1958 No. 2082 (L. 14)

The Matrimonial Causes (Amendment) Rules, 1958

Made - - - -	*8th December*, 1958
Laid before Parliament	*15th December*, 1958
Coming into Operation	*1st January*, 1959

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, 1958, and shall come into operation on the first day of January, 1959.

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

(3) In these Rules, unless the context otherwise requires, a Rule referred to by number means the Rule so numbered in the Matrimonial Causes Rules, 1957(**b**) and a Form referred to by number means the Form so numbered in Appendix III to those Rules.

(4) These Rules shall apply with the necessary modifications to proceedings instituted before as well as after these Rules come into operation:

Provided that nothing in these Rules relating to—

(*a*) the extension of the court's jurisdiction to the further classes of children referred to in section 1 of the Matrimonial Proceedings (Children) Act, 1958(**c**), or

(*b*) the duty imposed on the court by section 2 of that Act to satisfy itself in regard to certain matters relating to children who have not attained the age of sixteen years before the court makes absolute any decree for divorce or nullity of marriage or pronounces a decree of judicial separation,

shall affect proceedings instituted before these Rules come into operation.

2. The following definitions shall be inserted in paragraph (3) of Rule 1 after the definition of a modification order:—

"'Financial relief' has the same meaning as in section 2 of the Matrimonial Causes (Property and Maintenance) Act, 1958(**d**);

'Child of the family' in relation to any proceedings means a child of the parties whose marriage is the subject of the proceedings or a child of one party who has been accepted as one of the family by the other party, and includes an illegitimate child or an adopted child within the meaning of section 1 of the Matrimonial Proceedings (Children) Act, 1958, and 'children of the family' has a corresponding meaning."

3. In sub-paragraph (*d*) of paragraph (2) of Rule 2 (which relates to applications for leave to present a petition within three years of the marriage), for the words "children the marriage of whose parents is the subject of the application" there shall be substituted the words "children of the family".

4. The following amendments shall be made in Rule 3 (which relates, among other things, to applications for ancillary relief):—

(1) In sub-paragraph (*b*) of paragraph (3) for the words "children the marriage of whose parents is the subject of the proceedings" there shall be substituted the words "children of the family".

(**a**) 52 & 53 Vict. c. 63.
(**b**) S.I. 1957/619 (1957 II, p. 2406).
(**c**) 6 & 7 Eliz. 2. c. 40.
(**d**) 6 & 7 Eliz. 2. c. 35.

(2) After sub-paragraph (*c*) of paragraph (4) there shall be inserted the following sub-paragraph:—

"(*cc*) for the setting aside of a disposition made after the thirty-first day of December, 1958, with the intention of defeating a claim for financial relief (in these Rules referred to as 'the avoidance of a disposition')".

(3) For the proviso to the said paragraph (4) there shall be substituted the following proviso:—

"Provided that—

(i) where the parties are agreed upon the terms of the proposed order, the application may (except in the case of an application for settlement of a wife's property, variation of marriage settlements or the avoidance of a disposition) be made by summons to a registrar;

(ii) a petitioner who does not claim custody but who has the care and control of any children of the family may include a prayer for maintenance of the children in his petition;

(iii) a local authority to whom the care of a child of the family is committed by an order made under section 5 of the Matrimonial Proceedings (Children) Act, 1958, may without giving notice apply for maintenance for that child at the time the order is made."

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

(1) For sub-paragraph (*c*) of paragraph (1) there shall be substituted the following sub-paragraphs:—

"(*c*) the name of every living child of the family and his date of birth (or, if it be the case, that he has attained the age of twenty-one years) or, as the case may be, that there are no living children of the family;

(*cc*) where there is a dispute as to whether a living child of one of the parties to the marriage is a child of the family, full particulars of the facts relied on by the petitioner in support of his allegation that the child is, or, as the case may be, is not, a child of the family".

