STATUTORY INSTRUMENTS

1976 No. 2167 (L. 40)

MATRIMONIAL CAUSES
SUPREME COURT OF JUDICATURE, ENGLAND
COUNTY COURTS

The Matrimonial Causes (Costs) (Amendment No. 2) Rules 1976

Made - - - -	15*th December* 1976
Laid before Parliament	23*rd December* 1976
Coming into Operation	17*th January* 1977

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 (Costs) (Amendment No. 2) Rules 1976 and shall come into operation on 17th January 1977.

(2) In these Rules a rule referred to by number means the rule so numbered in the Matrimonial Causes (Costs) Rules 1971(**b**), as amended(**c**), and "divorce scale" means the scale of costs set out in the Appendix to those Rules.

(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 2(1) shall be amended as follows:—

(1) In the definition of "ancillary application" there shall be added at the end of paragraph (*d*) the words "or on a children appointment;".

(2) After the definition of "ancillary application" there shall be inserted the following definition: —

" "children appointment" means an appointment fixed under rule 48(4), whether or not any such order as is mentioned in paragraph (*d*) above is made on the appointment;".

3. Rule 7 shall be amended as follows:—

(1) After paragraph (5) there shall be inserted the following paragraph:—

"(6) Where the petitioner is allowed the costs of a children appointment, whether as between party and party or not, those costs shall, if the petitioner's solicitor so elects and no counsel's

(**a**) 1973 c. 18. (**b**) S.I. 1971/987 (1971 II, p. 2869).
(**c**) The relevant amending instruments are S.I. 1973/350, 1414, 1976/606 (1973 I, p. 1231; II, p. 4346; 1976 I, p. 1731).
(**d**) 1889 c. 63.

fee is claimed, be fixed at the sum of £6 together with such of the sums mentioned in paragraph (3)(*c*)(iii) as may be appropriate.

Paragraphs (4(*a*)) (except the words "together with a further sum of £7") and (5) shall apply, with the necessary modifications, in relation to the costs mentioned in this paragraph as they apply in relation to the costs mentioned in paragraph (2).".

(2) Paragraphs (6) and (7) shall stand as paragraphs (7) and (8) respectively and for paragraph (8) as so re-numbered there shall be substituted the following paragraph: —

"(8) Except as provided in paragraphs (6) and (7), nothing in this rule shall apply to the costs of an ancillary application or a children appointment and accordingly the costs of any such application or appointment may be taxed notwithstanding anything done under paragraph (2).".

4. Items 9 and 30(*b*) of the divorce scale shall be amended by adding to each of them the following note:—

"A children appointment is to be treated as an application to which this item applies.".

5. In item 39 of the divorce scale after the words "ancillary application" there shall be inserted the words "or a children appointment".

Dated 15th December 1976.

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John Latey, J.
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EXPLANATORY NOTE

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

These Rules amend the Matrimonial Causes (Costs) Rules 1971 so as to provide for the costs of an appointment fixed under rule 48(4) of the Matrimonial Causes Rules 1973 to satisfy the judge as to the arrangements for any children under 16.

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