

# **PART 7 PROCEDURE FOR APPLICATIONS IN MATRIMONIAL AND CIVIL PARTNERSHIP PROCEEDINGS**

## **I APPLICATION AND INTERPRETATION**

### **7.1 Application and interpretation**

(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in light of paragraph (1) of that rule, notice has been given of intention to rebut and that notice has not been withdrawn,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—

(1) the validity or subsistence of the marriage or civil partnership; or

(2) 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; and

'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.

## **II RULES ABOUT STARTING PROCEEDINGS**

### **7.2 Who the parties are**

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.

### **7.3 Statement of reconciliation**

(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;
- (b) a judicial separation order made under section 17 of the 1973 Act;
- (c) a dissolution order as mentioned in section 37(1)(a) of the 2004 Act; or
- (d) a separation order as mentioned in section 37(1)(d) of the 2004 Act.

#### **7.4 Limitation on applications in respect of same marriage or civil partnership**

(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 subparagraph (b).

#### **7.5 Service of application**

(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 may serve an application for a matrimonial or civil partnership order; where the applicant serves the application, rules 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.)*

(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.

### **7.6 Withdrawal of application before service**

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 where the proceedings were started.

### **7.7 What the respondent must do on receiving the application**

(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) above both joint applicants 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.

(5) An answer is not required where the respondent does not dispute the case but objects to paying the costs of the application.

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

### **III STANDARD CASE**

#### **7.8 Amending an application**

(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 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.)

### **7.9 Applications for conditional order**

(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 acknowledgment 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, 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.

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

(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 an order at the next available date;

(b) if not so satisfied, direct—

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

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

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

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

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

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

(7) 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).

(8) 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 evidence filed under rule 7.9(4) and may obtain copies.



## **7.11 What the court must do for the case management hearing**

1) Where a hearing 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.

(4) 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.

(5) 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.)*

## **IV DISPUTED CASE**

### **7.12 How the respondent can make an application**

(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.

### **7.13 References to respondents**

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.

### **7.14 Case Management hearing**

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 rules 7.12(1)(b) or 7.24;

the case must be listed for a case management hearing.

### **7.15 Amendment of application and answer**

(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.)

### **7.16 Further information about the contents of the application and the answer**

(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.

### **7.17 What the court must do for the case management hearing**

(1) This rule applies to a case in which the court has listed a case management hearing under rule 7.14.

(2) Where a hearing 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

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

(d) give directions as to the conduct of the final hearing and the attendance of witnesses.

(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.)

## **V PROCEEDINGS AFTER CONDITIONAL ORDER (STANDARD AND DISPUTED CASE)**

### **7.18 Applications to prevent conditional orders being made final**

(1) This rule applies to an application under section 8 or 9 of the 1973 Act or under section 39 or 40 of the 2004 Act 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.

### **7.19 Making conditional orders final by giving notice**

(1) Unless rule 7.20 applies in matrimonial and civil partnership proceedings –

(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) above 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 conditional order is pending;

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

(g) any order under section 10A(2) of the 1973 Act 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, or was made under section

12A(3) of the 1973 Act in a case where section 12(1)(g) of the 1973 Act applies, or the conditional order was made under section 50(1)(d) of the 2004 Act –

(i) there is not pending a reference under section 8(5) of the Gender Recognition Act 2004, or an application under section 8(5A) of that Act, in respect of the application on which the interim gender recognition certificate to which the application relates was granted;

(ii) that interim certificate has not been revoked under section 8(6)(b) of that Act; and

(iii) no appeal is pending against an order under section 8(6)(a) of that Act.

(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 file an affidavit verifying the explanation or to verify the explanation with a statement of truth; and

(b) make such order on the application as it thinks fit, but where it orders the 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 (3)(a) to (h) applies.

## **7.20 Applications to make conditional orders final**

(1) An application must be made in matrimonial proceeding or civil partnership proceedings, for the conditional order to be made final, where the conditions set out in paragraph (2) apply.

(2) The conditions referred to in paragraph (1) are –

(a) the Queen's Proctor gives notice to the court under rule 7.18(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.

(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).

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

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, the respondent and any other party.

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

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.

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

(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.

## **VI PROVISIONS SPECIFIC TO NULLITY PROCEEDINGS**

### **7.24 Respondent to nullity application**

(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.

## **7.25 Supplemental applications**

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

## **7.26 Nullity: Interim and full gender recognition certificates**

(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;

(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 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.)*

#### **7.27 Nullity: filing an answer**

(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.)*

### **7.28 Nullity – inspection of certificate of entitlement**

(1) Rule 7.10(8) 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.

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

(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.

(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).

## **VII GENERAL PROVISIONS**

### **7.30 General rule – hearing to be in public**

(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.

### **7.31 Notice of hearing**

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.

### **7.32 Further provisions about costs**

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

(2) In the case of a hearing following a direction under rule 7.10(2)(a), a party will not be heard unless that party has, not less than 14 days before the hearing—

(a) given written notice to the court of that party's intention to attend the hearing and apply for, or oppose the making of, an order for costs; and

(b) served that notice on every other party.

(3) On receipt of such a written notice, the court may make such directions in relation to the hearing as it sees fit.

### **7.33 Stay of proceedings**

(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 or, for civil partnership proceedings, under rules made under sections 75 and 76 of the Courts Act 2003 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.

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

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.

### **7.35 Records of decrees absolute and final orders**

(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.