(2) In sub-paragraph (*h*) of the said paragraph (1), for the words "children the marriage of whose parents is the subject of the proceedings" there shall be substituted the words "children of the family" and the words "by or on behalf of either of the parties to the marriage" shall be omitted, and after that sub-paragraph there shall be inserted the following sub-paragraph:—

"(*hh*) if it be the case, that a child of the family who has not attained the age of seventeen years has come under the control of some person or authority under the provisions of the Mental Deficiency Acts, 1913 to 1938, or the Lunacy and Mental Treatment Acts, 1890 to 1930, or has been received into the care of a local authority under section 1 of the Children Act, 1948(a), or is a child with respect to whom a resolution has been passed by a local authority under section 2 of that Act".

(a) 11 & 12 Geo. 6. c. 43.

(3) After sub-paragraph (*i*) of the said paragraph (1) there shall be inserted the following sub-paragraph:—

"(*ii*) in the case of a petition for divorce, nullity of marriage or judicial separation, full particulars of the arrangements proposed by the petitioner for the care and upbringing of every child of the family who has not attained the age of sixteen years or, as the case may be, the reasons why it is impracticable for the petitioner to make any such arrangements".

(4) At the end of paragraph (2) there shall be added the words "and, in the case of an application for maintenance of the children in so far as it relates to a child of whom the husband is not the father, the extent, if any, to which the husband has, on or after the acceptance of the child as one of the family, assumed responsibility for the child's maintenance, and whether any person other than a party to the marriage is liable to maintain the child".

(5) Paragraph (3) shall be omitted.

(6) In paragraph (4), after the word "including" there shall be inserted the words "any claim for custody of a child of the family".

6. In paragraph (2) of Rule 12 (which relates to the service of notices and other documents) for the words "Rule 58 or 58A" there shall be substituted the words "Rule 58, 58A or 58B".

7. For paragraphs (7) and (8) of Rule 17 (which relates to the answer) there shall be substituted the following paragraphs:—

"(7) Every answer by a husband or wife who disputes any statement in the petition that a child is or is not a child of the family, or who alleges that there is a living child of the family who is not mentioned in the petition, shall contain full particulars of the facts relied on by the respondent.

(8) Paragraphs (2) and (4) of Rule 4 shall, where appropriate, apply with the necessary modifications to a respondent's answer as they apply to a petition.

(9) An answer containing a claim for custody of any child of the family who has not attained the age of sixteen years shall include full particulars of the arrangements proposed by the respondent for the child's care and upbringing.

(10) Every answer or subsequent pleading, if settled by counsel, shall be signed by him and, if not settled by counsel, shall be signed by the solicitor for the party filing it or by that party if he is acting in person."

8. In Rule 33 (which relates to the right of a respondent or co-respondent to be heard without filing an answer) for the words "any children the marriage of whose parents is the subject of the proceedings" there shall be substituted the words "any child of the family and as to whether any such child should be committed to the care of a local authority under section 5 of the Matrimonial Proceedings (Children) Act, 1958, or whether a supervision order should be made as respects any such child under section 6 of that Act", and in paragraph (*a*) of the proviso for the words "any children" there shall be substituted the words "any child of the family who has not attained the age of sixteen years" and for the words "their support" there shall be substituted the words "the child's".

9. After Rule 33 there shall be inserted the following Rule:—

"*Investigation of arrangements for children under sixteen.*

33A. Where at the hearing of proceedings for divorce, nullity of marriage or judicial separation it appears that there is a child of the family who has not attained the age of sixteen years and—

(*a*) the judge is satisfied as respects every such child that arrangements have been made for the care and upbringing of the child and that those arrangements are satisfactory or are the best which can be devised in the circumstances, or that it is impracticable for the party or parties appearing before the court to make any such arrangements; or

(*b*) it appears to the judge that there are circumstances making it desirable that the decree nisi should be made absolute or, as the case may be, that the decree for judicial separation should be pronounced, without delay and that a satisfactory undertaking has been obtained from either or both of the parties to bring the question of the arrangements for the children before the court within a time to be specified in the decree,

there shall be entered in the court minutes a statement recording the matters in regard to which the judge is satisfied under paragraph (*a*) of this Rule or, as the case may be, a statement that the conditions mentioned in paragraph (*b*) of this Rule have been fulfilled."

