

PRACTICE DIRECTION 7A

PROCEDURE FOR APPLICATIONS IN MATRIMONIAL AND CIVIL PARTNERSHIP PROCEEDINGS

This Practice Direction supplements FPR Part 7

Applications for matrimonial and civil partnership orders: general

- 1.1** An application for a matrimonial or civil partnership order must be made in the form referred to in Practice Direction 5A. The application form sets out the documents which must accompany the application.
- 1.2** The application for a matrimonial order or a civil partnership order must be completed according to the detailed notes which accompany the form. It is especially important that the particulars provide evidence to show why the applicant is entitled to –
 - (a)** in matrimonial proceedings, a dissolution or annulment of the marriage or a decree of judicial separation;
 - (b)** in civil partnership proceedings, a dissolution or annulment of the civil partnership or a separation order.
 The particulars should, however, be as concise as possible consistent with providing the necessary evidence.

Respondents: restrictions

- 2.1** Where the application refers to adultery or to an improper association with another person, that other person should not be named in the application unless the applicant believes the other party to the marriage or civil partnership in question is likely to object to the making of a matrimonial or civil partnership order on the application. Furthermore, such a person should not be a respondent if under the age of 16 or alleged to have been the victim of rape committed by the other party to the marriage or civil partnership, unless the court gives permission.

Proof of marriage or civil partnership to accompany the application

- 3.1** The application form for a matrimonial order or a civil partnership order sets out the documents which must accompany the application. Where the existence and validity of a marriage or civil partnership is not disputed, its validity will be proved by the application being accompanied by –
 - (a)** one of the following –
 - (i)** a certificate of the marriage or civil partnership to which the application relates;
 - (ii)** a similar document issued under the law in force in the country where the marriage or civil partnership registration took place; or
 - (iii)** a certified copy of such a certificate or document obtained from the appropriate register office; and

- (b) where the certificate, document or certified copy is not in English (or, where the court is in Wales, in Welsh), a translation of that document certified by a notary public or authenticated by a statement of truth.

Filing without accompanying proof of marriage or civil partnership

3.2 If –

- (a) the applicant cannot produce –
 - (i) the certificate, similar document or a certified copy; and
 - (ii) (where necessary) an authenticated translation; at the time of filing the application; and
- (b) it is urgent that the application be filed, the applicant may apply to the court without notice for permission to file the application without the certificate, document, certified copy or authenticated translation.

3.3 The applicant or the applicant's solicitor must in such a case file with the application a statement explaining why –

- (a) the required document is not available; and
- (b) the application is urgent.

3.4 The court may give permission to file the application without the required document if the applicant gives an undertaking to file that document at the very earliest opportunity and within any time limit set by the court.

Other methods of proof of the marriage or civil partnership

3.5 The requirements of this Practice Direction do not prevent the existence and validity of a marriage, or of an overseas relationship which is not a marriage, being proved in accordance with –

- (a) the Evidence (Foreign, Dominion and Colonial Documents) Act 1933; or
- (b) any other method authorised in any other Practice Direction, rule or Act.

Information required where evidence of a conviction or finding is to be relied on

4.1 An applicant for a matrimonial or civil partnership order who wishes to rely on evidence –

- (a) under section 11 of the Civil Evidence Act 1968 of a conviction of an offence; or
- (b) under section 12 of that Act of a finding or adjudication of adultery or paternity, must include in the application form a statement to that effect and give the following details –
 - (i) the type of conviction, finding or adjudication and its date;
 - (ii) the court or Court-Martial which made the conviction, finding or adjudication; and
 - (iii) the issue in the proceedings to which it relates.

Amendments to applications and answers

5.1 An application for permission to amend an application for a matrimonial or civil partnership order or answer may be dealt with at a hearing.

- 5.2** When making an application for permission to amend an application for a matrimonial or civil partnership order or to amend an answer the applicant should file at court –
- (a)** the notice of application for permission; and
 - (b)** a copy of the application for a matrimonial or civil partnership order or the answer showing the proposed amendments.
- 5.3** Where permission to amend has been given, the party applying to make the amendment should within 14 days of the date of the order, or within such other period as the court directs, file with the court the amended application for a matrimonial or civil partnership order or the amended answer.

