1957 No. 2202 (L. 21)

The Matrimonial Causes (Maintenance Agreements) Rules, 1957

Made - - - -	16*th December*, 1957
Laid before Parliament	23*rd December*, 1957
Coming into Operation	1*st January*, 1958

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

1.—(1) These Rules may be cited as the Matrimonial Causes (Maintenance Agreements) Rules, 1957, and shall come into operation on the first day of January, 1958.

(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.

2. Every application to the High Court for the alteration of an agreement to which section 1 of the Maintenance Agreements Act, 1957(**b**), applies shall be made by originating summons in the Probate, Divorce and Admiralty Division.

3.—(1) After Rule 58 of the Matrimonial Causes Rules, 1957(**c**), there shall be inserted the following Rule :—

"*Applications under Maintenance Agreements Act, 1957*

58A.—(1) An application for the alteration of an agreement to which section 1 of the Maintenance Agreements Act, 1957, (in this Rule referred to as "the Maintenance Agreements Act") applies shall be made by originating summons in accordance with Form 19A.

(2) There shall be filed in support of the summons an affidavit by the applicant exhibiting a copy of the agreement and stating—

(*a*) the residence of the parties to the agreement at the date of the application and, unless both parties are resident in England, their domicil at that date;

(*b*) the place and date of the marriage between the parties to the agreement and the name and status of the wife before the marriage;

(*c*) the names and dates of birth or ages of any living children of the marriage and of any other living children for whom the agreement makes financial arrangements, the place where and the person with whom such children are residing, and the name and date of death of any child who has died since the agreement was made;

(*d*) whether there have been in any court any, and if so what, previous proceedings with reference to the agreement or to the marriage or to the children of the marriage or to any other children for whom the agreement makes financial arrangements, and the date and effect of any order or decree made in such proceedings;

(*e*) the means of the applicant and of the other party to the agreement in so far as they are within the applicant's knowledge or belief;

(*f*) the facts alleged by the applicant to justify an alteration in the agreement and the nature of the alteration sought.

(**a**) 52 & 53 Vict. c. 63. (**b**) 5 & 6 Eliz. 2. c. 35. (**c**) S.I. 1957/619 (p. 2406 above).

(3) On an application under section 2 of the Maintenance Agreements Act, there shall be exhibited to the affidavit in support of the summons an official copy of the grant of representation to the deceased's estate and of every testamentary document admitted to proof and instead of the information required by sub-paragraphs (*a*), (*d*) and (*e*) of the last foregoing paragraph the affidavit shall state (in addition to the information required by sub-paragraphs (*b*), (*c*) and (*f*) of the said paragraph)—

(*a*) whether the deceased died domiciled in England;

(*b*) the residence of the parties to the agreement immediately before the death and, unless both parties were then resident in England, the domicil of the applicant at that time;

(*c*) whether there have been in any court any, and if so what, previous proceedings with reference to the agreement or to the marriage or to the children of the marriage or to any other children for whom the agreement makes financial arrangements, or any proceedings by the applicant against the deceased's estate under the Inheritance (Family Provision) Act, 1938, and the date and effect of any order or decree made in such proceedings;

(*d*) 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 administrative expenses, debts and liabilities payable thereout (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;

(*e*) if the application is made after the expiration of six months from the date when representation 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;

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 copy of the summons for service on the respondent shall be accompanied by a form of acknowledgment of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 12, with such modifications as the case may require.

(5) Every respondent who enters an appearance to the summons shall, within fourteen days after the expiration of the time limited for appearance, file an affidavit in answer to the application which, except in the case of an application under section 2 of the Maintenance Agreements Act, shall contain full particulars of the respondent's property and income and, in the case of an affidavit filed by personal representatives in answer to an application under the said section 2, shall contain full particulars of the value of the deceased's estate for probate after providing for the discharge of the funeral, testamentary and administrative expenses, debts and liabilities payable thereout (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.

(6) On an application under the said section 2 the applicant shall, within seven days after service upon him of the affidavit referred to in the last foregoing paragraph or, if the respondent has not entered an appearance, within seven days after the expiration of the time limited for appearance, apply for directions to a registrar who shall direct what persons are to be added as respondents as being interested in opposing the application or as representing classes of persons so interested; and on any such application the registrar may order that any respondent directed to be added as representing other persons interested in the estate shall be authorised to oppose the application on behalf of such other persons, who shall be bound by any order made in the proceedings.