10. The following amendments shall be made in Rule 40 (which relates to the decree absolute):—

(1) For the proviso to paragraph (1) there shall be substituted the following proviso:—

"Provided that—

(i) if the application to make the decree absolute is made after the expiration of one year from the date of the decree nisi, there shall be lodged with the notice an affidavit by the applicant accounting for the delay, and the notice shall not be filed without the leave of a registrar;

(ii) if the court minutes do not contain such a statement as is mentioned in Rule 33A, the notice shall not be filed without the leave of a judge unless at the date of the application there are no children of the family below the age of sixteen years."

(2) In paragraph (3) the words "to a registrar" shall be omitted and for the second sentence there shall be substituted the following words—

"If the court minutes do not contain such a statement as is mentioned in Rule 33A and at the date of the application there is a child of the family who has not attained the age of sixteen years, the application shall be made to a judge and in any other case it shall be made to a registrar, who may make such order thereon as he thinks fit or may refer the application to a judge."

11. The following amendments shall be made in Rule 43 (which relates to maintenance of the children):—

(1) For paragraph (1) there shall be substituted the following paragraph:—

"(1) A petitioner who has not included a prayer for custody in his petition may apply for maintenance of the children—

(*a*) on or at any time after applying for custody; or

(*b*) if he does not claim custody but has the care and control of any children of the family and has not claimed maintenance of the children in his petition, at any time after filing his petition."

(2) In paragraph (2) the words " or for maintenance " shall be omitted.

(3) In paragraph (4) for the words " children the marriage of whose parents is the subject of the proceedings " there shall be substituted the words " children of the family " and after that paragraph there shall be added the following paragraph:—

" (5) A local authority to whom the care of a child of the family has been committed by an order made under section 5 of the Matrimonial Proceedings (Children) Act, 1958, may, without entering an appearance to the petition, apply for maintenance of that child on or at any time after the making of the order."

12. The headnote to Rule 44 shall be amended so as to read " *Maintenance, secured provision, settlement of wife's property, variation of settlements and avoidance of dispositions* " and the following amendments shall be made in that Rule:—

(1) In paragraph (1), paragraph (*a*) of the proviso shall be omitted.

(2) After paragraph (3) there shall be inserted the following paragraph:—

" (4) An application for the avoidance of a disposition may be made—

(*a*) by a petitioner who has included a prayer for financial relief in his petition, at any time after the time for entering an appearance to the petition has expired;

(*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, on or at any time after the making of that application;

(*d*) by a petitioner or respondent who has obtained an order for financial relief, at any time after the making of the order;

so, however, that an application made by a person mentioned in paragraph (*a*), (*b*), or (*c*) shall, so far as practicable, be heard at the same time as the application for financial relief."

13. In Rule 46 (which relates to periodical payments) for the words " children of the marriage " there shall be substituted the words " children of the family ".

14. The headnote to Rule 49 shall be amended so as to read " *Evidence on applications for settlement of wife's property, variation of settlements or avoidance of dispositions* " and the following amendments shall be made in that Rule:—

(1) In the first sentence of paragraph (1), for the words " or variation of marriage settlements " there shall be substituted the words " variation of marriage settlements or the avoidance of a disposition "; after the words " variation proposed " there shall be inserted the words " or the disposition to be set aside ", and for the word " petitioner " there shall be substituted the word " applicant ".

(2) For paragraph (2) there shall be substituted the following paragraphs:—

" (2) In addition to being served on the respondent thereto, the application shall be served on the following persons, that is to say—

(*a*) in the case of an application for variation of settlements, the trustees of the settlement;

(*b*) in the case of an application for the avoidance of a disposition, the person in whose favour the disposition is alleged to have been made;

and such other persons as a registrar may direct.

