nullity: interim and full gender recognition certificates

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

- (a) nullity of marriage under section 12(1)(g) of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act;
 - (b) 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
 - (c) 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.

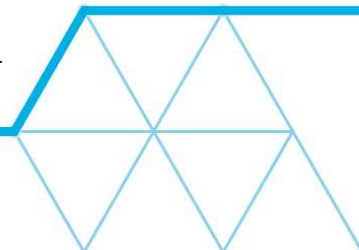
(3) Where no copy of an interim gender recognition certificate has been filed the notice must also state—

- (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 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—

- (a) the application is for—
 - (i) a nullity of marriage order under section 12(1)(h) of the 1973 Act⁽¹³⁾;

(13) Section 12(1)(h) was inserted by paragraphs 4 and 5 of Part 1 of Schedule 4 to the Gender Recognition Act 2004.



- (ii) a nullity of marriage order 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.

(In relation to paragraphs (1)(b), (3)(a) and (4)(a)(ii), section 9(6) of the Marriage (Same Sex Couples) Act 2013⁽¹⁴⁾ 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.)

Nullity: filing an answer

7.27.—(1) Paragraph (2) 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.

(2) 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.

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

(In relation to paragraph (1)(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.)

Nullity – inspection of certificate of entitlement

7.28. Rule 7.10(7) does not apply to a certificate which relates to—

- (a) a nullity of marriage order under section 12(1)(g) of, or paragraph 11(1)(e) of Schedule 1 to, the 1973 Act;
- (b) a nullity of marriage order under section 12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies; or
- (c) an order for nullity of civil partnership under section 50(1)(d) of the 2004 Act,

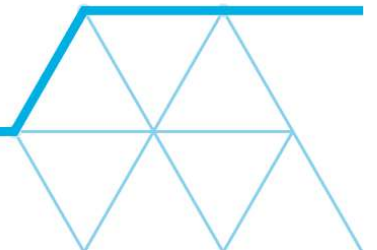
unless the court has given permission.

Medical examinations in proceedings for nullity of a marriage of an opposite sex couple

7.29.—(1) Where the application is for a nullity of marriage order 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.

(14) 2013 c. 30.



- (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).

CHAPTER 7 GENERAL PROVISIONS

General rule – hearing to be in public

- 7.30.**—(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 7.34 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.

Notice of hearing

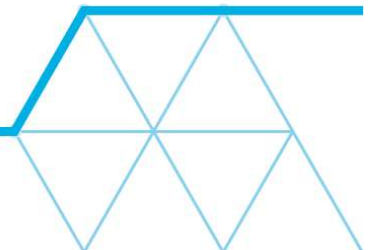
- 7.31.**—(1) The court officer will give notice to the parties—
- (a) of the date, time and place of every hearing which is to take place in a case to which they are a party; and
 - (b) in the case of a hearing following a direction under rule 7.10(2)(a), of the fact that, unless the person wishes or the court requires, the person need not attend.

Further provisions about costs

- 7.32.**—(1) In a disputed case any party to matrimonial or civil partnership proceedings may be heard on any question as to costs at the hearing of the proceedings.
- (2) In a standard case, any application for costs should be made using the Part 18 procedure.

Stay of proceedings

- 7.33.**—(1) Where—



- (a) the court is considering an application in accordance with rule 7.10 or gives directions under rule 7.11 or 7.17;
- (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 under paragraph 9 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973⁽¹⁵⁾ or, for civil partnership proceedings, under rules made under sections 75 and 76 of the Courts Act 2003⁽¹⁶⁾ ought to be determined by the court,

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

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

(3) For the purposes of paragraph 5 of Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973—

- (a) proceedings in another jurisdiction shall include such proceedings which are not instituted in a court of that jurisdiction, if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status; and
- (b) proceedings which are continuing in another jurisdiction are proceedings which have been begun and have not been finally disposed of.

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

7.34. Either party to the marriage or civil partnership concerned may apply—

- (a) after the conditional order has been made but before it has been made final; or
- (b) after a judicial separation order or 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.

Records of decrees absolute and final orders

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

(2) Any person 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 be issued with a copy of the decree absolute or final order.”

⁽¹⁵⁾ 1973 c. 45. Paragraph 9(1) of Schedule 1 was amended by S.I. 2019/519.

⁽¹⁶⁾ Section 76(2A) was inserted by section 62(7) of the Children Act 2004 (c. 31). Section 76(1) was amended by paragraph 29 of Part 2 of Schedule 1 to the Constitution Reform Act 2005. Section 76(2)(a) and (aa) was amended by paragraphs 25 and 34(a) and (b) of Part 1 of the Schedule to the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018 (c. 33). Section 76(2)(b) and (3) was amended by paragraphs 83 and 92(1), (2)(b) and (3) of Part 2 of Schedule 10 to the Crime and Courts Act 2013.