3. These Rules may be cited as the Rules of the Supreme Court (Companies) (No. 2) 1948 and shall come into operation on the first day of October 1948.

Dated the 6th day of August, 1948.

Jowitt, C.
Goddard, C.J.
Greene, M.R.
Merriman, P.
F. James Tucker, L.J.
F. L. C. Hodson, J.
H. B. Vaisey, J.
G. Justin Lynskey, J.
Cyril Radcliffe.
James MacMillan.
Douglas T. Garrett.
L. S. Holmes.

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(2) MATRIMONIAL CAUSES RULES

The Matrimonial Causes (Amendment) Rules, 1948

1948 No. 1444 (L. 17)

Made - - - -	*28th June*, 1948
Laid before Parliament	*29th June*, 1948
Coming into Operation	*5th July*, 1948

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1.—(1) These Rules may be cited as " the Matrimonial Causes (Amendment) Rules, 1948 ", and shall come into operation on the fifth day of July, 1948.

52 & 53 Vict. c. 63.

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

(3) The Matrimonial Causes Rules, 1947(a) (hereinafter referred to as " the principal Rules ") as amended by the Matrimonial Causes (Amendment) Rules, 1947(b), and the Matrimonial Causes (Amendment) (No. 2) Rules, 1947(c), shall have effect as amended by these Rules, and in these Rules any Rule referred to by number means the Rule so numbered in the principal Rules.

2. For the purposes of the principal Rules a matrimonial cause in which a co-respondent, party cited or person named, whether made a respondent or not, denies a charge of adultery without filing an answer shall be deemed to be a defended cause, and accordingly in paragraph (3) of Rule 1 (Interpretation) the following definition shall be substituted for the definition of " Undefended cause ", namely:—

(a) S.R. & O. 1947 (No. 523) I, p. 2036.
(b) S.R. & O. 1947 (No. 1757) I, p. 2079.
(c) S.R. & O. 1947 (No. 2495) I, p. 2083.

" " Undefended cause " means a matrimonial cause in which no answer has been filed or in which all the answers filed have been struck out, but does not include—

(i) a cause in which relief is sought under section 176 (*d*) of the principal Act or section 7 (1) (*b*) of the Act of 1937;

(ii) a cause in which a co-respondent, party cited or person named, whether made a respondent or not, denies, in accordance with Rule 16, a charge of adultery without filing an answer; or

(iii) a cause in which a co-respondent claims to be heard as to damages without filing an answer."

3. In paragraph (2) of Rule 2 (Applications for leave to present a petition) the following words shall be inserted after the word " alleged ", namely, " whether there has been any previous application under this Rule,".

4. In the proviso to paragraph 2 of Rule 8 (Service of petition, originating summons and notice of application for ancillary relief) the following word shall be inserted after the word " respondent ", namely, " spouse ".

5. The following paragraph shall be substituted for paragraph (1) of Rule 9 (Service out of the jurisdiction) namely:—

" (1) A petition, originating summons, notice or other document in a matrimonial cause or matter may be served out of the jurisdiction without leave in manner provided by these Rules, or may be served in accordance with the procedure laid down in Order XI, Rules 8 and 11 of the Rules of the Supreme Court and in such event the provisions of Rule 12 of that Order shall apply to the service of any such document, provided that the official certificate required by paragraph (3) of Rule 8 of that Order shall, in the case of a document served personally, show the server's means of knowledge as to the identity of the person served."

6. In paragraph (3) of Rule 12 (Entry of appearance) the words " in the book provided for the purpose and " shall be deleted.

7. In sub-paragraph (*a*) of paragraph (5) of Rule 14 (Supplemental and amended petitions) the following words shall be inserted after the words " within which ", namely, " the memorandum of appearance must be amended or ".

8. In paragraph (1) of Rule 15 (Interveners) the following words shall be inserted after the words " Form 13 ", namely, " a form of acknowledgement of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 7 ".

9. The following Rule shall be substituted for Rule 16, namely:—

" **Answer** **16.**—(1) A respondent, co-respondent or person named who has entered an appearance to a petition and who wishes to defend all or any charges made therein shall, within fourteen days after the expiration of the time limited for the entry of such appearance, file an answer to the petition by sending it by pre-paid post to, or by leaving it at, the Registry:

Provided that a co-respondent or person named, whether made a respondent or not, shall not be required to file an answer if the memorandum of appearance indicates an intention to deny a charge of adultery, but not to defend the petition on any other ground.

(2) Where the time limited for entry of appearance has expired and no appearance has been entered, then, if the Registrar's Certificate is granted under Rule 30, the time for filing an answer shall be deemed to have expired, notwithstanding that the said period of fourteen days has not elapsed."