(3) Unless otherwise directed, every application for the avoidance of a disposition shall be served within two months after the issue of the application.

(4) Any person served with an application to which this Rule applies may file an affidavit in answer within fourteen days after service of the application and (except in the case of a petitioner or a party who has already entered an appearance) after entering an appearance in accordance with Form 12".

15. In Rule 51 (which relates to the preliminary investigation by a registrar of applications for ancillary relief) there shall be added after paragraph (2) the following paragraph:—

"(3) This Rule shall not apply where a local authority applies for an order for payments for the maintenance and education of any child of the family at the time of the making of an order under section 5 of the Matrimonial Proceedings (Children) Act, 1958, committing the care of that child to the local authority."

16. In Rule 52 (which enables certain applications for ancillary relief to be disposed of by a registrar) after the words "other than" there shall be inserted "(i)" and after the words "children of the marriage" there shall be inserted the words—

"or (ii) an application for the avoidance of a disposition and any related application for financial relief which is being heard at the same time".

17. Paragraph (1) of Rule 53 (which provides for the hearing by a judge of certain applications for ancillary relief) shall be amended by inserting after the words "children of the marriage" the words "or an application for the avoidance of a disposition and any related application for financial relief which is being heard at the same time" and by adding at the end of that paragraph the following words:—

"In the case of an application for the avoidance of a disposition, the report shall contain an estimate of the financial relief to which in the registrar's opinion the applicant is entitled (if he has not already obtained an order for financial relief) and of the relief to which in the registrar's opinion the applicant would be entitled if the application were granted."

18. The headnote to Rule 54 shall be amended so as to read "*Custody, care and supervision of and access to children*" and the following amendments shall be made in that Rule:—

(1) For paragraph (1) there shall be substituted the following paragraphs:—

"(1) Any of the following persons, that is to say—

(*a*) the petitioner,

(*b*) the respondent spouse,

(*c*) the guardian of any child of the family,

(*d*) any person who has obtained leave to intervene in the cause for the purpose of making an application under this paragraph or who has under an order of the court the custody or control of any child of the family,

(if, in the case of a person mentioned in sub-paragraph (*b*), (*c*) or (*d*), he has entered an appearance for that purpose) may at any time, either before or after final decree, apply to a judge for—

(i) an order relating to the custody or education of any child of the family;

(ii) directions that proper proceedings be taken for placing any such child under the protection of the Chancery Division, or

(iii) an order under section 5 of the Matrimonial Proceedings (Children) Act, 1958, committing any such child to the care of a local authority.

(1A) Before the court makes an order under the said section 5, notice in accordance with Form 23 shall be served on the local authority and, unless otherwise directed, on the petitioner and respondent, not less than fourteen days before the date fixed for the hearing of any representations from the authority.

(1B) If the local authority intend to make representations at the hearing that in the event of an order being made under the said section 5 committing a child of the family to their care the court should make an order for payments for the maintenance and education of the child, the authority shall, within seven days after receiving notice in Form 23, file an affidavit setting out such facts relevant to the means of the party against whom the last mentioned order is sought as are known to the authority, and shall, within twenty-four hours after filing the affidavit, deliver a copy thereof to that party.

(1C) A party to whom a copy of the local authority's affidavit is delivered under the last foregoing paragraph may, within four days after delivery thereof and (in the case of a respondent spouse who has not entered an appearance) after entering an appearance, file an affidavit in reply and, in that case, shall deliver a copy of his affidavit to the local authority within twenty-four hours after filing it.

(1D) Where an order has been made under the said section 5 committing a child of the family to the care of a local authority or under section 6 of the said Act placing the child under the supervision of a welfare officer or of a local authority, the local authority (or, as the case may be, the welfare officer), the petitioner and the respondent (if he has entered an appearance) may at any time apply to a judge for the variation or discharge of the order or for directions as to the exercise of the powers of the local authority or welfare officer under the order.