Requests for further information under rule 7.15 (further information)

- 6.1** Before making an application under rule 7.15, the party seeking clarification or information ('the requesting party') should first serve a written request for it on the party from whom the clarification or information is sought, giving a date by which a reply should be served. The date should be such as to allow the requested party a reasonable time to respond.
- 6.2** A request should be made by letter or in a separate document, should contain no other subject matter, and should make clear that it is made under rule 7.15. It must be concise and confined to matters which are reasonably necessary and proportionate to enable the requesting party to prepare his or her own case or understand the case of the party to whom the request is directed.
- 6.3** The reply to the request must be in writing, dated and signed by the requested party or that party's legal representative.
- 6.4** The reply may be made by letter or in a separate document, should contain no other subject matter, and should make clear that it is a reply to the request concerned. It should repeat each request together with the reply to it. It must be served on every party to the proceedings.
- 6.5** A party who objects to replying to all or part of a request under rule 7.15, or who is unable to do so, must inform the requesting party promptly, and in any event within the time within which a reply has been requested, and give reasons for objecting or being unable to reply (as the case may be).

Disclosure and inspection

- 7.1** Where an application for a matrimonial or civil partnership order is not being dealt with as an undefended case the court may make an order for the disclosure of documents under rule 7.22(2)(c).
- 7.2** When an order for disclosure is made, the disclosing party must, in order to comply, make a reasonable search for the documents required to be disclosed. The extent of the search will depend upon the circumstances of the case and parties should bear in mind the overriding principle of proportionality.
- 7.3** Documents should be disclosed in a list which should normally list the documents in date order, numbering them consecutively and giving each a concise description. Where there are a large number of documents falling into a particular category they may be grouped together (e.g. 50 bank statements relating to x account from y date to z date).

- 7.4** The obligations imposed by a disclosure order continue until the proceedings come to an end. If, after the list of documents has been prepared and served, the existence of further documents to which the order applies comes to the attention of the disclosing party, that party must prepare and serve a supplemental list.
- 7.5** A list of documents must contain the following statement:
I, [insert name] state that I have carried out a reasonable and proportionate search to locate all the documents which I am required to disclose under the disclosure order made by the court on [insert date]. [I did not search for [insert here any limitations on search by reference to date, location, nature of documents etc]]. I understand the duty of disclosure and to the best of my knowledge I have carried out that duty. I certify that the list above is a complete list of all the documents which are or have been in my control and which I am obliged under the order to disclose.
- 7.6** If the disclosing party wishes to claim a right or duty to withhold inspection of a document or part of a document, that party must indicate in writing in the disclosure statement that such a right or duty is claimed, and the grounds on which it is claimed.

Decrees absolute and final orders: need for expedition

- 8.1** Where a party in an application for a matrimonial order has grounds for expediting the making of the decree absolute, that party should ordinarily seek directions with a view to an early hearing of the case. Where such an application has not been possible, an application should be made to the district judge making the decree nisi for the time between the decree nisi and the making absolute of that decree to be shortened.
- 8.2** Where the need for expedition only becomes obvious after the making of the decree nisi, or where (exceptionally) it arises in an undefended case to which the summary procedure applies, an application, on notice to the other parties to the proceedings, should be made using the procedure in Part 18 for an order shortening the time before which the decree nisi may be made absolute.
- 8.3** Where a party in an application for a civil partnership order has grounds for expediting the making of the final order, that party should ordinarily seek directions with a view to an early hearing of the case. Where such an application has not been possible, an application should be made to the district judge making the conditional order for the time between the conditional and final order to be shortened.
- 8.4** Where the need for expedition only becomes obvious after the making of the conditional order, or where (exceptionally) it arises in an undefended case to which the summary procedure applies, an application, on notice to the other parties to the proceedings, should be made using the procedure in Part 18 for an order shortening the time before which the final order may be made.