(7) After the affidavits required by this Rule have been filed or the time for filing them has expired and, in the case of an application under the said section 2, after the time limited for the appearance of any persons directed to be added as respondents has expired, a time and date shall be fixed for the hearing of the application by a registrar or, in the case of an application under the said section 2, before a judge in chambers, and the applicant shall, unless otherwise directed, serve notice of the time and date so fixed on every respondent who has entered an appearance.

(8) At any stage in the proceedings a registrar may order the discovery and production of any documents or may require further affidavits and may give any other directions necessary for settling the issues to be determined by the court and the evidence by which they are to be proved, including directions as to notice to and intervention by any other parties.

(9) On the hearing of the application the judge or registrar, as the case may be, may make such order as appears to him to be just and on a hearing before a registrar the registrar may, if he thinks fit, refer the application, or any question arising thereon, to a judge for decision.

(10) The provisions of Rules 9, 10, 11, 12, 13, 14, 23, 32, 35, 36, and 71 shall apply to an application under this Rule as if it were a matrimonial cause and as if the originating summons were a petition and the applicant were a petitioner.

(11) In this Rule "children of the marriage" has the same meaning as in the Maintenance Agreements Act."

(2) In paragraph (2) of Rule 12 of the Matrimonial Causes Rules, 1957, for "Rule 58" there shall be substituted "Rule 58 or 58A".

4. The following form shall be added to the forms in Appendix III to the Matrimonial Causes Rules, 1957, and shall stand as Form 19A:—

Rule 58A (1).

"FORM 19A

Originating Summons under Rule 58A

In the High Court of Justice,

Probate, Divorce and Admiralty Division
(Divorce).

(1) If appropriate.

(District Registry).(1)

In the matter of an Application by A.B. under the Maintenance Agreements Act, 1957.

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 claims that the agreement made between the said A.B. and the said on the day of 19 should be altered as shown in the affidavit accompanying this summons so as to (make different) (contain)[4] financial arrangements.

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

Dated the day of , 19 .

This Summons was taken out by (the solicitor 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. Except on an application under section* 2 *of the Maintenance Agreements Act,* 1957, *there should be inserted the words* "containing full particulars of your property and income". *On an application under section* 2 *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 administrative 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."]"

Dated the sixteenth day of December, 1957.

Kilmuir, C.
Merriman, P.
B. Ormerod, L.J.
C. H. Pearson, J.
W. Charles Norton.

EXPLANATORY NOTE

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

These Rules provide that applications to the High Court under the Maintenance Agreements Act, 1957, for the alteration of any agreement to which the Act applies are to be assigned to the Probate, Divorce and Admiralty Division and prescribe the procedure to be followed on such applications.

Matrimonial Causes (Decree Absolute) General Order, 1957

1. This order, made 12th February, 1957, to come into operation on 30th April, 1957, under Matrimonial Causes Act, 1950, section 12 (1), amended Matrimonial Causes (Decree Absolute) General Order, 1946(**a**), by substituting references to a period of three months for the references in that order to a period of six weeks. That order had substituted a period of six weeks for the period of six months specified in Matrimonial Causes Act, 1950, section 12 (1), as the period which must elapse after pronouncement of a decree nisi before the decree can be made absolute.

2. Matrimonial Causes Act, 1950, does not provide for general orders under section 12 to be made by statutory instrument.

SUPREME COURT OF JUDICATURE, NORTHERN IRELAND

1957 No. 306 (C. 5)

The Administration of Justice Act, 1956 (Commencement) (Northern Ireland) Order, 1957

Made - - - - 25th February, 1957

Whereas it is provided by subsection (2) of section fifty-five of the Administration of Justice Act, 1956(**b**), that the provisions of the First Schedule to the said Act, which are applicable to Northern Ireland, shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument:

Now, therefore, I, the Right Honourable Richard Austen Butler, C.H., M.P., one of Her Majesty's Principal Secretaries of State, in exercise of the power conferred by the said subsection (2), hereby make the following Order:—

1. The provisions of the First Schedule to the Administration of Justice Act, 1956, shall come into force on the first day of March, 1957.

2. This Order may be cited as the Administration of Justice Act, 1956 (Commencement) (Northern Ireland) Order, 1957.

R. A. Butler,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
25th February, 1957.

(a) S.R. & O. 1946/1305 (Rev.XXII, p. 255: 1946 I, p. 1582). (b) 4 & 5 Eliz. 2. c. 46.