(1E) In proceedings under section 5 or 6 of the said Act a local authority may be heard without entering an appearance to the petition and may be represented by the children's officer or other officer employed by the authority in connection with their functions under section 39 (1) of the Children Act, 1948."

(2) In paragraph (2) for the words "children the marriage of whose parents is the subject of the proceedings" there shall be substituted the words "child of the family".

19. In Rule 55 (which relates to injunctions restraining the removal of children out of the jurisdiction of the court) for the words "child the marriage of whose parents is the subject of the proceedings" there shall be substituted the words "child of the family".

20. The following amendments shall be made in Rule 58 (which prescribes the procedure on an application by a wife for periodical payments in case

of her husband's wilful neglect to maintain her or the infant children of the marriage):—

(1) For sub-paragraph (*b*) of paragraph (2) there shall be substituted the following sub-paragraph:—

"(*b*) the name of every living child of the marriage and his date of birth (or, if it be the case, that he has attained the age of twenty-one years), and the place where and the person with whom any infant child is residing;".

(2) After sub-paragraph (*c*) of the said paragraph (2) there shall be inserted the following sub-paragraph:—

"(*cc*) if it be the case, that a child of the marriage who has not attained the age of seventeen years has come under the control of some person or authority under the provisions of the Mental Deficiency Acts, 1913 to 1938, or the Lunacy and Mental Treatment Acts, 1890 to 1930, or has been received into the care of a local authority under section 1 of the Children Act, 1948, or is a child with respect to whom a resolution has been passed by a local authority under section 2 of that Act."

(3) At the end of sub-paragraph (*f*) of the said paragraph (2) the word "and" shall be omitted and there shall be inserted the following sub-paragraph:—

"(*ff*) whether the applicant claims custody of any children of the marriage; and".

(4) In paragraph (11) after the words "may refer the application" there shall be inserted the words "(other than any claim for custody)".

(5) In paragraph (15) after the words "an order made under this Rule" there shall be inserted the words "(other than an order for custody)".

(6) For paragraph (17) there shall be substituted the following paragraphs:—

"(17) Subject to the provisions of this Rule, these Rules shall, so far as applicable, apply to an application under this Rule as if—

(*a*) the application were a matrimonial cause;

(*b*) the originating summons were a petition and the applicant were the petitioner, and

(*c*) any reference to a child or children of the family were a reference to a child or children of the marriage.

(18) In this Rule any reference to a child or children of the marriage shall be construed as including a reference to an illegitimate child of both parties to the marriage."

21. The following amendments shall be made in Rule 58A (which relates to applications under the Maintenance Agreements Act, 1957(a)):—

(1) For sub-paragraph (*c*) of paragraph (2) there shall be substituted the following sub-paragraph:—

"(*c*) the names of any children of the marriage and of any other children for whom the agreement makes financial arrangements, and—

(i) the date of birth of each of those children who is still living (or, if it be the case, that he has attained the age of twenty-one years), and the place where and the person with whom any infant child is residing;

(ii) the date of death of any child who has died since the agreement was made."

(a) 5 & 6 Eliz. 2. c. 35.

(2) In paragraph (7) the words " or, in the case of an application under the said section 2, before a judge in chambers " shall be omitted.

(3) For paragraph (9) there shall be substituted the following paragraphs:—

" (9) On the hearing of an application under the said section 1 the registrar may make such order as appears to him to be just or may, if he thinks fit, refer the application, or any question arising thereon, to a judge for decision.

(9A) On the hearing of an application under the said section 2 the registrar shall, after investigating the allegations made in support of and in answer to the application, report the result of the investigation in writing to a judge in London, to whom the application shall be adjourned."

(4) After paragraph (10) there shall be inserted the following paragraph:—

" (10A) Nothing in this Rule shall prejudice the power of the judge under Rule 1 of Order XLIX of the Rules of the Supreme Court to order that an application under the said section 2 be transferred to the Chancery Division if in his opinion the application could more conveniently be disposed of in that Division."

