STATUTORY INSTRUMENTS

1975 No. 1359 (L. 20)

MATRIMONIAL CAUSES

SUPREME COURT OF JUDICATURE, ENGLAND

COUNTY COURTS

The Matrimonial Causes (Amendment) Rules 1975

Made - - - - -	*28th July* 1975
Laid before Parliament	*22nd August* 1975
Coming into Operation	*1st December* 1975

We, the authority having power to make rules of court for the purposes mentioned in section 50 of the Matrimonial Causes Act 1973(a), hereby exercise that power as follows:—

1.—(1) These Rules may be cited as the Matrimonial Causes (Amendment) Rules 1975 and shall come into operation on 1st December 1975.

(2) In these Rules a rule referred to by number means the rule so numbered in the Matrimonial Causes Rules 1973(b), as amended (c), "the Appendix" means the Appendix to those rules, and a form referred to by number means the form so numbered in that Appendix.

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

2. Rule 14 shall be amended as follows:—

(1) The following proviso shall be added to paragraph (9):—

"Provided that no order giving leave to substitute notice of the proceedings by advertisement shall be made unless it appears to the registrar that there is a reasonable probability that the advertisement will come to the knowledge of the person concerned."

(a) 1973 c. 18.
(b) S.I. 1973/2016 (1973 III, p. 6943).
(c) S.I. 1974/2168 (1974 III, p. 8512).
(d) 1889 c. 63.

(2) For paragraph (10) there shall be substituted the following paragraph:—

"(10) Where in the opinion of the registrar it is impracticable to serve a party in accordance with any of the foregoing paragraphs or it is otherwise necessary or expedient to dispense with service of a copy of a petition on the respondent or on any other person, the registrar may make an order dispensing with such service.

An application for an order under this paragraph shall, if no notice of intention to defend has been given, be made in the first instance *ex parte* by lodging an affidavit setting out the grounds of the application, but the registrar may, if he thinks fit, require the attendance of the petitioner on the application."

3. Rule 33(3) shall be amended as follows:—

(1) In sub-paragraph (*a*) for "(*d*)" there shall be substituted "(*a*), (*c*), (*d*) or (*e*)".

(2) At the beginning of sub-paragraph (*c*) there shall be inserted the words "in a case to which the said paragraph (*a*), (*c*) or (*e*) relates, the respondent and any co-respondent against whom costs are claimed has returned to the court office an acknowledgement of service containing a statement to the effect that he does not intend to defend the proceedings or, in a case to which the said paragraph (*d*) relates,".

(3) In sub-paragraph (i) for the words "Form 7" there shall be substituted the words "Form 7(1), 7(2), 7(3) or 7(4) (whichever is appropriate)".

4. For rule 45 there shall be substituted the following rule:—

"*Trial of issue*

45. Where directions are given for the separate trial of any issue and those directions have been complied with, the registrar shall—

(*a*) if the issue arises on an application for ancillary relief or in proceedings for the exercise of any power under Part III of the Act of 1973, proceed as if the issue were a question referred to a judge on an application for ancillary relief and rule 82 shall apply accordingly;

(*b*) in any other case, set the issue down for trial and thereupon rule 44 shall apply as if the issue were a cause."

5. In rule 48(2) for the word "either" there shall be substituted the word "any".

6. For paragraph (2) of rule 92 there shall be substituted the following paragraph:—

"(2) An application by the petitioner or the respondent for—

(*a*) an order in terms agreed between the parties relating to the custody or education of a child, or

(*b*) access to a child where the other party consents to give access and the only question for determination is the extent to which access is to be given,

may be made to the registrar who may make such order on the application as he thinks fit or may refer the application or any question arising thereon to a judge for his decision."

7. In the Appendix for Form 7 there shall be substituted the following forms:—

"Rule 33(3)

Form 7(1)

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER SECTION 1(2)(*a*) OF MATRIMONIAL CAUSES ACT 1973

[*Heading as in Form* 5]

QUESTION	ANSWER
1. Have you read the petition filed in this case?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State briefly your reasons for saying that the respondent has committed the adultery alleged.	
5. On what date did it first become known to you that the respondent had committed the adultery alleged?	
6. Do you find it intolerable to live with the respondent?	
7. Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.	

I, (*full name*)

of (*full residential address*)

(*occupation*)

make oath and say as follows:—

1. I am the petitioner in this cause.

2. The answers to Questions 1 to 7 above are true.

3.(1) I identify the signature .....(2) appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the respondent in this cause.

4.(3) I identify the signature .....(2) appearing at the foot of the document now produced to me and marked "B" as the signature of the respondent.

5.(4)

6. I ask the Court to grant a decree dissolving my marriage with the respondent (5) on the grounds stated in my petition [and to order the respondent/co-respondent to pay the costs of this suit](6).

(1) Delete if the acknowledgement is signed by a solicitor.
(2) Insert name.
(3) Insert where confession exhibited.
(4) Exhibit any other documents on which the petitioner wishes to rely.
(5) If the petitioner seeks a judicial separation, amend accordingly.
(6) Amend or delete as appropriate.

Sworn at

in the County of

this day 19 .

