8. These Rules may be cited as the Rules of the Supreme Court (No. 2), 1950 and shall come into operation on the first day of January, 1951.

Dated the fourth day of December, 1950.

Jowitt, C.
Goddard, C.J.
Raymond Evershed, M.R.
Merriman, P.
D. B. Somervell, L.J.
F. L. C. Hodson, J.
H. B. Vaisey, J.
Gerald R. Upjohn.
G. G. Baker.
W. Charles Norton.

The Matrimonial Causes Rules, 1950

1950 No. 1940 (L. 27)

Made - - - -	*4th December*, 1950
Laid before Parliament	*5th December*, 1950
Coming into Operation	*1st January*, 1951

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THE MATRIMONIAL CAUSES RULES, 1950

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

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Matrimonial Causes Rules, 1950, and shall come into operation on the first day of January, 1951.

(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, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"The Act" means the Matrimonial Causes Act, 1950(**b**);

"The President" means the President of the Probate, Divorce and Admiralty Division;

"Judge" means the President, any judge of the Probate, Divorce and Admiralty Division, any judge of the High Court for the time being exercising jurisdiction in matrimonial causes and matters, or any commissioner for the time being exercising jurisdiction in such causes and matters under or by virtue of section 70 (5) of the Supreme Court of Judicature (Consolidation) Act, 1925(**c**), and any order made thereunder;

"The Divorce Registry" means the Principal Probate Registry;

"The Senior Registrar" means the Senior Registrar of the Divorce Registry;

"Registrar" means one of the registrars of the Divorce Registry;

"District registry" means any of the district registries of the High Court set out in Appendix I and any other district registry which may be named in any order made by the Lord Chancellor with the concurrence of the President;

"District registrar" means a registrar of a district registry;

"Divorce town" means a town specified in Appendix II;

"Undefended cause" means a matrimonial cause in which no answer has been filed or in which all the answers filed have been struck out, but does not include—

(i) a cause in which relief is sought under section 1 (1) (*d*) or 8 (1) (*b*) of the Act;

(ii) a cause in which a co-respondent, party cited or person named, whether made a respondent or not, denies, in accordance with Rule 16, a charge of adultery without filing an answer; or

(iii) a cause in which a co-respondent claims to be heard as to damages without filing an answer;

"Defended cause" means a matrimonial cause not being an undefended cause;

"Long defended cause" means a defended cause which has been included in the long defended list referred to in Rule 32 by virtue of directions given by a registrar under Rule 30, and "short defended cause"

(a) 52 & 53 Vict. c. 63. (b) 14 Geo. 6 c. 25. (c) 15 & 16 Geo. 5 c. 49.

means a cause which has been included in the short defended list referred to in Rule 32 by virtue of such a direction as aforesaid;

"Application for ancillary relief" means an application for any relief of the kind mentioned in Rule 3 (3);

"Modification order" has the meaning assigned to it by Rule 3 (3) (*i*);

"Filed" means, in the case of a cause or matter proceeding in the Divorce Registry, filed in the Divorce Registry and, in the case of a cause or matter proceeding in a district registry, filed in that district registry;

"Office copy" means a copy examined against the original in the registry in which the cause is proceeding and sealed with the seal of that registry, or a photographic copy so sealed;

"Person named" includes a person described as "passing under the name of A.B.";

"Rules of the Supreme Court" means the Rules of the Supreme Court, 1883, as amended by any subsequent Rules.

(4) In these Rules, unless the context otherwise requires, a Rule or Appendix referred to by number means the Rule or Appendix so numbered in these Rules, and a Form referred to by number means the Form so numbered in Appendix III.

Applications for leave to present a petition

2.—(1) An application for leave to present a petition for divorce before three years have passed since the date of the marriage shall be made by originating summons in accordance with Form 1.

(2) There shall be filed in support of the summons an affidavit by the applicant stating the grounds on which the application is made, particulars of the hardship or depravity alleged, whether there has been any previous application under this Rule, whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children, where and with whom they are residing, whether any, and if so what, attempts at reconciliation have been made and any circumstances which may assist the court to determine the question whether there is reasonable probability of a reconciliation between the parties. A copy of the intended petition shall be exhibited to the affidavit.

