STATUTORY INSTRUMENTS

1963 No. 1990 (L. 17)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Matrimonial Causes (Amendment No. 2) Rules 1963

Made - - - -	*6th December* 1963
Laid before Parliament	*12th December* 1963
Coming into Operation	*1st January* 1964

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers as follows:—

1.—(1) These Rules may be cited as the Matrimonial Causes (Amendment No. 2) Rules 1963, and shall come into operation on 1st January 1964.

(2) The Interpretation Act 1889(b) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules, the " principal Rules " means the Matrimonial Causes Rules 1957(c), as amended(d), and a Rule referred to by number means the Rule so numbered in those Rules.

2. The following Rule shall be inserted after Rule 2:—

" *Applications to the Court to consider arrangements between parties*

2A.—(1) An application to the court to take into consideration for the purposes of section 4 of the Act, as amended by section 4 of the Matrimonial Causes Act 1963(e), any agreement or arrangement made or proposed to be made between the parties in contemplation of or in connection with any proceedings for divorce shall be made to a judge and shall, if made before the presentation of a petition, be made by originating summons in accordance with Form 1A.

(2) There shall be filed in support of the application an affidavit by the applicant or his solicitor setting out particulars of the agreement or arrangement in question and the grounds on which the application is made.

(a) 15 & 16 Geo. 5. c. 49. (b) 52 & 53 Vict. c. 63. (c) S.I. 1957/619 (1957 II, p. 2406).
(d) The relevant amending instrument is S.I. 1958/2082 (1958 II, p. 2294). (e) 1963 c. 45.

(3) Where the application is made by originating summons—

(*a*) every party to the agreement or arrangement in question other than the applicant and (unless otherwise directed on an ex parte application) any other person who is, or whom it is intended to make, a party to the proceedings shall be made a respondent;

(*b*) the summons shall be made returnable for a fixed date before a judge in chambers and shall be accompanied by a form of acknowledgment of service in accordance with Form 4 and, unless otherwise directed, shall be served on the respondents at least seven clear days before the return date;

(*c*) no appearance need be entered to the summons and no affidavit need be filed in answer, and any respondent may be heard without entering an appearance.

(4) On the hearing of the application the court may give such directions in the matter as it thinks fit."

3. The following subparagraph shall be inserted after subparagraph (*e*) in Rule 3(3) (which relates to applications for ancillary relief):—

"(*f*) for the payment, on a decree of divorce, nullity of marriage or judicial separation, of a lump sum to the wife, or to the husband where the wife has presented a petition on the grounds of his insanity".

4. The following amendments shall be made in Rule 4(1) (which relates to the form of a petition):—

(*a*) In subparagraph (*h*) the words "or Rule 2A" shall be inserted after the words "Rule 2".

(*b*) The word "and" at the end of subparagraph (*m*) shall be omitted and the following subparagraphs shall be substituted for subparagraph (*n*):—

"(*n*) (except in the case of a petition for restitution of conjugal rights) that, if it be the case, the petition is not presented or prosecuted in collusion with the respondent or any of the co-respondents; and

(*o*) in the case of a petition for divorce or judicial separation, whether the petitioner desires the court to take into consideration any agreement or arrangement made, or proposed to be made, between the parties in contemplation of, or in connection with, the proceedings".

5. In Rule 17(1) (which relates to the form of an answer), for the words "subparagraphs (*l*) and (*n*)" there shall be substituted the words "subparagraphs (*l*), (*n*) and (*o*)".

6. In Rule 31(3) (which provides for entry for trial at assizes) there shall be inserted after the word "assizes" the words "(except at Birmingham, Leeds, Liverpool or Manchester)".

7. In Rule 32(4) (which provides for the supply of lists of long defended causes set down for trial at assizes) the words "(except Liverpool or Manchester)" shall be omitted and at the end of the paragraph there shall be added the words " and in the case of assizes held at Birmingham, Leeds, Liverpool or Manchester shall, at such intervals as may be convenient, supply the Senior Registrar and the associate of the circuit with copies of lists of long defended causes set down for trial at the assizes later than fourteen days before the appropriate day ".

8. The following amendments shall be made in Rule 44 (which provides for applications for maintenance, etc., made after petition or answer):—

(*a*) After the word " maintenance ", in both places where it occurs in paragraph (1), the words " a lump sum " shall be inserted.

(*b*) In paragraph (4)(*c*) there shall be inserted after the words " in accordance with Form 2 " the words " or by a person who has made an application for maintenance of any children under Rule 43(4) " and for the words " that application " there shall be substituted the words " the relevant application ".

(*c*) In paragraph (4)(*d*) the word " party " shall be substituted for the words " petitioner or respondent ".

(*d*) The following paragraph shall be inserted after paragraph (4):—

" (5) An application for an order restraining any person from taking steps to defeat a claim for financial relief shall be made to a judge and may be made—

(*a*) by a petitioner who has included a prayer for financial relief in his petition, at any time after the filing of the petition ;

(*b*) by a respondent who has filed an answer praying for financial relief, at any time after the filing of the answer ;

(*c*) by a petitioner or respondent who has made an application for financial relief by notice in accordance with Form 2, or by a person who has made an application for maintenance of any children under Rule 43(4), or by a wife who has made an application under Rule 58(1), on or at any time after the making of the relevant application ;

(*d*) by a party who has obtained an order for financial relief, at any time after the making of the order."

9. In Rule 45 (which provides for claims for permanent alimony) the words " or a lump sum " shall be inserted after the words " permanent alimony " in both places where they occur.

10. Portsmouth shall be a divorce town and accordingly Appendix II to the principal Rules shall be amended by inserting after the word " Plymouth " the word " Portsmouth ".

11. The following Form shall be inserted after Form 1 in Appendix III to the principal Rules:—

Rule 2A(1).

" FORM 1A

Originating Summons under Rule 2A

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1) If appropriate.

(District Registry).(1)

In the Matter of a Proposed Petition by A.B. for the Dissolution of his (or her) Marriage with C.D.

LET of in the County of attend the Judge in Chambers at the Royal Courts of Justice, Strand, London, W.C.2 [*or elsewhere as the case may be*] on day the day of 19 , at o'clock in the noon on the hearing of an application of that the Court do take into consideration for the purposes of section 4 of the Matrimonial Causes Act 1950 the agreement or arrangement made or to be made between the said and (particulars of which are set out in the affidavit to be used in support of the said application, a copy whereof is delivered herewith) and do give such directions thereon as the Court thinks fit.

You are required to complete the accompanying Form of Acknowledgment of Service and send it to the under-mentioned solicitor.

If you wish to be heard on the application, you must attend at the time and place above-mentioned and, if you do not attend, the Court may give such directions as it thinks fit.

DATED the day of 19 .

THIS SUMMONS was taken out by solicitor for the above named ."

Dated 6th December 1963.

Dilhorne, C.
Parker of Waddington, C.J.
J. E. S. Simon, P.
Colin H. Pearson, L.J.
Edmund Davies, J.
Geoffrey Cross, J.
Eustace Roskill, J.
Arthur Bagnall.
Hugh Griffiths.
W. O. Carter.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules amend the Matrimonial Causes Rules 1957 so as (1) to give effect to the provisions of the Matrimonial Causes Act 1963, (2) to enable causes to be entered for trial at Birmingham, Leeds, Liverpool and Manchester less than 14 days before commission day without an order of a judge and (3) to enable matrimonial causes to be tried at Portsmouth.