Before me,

A Commissioner for Oaths
[*or as the case may be*]

Rule 33(3)

Form 7(2)

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER SECTION 1(2)(*c*) OF MATRIMONIAL CAUSES ACT 1973

[*Heading as in Form 5*]

QUESTION	ANSWER
1. Have you read the petition filed in this case?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge indicate this and say whether it is true to the best of your information and belief.	
4. State the date on which you and the respondent separated, and, if different, the date on which the alleged desertion began. Did you agree to the separation?	
5. State briefly the facts you rely on in support of the allegation that the respondent deserted you, and your reason for saying that the desertion continued up to the presentation of the petition.	
6. Did the respondent ever offer to resume cohabitation?	

7. State as far as you know the various addresses at which you and the respondent have respectively lived since the last date given in the answer to Question 4, and the periods of residence at each address:

	Petitioner's Address		*Respondent's Address*
From to		From to	

8. Since the last date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.	

I, (*full name*)

of (*full residential address*)

(*occupation*)

make oath and say as follows:—

1. I am the petitioner in this cause.

2. The answers to Questions 1 to 8 above are true.

3.([1]) I identify the signature .....([2]) appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the respondent in this cause.

([1]) Delete if the acknowledgement is signed by a solicitor.
([2]) Insert name.

4.([3])

([3]) Exhibit any other documents on which the petitioner wishes to rely.

5. I ask the Court to grant a decree dissolving my marriage with the respondent([4]) on the grounds stated in my petition [and to order the respondent to pay the costs of this suit]([5]).

([4]) If the petitioner seeks a judicial separation, amend accordingly.
([5]) Delete if costs are not sought.

Sworn at

in the County of

this day 19 .

Before me,

A Commissioner for Oaths
[*or as the case may be*]

Rule 33(3)

Form 7(3)

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER SECTION 1(2)(*d*) OF MATRIMONIAL CAUSES ACT 1973

[*Heading as in Form 5*]

QUESTION	ANSWER
1. Have you read the petition filed in this case?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State the date on which you and the respondent separated.	
5. State briefly the reason or main reason for the separation.	
6. State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.	

7. State as far as you know the various addresses at which you and the respondent have respectively lived since the date given in the answer to Question 4, and the periods of residence at each address:

	Petitioner's Address		*Respondent's Address*
From to		From to	

8. Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.	

I, (*full name*)

of (*full residential address*)

(*occupation*)

make oath and say as follows:—

1. I am the petitioner in this cause.

2. The answers to Questions 1 to 8 above are true.

(1) Insert name.

3. I identify the signature .....(1) appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the respondent in this cause.

(2) Exhibit any other documents on which the petitioner wishes to rely.

4.(2)

(3) If the petitioner seeks a judicial separation, amend accordingly.
(4) Delete if costs are not sought.

5. I ask the Court to grant a decree dissolving my marriage with the respondent (3) on the grounds stated in my petition [and to order the respondent to pay the costs of this suit](4).

Sworn at

in the County of

this day 19 .

Before me,

A Commissioner for Oaths
[*or as the case may be*]

Rule 33(3)

Form 7(4)

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER SECTION 1(2)(*e*) OF MATRIMONIAL CAUSES ACT 1973

[*Heading as in Form* 5]

QUESTION	ANSWER
1. Have you read the petition filed in this case?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State the date on which you and the respondent separated.	
5. State briefly the reason or main reason for the separation.	
6. State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.	

7. State as far as you know the various addresses at which you and the respondent have respectively lived since the date given in the answer to Question 4, and the periods of residence at each address:

From to	*Petitioner's Address*	From to	*Respondent's Address*

8. Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.	

I, (*full name*)

of (*full residential address*)

(*occupation*)

make oath and say as follows:—

1. I am the petitioner in this cause.

2. The answers to Questions 1 to 8 above are true.

3.(1) I identify the signature .....(2) appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the respondent in this cause.

4.(3)

5. I ask the Court to grant a decree dissolving my marriage with the respondent (4) on the grounds stated in my petition [and to order the respondent to pay the costs of this suit](5).

(1) Delete if the acknowledgement is signed by a solicitor.
(2) Insert name.

(3) Exhibit any other documents on which the petitioner wishes to rely.

(4) If the petitioner seeks a judicial separation amend accordingly.
(5) Delete if costs are not sought.

Sworn at

in the County of

this day 19 .

Before me,

A Commissioner for Oaths
[*or as the case may be*] "

Dated 28th July 1975.

Elwyn-Jones, C.
George Baker, P.
John Latey, J.
Ifor Lloyd.
Irvon Sunderland.
W. D. S. Caird.
J. L. Williams.
W. A. Macpherson.
C. J. Sumner.
J. D. Clarke.
D. E. Morris.

EXPLANATORY NOTE

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

These Rules amend the Matrimonial Causes Rules 1973 so as to—

(1) terminate the arrangements for bulk advertisement of proceedings by restricting orders for advertisement to cases where there is a reasonable probability that it will come to the knowledge of the person concerned (rule 2);

(2) provide for cases under section 1(2)(*a*), (*c*) and (*e*) of the Matrimonial Causes Act 1973 (adultery, desertion and 5 years' separation respectively) to be dealt with in the special procedure list where there are no children under 16 and the respondent files an acknowledgement of service indicating that he does not intend to defend the proceedings (rules 3, 5 and 7);

(3) enable the trial of separate issues arising on applications for ancillary relief and the custody of children to take place in chambers (rule 4); and

(4) empower the registrar to make orders by consent for the custody or education of children (rule 6).

SI 1975/1359
ISBN 0-11-051359-2