(3) When the summons is issued, it shall be made returnable for a fixed date before a judge in chambers and shall be accompanied by a form of acknowledgment of service in accordance with Form 4.

(4) Unless otherwise directed, the summons shall be served on the respondent at least five clear days before the return date.

(5) No appearance need be entered to the summons and no affidavit need be filed in reply, and the intended respondent may be heard without entering an appearance.

Commencement of proceedings

3.—(1) Every matrimonial cause shall be commenced by filing a petition addressed to the High Court.

(2) A petition shall not be filed if there is before the court another petition by the same petitioner which has not been dismissed or otherwise disposed of by a final order.

(3) Every application in a matrimonial cause for ancillary relief, that is to say, every application—

(*a*) for alimony pending suit, except where a claim for such relief is made in the petition,

(*b*) for maintenance of any children of the marriage (in these Rules referred to as " maintenance of the children "), except where a claim for such relief is made in the petition,

(*c*) for the payment by a husband, on a decree for divorce or nullity of marriage, of monthly or weekly sums for the maintenance and support of his wife, or by a wife, where she has presented a petition for divorce on the ground of her husband's insanity, of monthly or weekly sums for his maintenance and support (in these Rules referred to as " maintenance "), except where a claim for such relief is made in the petition,

(*d*) for the securing by a husband, on a decree for divorce or nullity of marriage, of a gross or annual sum of money to his wife or for the benefit of the children of the marriage, or by a wife, where she has presented a petition for divorce on the ground of her husband's insanity, of a gross or annual sum of money to her husband or for the benefit of the children of the marriage (in these Rules referred to as " a secured provision "), except where a claim for such relief is made in the petition,

(*e*) for the payment of alimony to a wife in whose favour a decree for judicial separation or restitution of conjugal rights has been made, or against whom a decree for judicial separation has been made, or to a husband where the wife has presented a petition for judicial separation on the ground of his insanity (in these Rules referred to as " permanent alimony "),

(*f*) for periodical payments to a wife in whose favour a decree for restitution of conjugal rights has been made, or, where a wife against whom such a decree has been made is in receipt of any profits of trade or earnings, for periodical payments of any part of such profits of trade or earnings to her husband for his own benefit, or to her husband or any other person for the benefit of the children of the marriage or either or any of them (in these Rules referred to as " periodical payments ") or for securing periodical payments to a wife in whose favour a decree for restitution of conjugal rights has been made,

(*g*) in the case of a decree for divorce or judicial separation made against the wife by reason of her adultery, desertion or cruelty, or in the case of a decree for restitution of conjugal rights made against the wife, for the settlement of any property to which she is entitled either in possession or in reversion, or any part thereof, for the benefit of her husband and of the children of the marriage or either or any of them (in these Rules referred to as " settlement of a wife's property "),

(*h*) for the application of the whole or any part of the property comprised in any ante-nuptial or post-nuptial settlement made on the spouses, either for the benefit of the children of the marriage or of the spouses (in these Rules referred to as " variation of marriage settlements "),

(*i*) for an order (in these Rules referred to as " a modification order ") discharging, modifying or temporarily suspending any order for alimony pending suit, maintenance of the children, maintenance, a secured provision, permanent alimony, periodical payments or for securing periodical payments to a wife,

shall be made by notice in accordance with Form 2 issued out of the Divorce Registry:

Provided that where the parties have agreed upon the terms of the proposed order the application may be made by summons to a registrar except in the case of an application under sub-paragraphs (*g*) or (*h*) of this paragraph.

(4) Except where these Rules otherwise provide, every other application in a matrimonial cause or matter—

(*a*) shall be made to a registrar, and

(*b*) shall be made by summons.