10. The following paragraph shall be inserted after paragraph (4) of Rule 17 (Evidence in support of and service of answer), namely:—

" (4A) A party cited or person named in an answer who has entered an appearance to the answer and who wishes to defend all or any charges made therein shall, within fourteen days after the expiration of the time limited for the entry of such appearance, file an answer to the charges by sending it by pre-paid post to, or by leaving it at, the Registry:

Provided that a party cited or person named in an answer shall not be required to file an answer if the memorandum of appearance indicates an intention to deny a charge of adultery but not to defend on any other ground."

11. In Rule 20 (Pleadings out of time) the present paragraph shall be numbered " (1) " and the following paragraph shall be added at the end thereof, namely:—

" (2) Without leave, a co-respondent, party cited or person named, whether made a respondent or not, shall not be heard to deny any charge of adultery, unless he or she has entered an appearance before the Registrar's certificate has been granted under Rule 30."

12.—(1) The following paragraphs shall be substituted for paragraph (1) of Rule 24 (Medical inspection), namely:—

" (1) In proceedings for nullity on the grounds of impotence or incapacity the petitioner shall, after an answer has been filed, or, if no answer has been filed or appearance entered to the cause, after the expiration of the time allowed for filing an answer or entering an appearance, as the case may be, apply to the Registrar for the determination of the question whether Medical Inspectors of the Court should be appointed to examine the parties. Upon any such application the Registrar shall, if in the circumstances of the case he considers it expedient so to do, appoint a Medical Inspector, or if it appears to him necessary two Medical Inspectors of the Court to examine the parties and to report to the Court the result of the examination.

(1A) At the hearing of any such proceedings the Court, if it thinks fit, may appoint a Medical Inspector, or two Medical Inspectors, to examine any party who has not been examined or to examine further any party who has been examined."

(2) In paragraph (2) of Rule 24 the words " The order endorsed with " shall be deleted.

(3) In paragraph (4) of Rule 24 the words " The petitioner's solicitor shall produce to the medical inspector or inspectors a minute of identification and thereupon " shall be deleted.

13.—(1) In sub-paragraph (*d*) of paragraph (1) of Rule 30 (Registrar's certificate and directions for trial) the words " of the respondent " shall be deleted and the following words shall be inserted at the end of the said sub-paragraph, namely, " or an order made that there shall be no medical inspection.".

(2) In paragraph (3) of Rule 30 the following words shall be substituted for the words " no answer has been filed ", namely, " relief is sought under Section 176 (*d*) of the principal Act or Section 7 (1) (*b*) of the Act of 1937 ".

(3) In paragraph (4) of Rule 30 the following words shall be substituted for the words " where an answer has been filed ", namely, " other than those causes in which relief is sought under Section 176 (*d*) of the principal Act or Section 7 (1) (*b*) of the Act of 1937 ".

14. In paragraphs (3) and (4) of Rule 37 (Interventions by King's Proctor) the words " file and " shall be deleted.

15. In paragraph (2) of Rule 55 (Custody of and access to children) the following word shall be inserted after the word " respondent ", namely, " spouse ".

16.—(1) In Form 4 (Acknowledgment of Service) the following words shall be added after the word " suit ", namely, " a memorandum of appearance in duplicate and notice to appear, on (date) at (place) ".

(2) In Form 7 (Memorandum of Appearance (by Co-respondent, Party Cited or Person named)) the following paragraphs shall be substituted for paragraphs 5, 6 and 7, namely:—

" 5. Do you intend to defend the case by denying the charges of adultery made against you, and if so which of them?

6. Do you intend to defend the case on any other ground?

Note.—If you do intend to defend the case on any other ground you must within 22 days([5]) after receiving the Petition([4]), send or deliver an Answer to the Divorce/District([6]) Registry, together with the prescribed fee (2s. 6d.), and in addition within twenty-four hours thereafter send a copy thereof to the Petitioner's([7]) solicitor or if he/she is not represented by a solicitor, to the Petitioner([8]).

7. Even if you do not intend to defend the case, do you wish to be heard on the claim for (damages and) costs against you?([9]).

8. What is the address to which any communications for you should be sent?

Note.—The address must be in England or Wales. If a solicitor is acting for you, give the name and address of your solicitor.

Dated the day of , 19 .

(Signed)([10]) "

([5]) Or as the case may be
([6]) Delete whichever is not applicable.
([7]) Or Respondent's.
([8]) Or Respondent.
([9]) To be struck out or altered if not applicable.
([10]) To be signed by the person entering appearance or his/her solicitor.

(3) In Form 11 (Affidavit of Service) there shall be inserted after the words " issued out of the Divorce ", the following word, namely, " /District ", and before the words " was duly served " the following words, namely, " together with a memorandum of appearance in duplicate, notice to appear and form of acknowledgment of service ".

Dated the 28th day of June, 1948.

Jowitt, C.
Goddard, C.J.
Greene, M.R.
Merriman, P.
F. James Tucker, L.J.
F. L. C. Hodson, J.
Cyril J. Radcliffe.
Gerald Gardiner.
Douglas T. Garrett.
L. S. Holmes.