22. An application to the High Court by the former spouse of a deceased person for provision to be made for the applicant out of the deceased's estate under section 3 of the Matrimonial Causes (Property and Maintenance) Act, 1958, shall be made by originating summons in the Probate, Divorce and Admiralty Division and accordingly after Rule 58A there shall be inserted the following Rule:—

" *Applications under section 3 of the Matrimonial Causes (Property and Maintenance) Act, 1958*

58B.—(1) An application by the former wife of a deceased man for provision to be made for her out of his estate under section 3 of the Matrimonial Causes (Property and Maintenance) Act, 1958, shall be made by originating summons in accordance with Form 19B.

(2) The summons shall be filed in the Divorce Registry or, where the decree dissolving or annulling the applicant's marriage with the deceased was made in a cause proceeding in a district registry, in the Divorce Registry or in that district registry.

(3) There shall be filed in support of the summons an affidavit by the applicant exhibiting an official copy of the grant of representation to the deceased's estate and of every testamentary document admitted to proof and stating—

(*a*) the residence of the applicant;

(*b*) the place and date of marriage between the applicant and the deceased and the name and status of the wife before the marriage;

(*c*) the names of any children of the family and—

(i) the date of birth of each of those children who is still living (or, if it be the case, that he has attained the age of twenty-one years), and the place where and the person with whom any infant child is residing;

(ii) the date of death of any child who has died since the marriage was dissolved or annulled;

(*d*) particulars of all previous proceedings with reference to the marriage or the children of the family, and the date and effect of any order or decree made in those proceedings;

(*e*) whether any application was made by the applicant during the lifetime of the deceased for maintenance or a secured provision and, if so, the date and effect of any order made on the application or (if no such application was made by her or such an application was made by her and no order was made thereon) the reasons why no such application was made or no order was made thereon, as the case may be, in so far as they are within the applicant's knowledge or belief ;

(*f*) the date of the deceased's death and whether he died domiciled in England ;

(*g*) the means of the applicant and, in so far as they are within the applicant's knowledge or belief, the value of the deceased's estate for probate after providing for the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable out of the estate (including the amount of the estate duty and interest thereon), and the persons or classes of persons beneficially interested in the estate and the nature of their interests ;

(*h*) if the application is made after the expiration of six months from the date when representation in regard to the deceased's estate was first taken out, the grounds on which the court's permission to entertain the application is sought and whether the administration and distribution of the estate has been completed ;

(*j*) the nature of the provision which the applicant desires to be made for her maintenance out of the deceased's estate ;

and the personal representatives of the deceased (not being representatives acting under a grant limited to settled land or to trust property) shall be made respondents to the summons, so however that where the applicant is the sole personal representative the respondent shall be a person having a substantial interest in opposing the application.

(4) The provisions of paragraphs (4) to (10A) of Rule 58A shall apply to an application under this Rule as they apply to an application under section 2 of the Maintenance Agreements Act, 1957.

(5) On the hearing of the application the personal representative shall produce to the judge the grant of representation to the deceased's estate and, if an order is made, the grant shall remain in the custody of the court until a memorandum of the order has been endorsed thereon or permanently affixed thereto.

(6) The provisions of this Rule shall have effect in relation to a former husband of a deceased woman as they have effect in relation to a former wife of a deceased man, so however that for the reference in paragraph (3) (*e*) to an application for maintenance or a secured provision there shall be substituted a reference to any such application as could have been made by the former husband for maintenance, a secured provision or settlement of a wife's property."

23. In paragraph (8) of Rule 66 (which makes provision for the appointment of a guardian ad litem of a person of unsound mind) for the words " treatment as a voluntary patient in the circumstances described in section 1 (2) (*d*) of the Act and not otherwise " there shall be substituted the words " treatment as a voluntary patient within the meaning of section 1 (2) (*d*) of the Act or such treatment for mental illness as is mentioned in section 1 (1) of the Divorce (Insanity and Desertion) Act, 1958(a) ".

24. In Form 19 after the words " such payments " where they secondly occur there shall be inserted the words " (and that she be given the custody of the said infant children) ".

