STATUTORY INSTRUMENTS

1971 No. 1923 (L.42)

MATRIMONIAL CAUSES
SUPREME COURT OF JUDICATURE, ENGLAND
COUNTY COURTS

The Matrimonial Causes (Amendment) Rules 1971

Made - - - - - -	17*th November* 1971
Laid before Parliament - - -	3*rd December* 1971
Coming into Operation - -	1*st January* 1972

We, the authority having power to make rules of court for the purposes mentioned in section 7(1) of the Matrimonial Causes Act 1967(a), hereby exercise that power as follows:—

1.—(1) These Rules may be cited as the Matrimonial Causes (Amendment) Rules 1971.

(2) In these Rules a rule referred to by number means the rule so numbered in the Matrimonial Causes Rules 1971(b); "Appendix 1" and "Appendix 2" mean respectively Appendices 1 and 2 to those Rules, and a form referred to by number means the form so numbered in Appendix 2.

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

2. Rule 2(2) shall be amended as follows:—

(1) For the definition of "divorce registry" there shall be substituted the following definition:—

" "divorce registry" means the principal registry of the Family Division".

(2) For the definition of "divorce town" there shall be substituted the following definition:—

" "divorce town", in relation to any matrimonial proceedings, means a town at which sittings of the High Court are authorised to be held outside the Royal Courts of Justice for the hearing of those proceedings or proceedings of the class to which they belong".

(3) In the definition of "judge" the letter (*a*) and paragraph (*b*) shall be omitted.

(a) 1967 c. 56.
(b) S.I. 1971/953 (1971 II, p. 2713).
(c) 1889 c. 63.

(4) The definition of "long cause" shall be omitted.

(5) In the definition of "the President" for the words "Probate, Divorce and Admiralty Division" there shall be substituted the words "Family Division".

(6) The definition of "short cause" shall be omitted.

3. For paragraph (4) of rule 9 there shall be substituted the following paragraph:—

"(4) A petition for a decree of nullity under section 2(*e*) or (*f*) of the Nullity of Marriage Act 1971(**a**) shall state whether the petitioner was at the time of the marriage ignorant of the facts alleged".

4. In rule 18(4) for the words "section 9(1)(*b*) of the Act of 1965" there shall be substituted the words "section 2(*d*) of the Nullity of Marriage Act 1971".

5. In rule 21(1) for the words "(11) and (14)" there shall be substituted the words "and (11)".

6. In rule 30(1), (2) and (3) the words "impotence or" shall be omitted wherever they appear.

7. In rule 34 the existing paragraph (8) shall be omitted and paragraph (9) shall stand as paragraph (8).

8. Rule 43 shall be amended as follows:—

(1) In paragraph (2) the words from "except that" to the end shall be omitted.

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

"(3) A judge or the district registrar of the registry for the divorce town at which any cause has been set down for trial may, where it appears to him that the cause cannot conveniently be tried at that town, change the place of trial to some other divorce town.

The power conferred by this paragraph may be exercised by the judge or district registrar of his own motion or on the application of a party, but before acting of his own motion the judge or district registrar shall give the parties an opportunity of being heard on the question of change, and for that purpose the district registrar may give the parties notice of a date, time and place at which the question will be considered".

9. In rule 44 the following paragraph shall be substituted for paragraph (4):—

"(4) In these Rules any reference to the registry for the divorce town at which a cause is to be tried shall, in relation to a divorce town in which there is no district registry, be construed as a reference to such district registry as the Lord Chancellor may designate for the purpose."

10. Rule 46 shall be amended as follows:—

(1) In paragraph (1) for the words from "a short cause list" to "the long causes" there shall be substituted the words "a list of the causes".

(**a**) 1971 c. 44.

(2) For paragraphs (3), (4), (5) and (6) there shall be substituted the following paragraph:—

"(3) The district registrar of the registry for the divorce town at which a cause has been set down for trial may, if it appears to him to be desirable having regard to the proximity of the date of the trial or otherwise, exercise in the cause any jurisdiction of the registrar of the registry in which the cause is proceeding."

11. In rule 47 paragraph (1) and the figure "(2)" shall be omitted.

12. In rule 62(1) the words from "and, in the case" to the end shall be omitted.

13. The following paragraph shall be added to rule 79:—

"(5) Where, before the registrar has made his report, the parties come to an agreement as to the terms of the order to be made on the application, an order in those terms may be made by the registrar and the foregoing provisions of this rule shall not apply."

14. In rule 102 the following proviso shall be added to paragraph (7):—

"Provided that where, before the registrar has made his report, the parties come to an agreement as to the terms of the order to be made on the application, an order in those terms may be made by the registrar."

15. In rule 107(1) for the words from "the respondent at the time" to "epilepsy" there shall be substituted the words "at the time of the marriage the respondent was suffering from mental disorder within the meaning of the Mental Health Act 1959(a) of such a kind or to such an extent as to be unfitted for marriage".

16. Appendix 1 shall be omitted.

17. In Form 2 paragraph (14) shall be omitted.

18. In Form 4 for item (i) of the first paragraph there shall be substituted:—

"(i) residence [*state where the child is living, particulars of the accommodation, what other persons (naming them) live there and who looks after the child*]".

19. Form 9 shall be amended as follows:—

(1) For the words from "be pronounced and declared" to "with the said respondent " there shall be substituted the words "[*in the case of a void marriage* be pronounced and declared to have been by law void and the said petitioner be pronounced to have been and to be free of all bond of marriage with the said respondent] [*in the case of a voidable marriage* be annulled]".

(2) For the words "and that the said marriage" to the end there shall be substituted the words "[*in the case of a void marriage* and that the said marriage was by law void and that the said petitioner was and is free from all bond of marriage with the said respondent] [*in the case of a voidable marriage* and that the said petitioner was from that date and is free from all bond of marriage with the said respondent]".

(a) 1959 c. 72.

20. In the title of Forms 14, 20 and 21 for the words "Probate, Divorce and Admiralty Division" there shall be substituted the words "Family Division".

21.—(1) Subject to paragraph (2), these Rules shall come into operation on 1st January 1972.

(2) Nothing in rules 3, 4 and 15 shall apply in relation to a marriage which took place before 1st August 1971.

Dated 17th November 1971.

Hailsham of St. Marylebone, C.
George Baker, P.
John Latey, J.
Ifor Lloyd.
Irvon Sunderland.
W. D. S. Caird.
J. L. Willams.
Joseph Jackson.
Harold Law.
J. D. Clarke.
D. E. Morris.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend the Matrimonial Causes Rules 1971 for the purposes of Part I of the Administration of Justice Act 1970 (c.31), the Courts Act 1971 (c.23) and the Nullity of Marriage Act 1971. Among the amendments consequential on the second of these Acts are the substitution of a new definition of "divorce town" which takes account of the Lord Chancellor's power under section 2 of the Act to fix the places of sitting of the High Court outside London (rule 2(2)), the abolition of the distinction between long and short defended causes (rules 2(4), (6) and 10(1)) and the introduction of new provisions enabling the district registrar of a divorce town to change the place of trial and make interlocutory orders in a cause set down for trial at his town (rules 8(2) and 10(2)). The Rules also enable the registrar, in certain matters referred to him for investigation, to make an order by consent without reporting back to the judge (rules 13 and 14) and provide for more detailed information to be given in the Statement as to Arrangements for Children (rule 19).