(a) 6 & 7 Eliz. 2. c. 54.

25. After Form 19A there shall be inserted the following Form :—

Rule 58B (1)

"FORM 19B

Originating Summons under Rule 58B

In the High Court of Justice,

Probate, Divorce and Admiralty Division

(Divorce)

(District Registry).(1)

(1)If appropriate.

In the matter of an application by A.B. under section 3 of the Matrimonial Causes (Property and Maintenance) Act, 1958.

Let of in the County of [the personal representative of of in the County of who died on the day of 19] [a person having an interest in the estate of of in the County of who died on the day of 19](2) within eight days(3) after service of this summons on him, inclusive of the day of such service, cause an appearance to be entered for him to this summons, which is issued on the application of A.B., who asks for an order requiring provision to be made for her maintenance out of the estate of the said on the ground that he has not made reasonable provision for her maintenance after his death.

(2)Delete if not applicable.
(3)Or as the case may be.

Dated the day of , 19 .

This Summons is taken out by (the solicitors for)(2) the above-named A.B.

To :—

TAKE NOTICE :—

[*The Notice appended to the Summons should follow the Notice in Form 19 but the words in the penultimate paragraph* "containing in a Schedule exhibited to the affidavit full particulars of your property and income" *should be deleted and, where the respondent is the personal representative of the deceased, the following words should be inserted:* "containing full particulars of the value of the deceased's estate for probate, after providing for the discharge of the funeral, testamentary and administration expenses, debts and liabilities (including the amount of the estate duty and interest thereon), the persons or classes of persons beneficially interested in the estate (together with the names and addresses of all living beneficiaries) and the value of their interests so far as ascertained, stating whether any beneficiary is an infant or person of unsound mind".] "

26. After Form 22 there shall be added the following Form :—

Rule 54 (1A)

"FORM 23

Notice of Appointment to hear Representations before Child is committed to Care of Local Authority

In the High Court of Justice,

Probate, Divorce and Admiralty Division

(Divorce).

(District Registry)(1)

(1)If appropriate.

To

TAKE NOTICE that if you wish to make representations before an order is made committing to the care of the Council(2), you should attend before at the Royal Courts of Justice, Strand, London, W.C.2(3), on the day of , 19 ,

(2) State name of local authority.
(3)Or as the case may be.

at o'clock in the noon, and that if you do not attend at the time and place mentioned, such order will be made and proceedings taken as the judge may think just and expedient.

Note. Where a local authority to whose care a child is committed wish to ask for an order for payments for the maintenance and education of the child, they must within seven days after receiving this notice, file an affidavit as to the means of the party against whom the order is sought and must at the same time send him a copy of the affidavit. Within four days after receiving the local authority's affidavit the party against whom the order is sought may (if, being the respondent, he has entered an appearance) file an affidavit in reply, and must in that case send a copy of his affidavit to the local authority.

Dated this day of 19 .

Registrar,
The Divorce Registry,
Somerset House,
Strand,
London, W.C.2.

[*or* The District Registry of the High Court at (4)]. (4)Delete whichever is not applicable.

Dated the eighth day of December, 1958.

Kilmuir, C.
Parker of Waddington, C.J.
Merriman, P.
B. Ormerod, L.J.
H. B. Vaisey, J.
Colin H. Pearson, J.
Reginald W. Goff.
J. R. Cumming-Bruce.
L. S. Holmes.
W. Charles Norton.

EXPLANATORY NOTE

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

These Rules make amendments in the Matrimonial Causes Rules, 1957, consequential on the coming into operation of the Matrimonial Proceedings (Children) Act, 1958, the Matrimonial Causes (Property and Maintenance) Act, 1958, and the Divorce (Insanity and Desertion) Act, 1958, and provide that an application by the former spouse of a deceased person under section 3 of the Matrimonial Causes (Property and Maintenance) Act, 1958, for provision out of the deceased's estate is to be made in the Probate, Divorce and Admiralty Division.