Form of petition

4.—(1) The petition (except in a suit for jactitation of marriage) shall state—

(*a*) the names of the parties to the marriage, the place and date of the marriage and the name and status of the wife before the marriage;

(*b*) the principal addresses at which the parties to the marriage have cohabited within the jurisdiction or, if it be the case, that there has been no cohabitation within the jurisdiction;

(*c*) whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children and, if it be the case, that the parentage of any living child of the wife born during the marriage is in dispute;

(*d*) the occupation of the husband and the residence and domicil of the parties to the marriage (or, in the case of a petition for presumption of death and dissolution of the marriage, the residence and domicil of the petitioner) at the date of the institution of the cause;

(*e*) in the case of a petition by a wife in which the court is alleged to have jurisdiction by virtue of section 18 (1) (*a*) of the Act, the domicil of the husband immediately before the desertion or deportation, and the date when and the circumstances in which the alleged desertion began or, as the case may be, the date of the deportation order;

(*f*) in the case of a petition by a wife in which the court is alleged to have jurisdiction by virtue of section 18 (1) (*b*) of the Act—

(i) (unless otherwise directed, and in lieu of the statement as to domicil required by sub-paragraph (*d*) of this paragraph) the addresses at which the petitioner has resided during the three years immediately preceding the presentation of the petition and the length of her residence at each address, and that the husband is not domiciled in the United Kingdom or in the Channel Islands or the Isle of Man; and

(ii) whether to the knowledge of the petitioner proceedings for dissolution or nullity of the marriage or judicial separation or restitution of conjugal rights, or for other relief in respect of the marriage, are pending in any other country and, if so, the nature of those proceedings;

(*g*) in the case of a petition by a wife in which the court is alleged to have jurisdiction by virtue of section 18 (2) of the Act, (unless otherwise directed, and in lieu of the statement as to domicil required by sub-paragraph (*d*) of this paragraph) the addresses at which the petitioner has resided during the three years immediately preceding the presentation of the petition and the length of her residence at each address;

(*h*) whether there have been in the High Court, county court or a court of summary jurisdiction any, and if so what, previous proceedings (including any application under Rule 2) with reference to the marriage or the children of the marriage by or on behalf of either of the parties to

the marriage, the date and effect of any decree or order made in such proceedings, and, in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making thereof ;

(*i*) the matrimonial offences alleged, or other grounds upon which relief is sought, setting out with sufficient particularity the individual facts relied on, but not the evidence by which they are to be proved, and, if such be the case, that any person with whom adultery or sodomy is alleged to have been committed has died before the presentation of the petition ;

(*j*) in the case of a petition for presumption of death and dissolution of the marriage, the last place of cohabitation of the parties, the circumstances in which the parties ceased to cohabit, the date when and the place where the respondent was last seen or heard of, and the steps which have been taken to trace the respondent ;

(*k*) in the case of a petition for restitution of conjugal rights, the date when and the circumstances in which the respondent refused or ceased to render conjugal rights to the petitioner, the desire of the petitioner for a restitution of conjugal rights and the willingness of the petitioner to render them to the respondent ;

(*l*) where adultery is alleged, whether the petitioner has in any way been accessory to or connived at or condoned the adultery, and, where cruelty is alleged, whether the petitioner has condoned the cruelty ;

(*m*) in the case of a petition for nullity of marriage under section 8 (1) (*b*), (*c*) or (*d*) of the Act, whether the petitioner was at the time of the marriage ignorant of the facts alleged and whether marital intercourse with the consent of the petitioner has taken place since the discovery by the petitioner of the existence of grounds for a decree ;

(*n*) whether (except in the case of a petition for restitution of conjugal rights) the petition is presented or prosecuted in collusion with the respondent or any of the co-respondents ; and

(*o*) in the case of a petition for divorce or for nullity of marriage under section 1 of the Matrimonial Causes (War Marriages) Act, 1944(a), that the petition is presented under that Act and (in lieu of the statement as to domicil required by sub-paragraph (*d*) of this paragraph)—

(i) that the husband was at the date of the marriage domiciled outside the United Kingdom and has not since the marriage acquired a domicil within the United Kingdom ;

(ii) that the wife was immediately before the marriage domiciled in England ;

(iii) that the husband and wife have not at any time since the celebration of the marriage resided together in a country in which the husband was domiciled at the time of such residence ;

(iv) whether to the knowledge of the petitioner proceedings for dissolution or nullity of the marriage or judicial separation or restitution of conjugal rights, or for other relief in respect of the marriage, are pending in any other country and, if so, the nature of those proceedings.

(2) A wife petitioner may include in her petition a claim for alimony pending suit, maintenance of the children, maintenance or a secured provision, in which case the petition shall contain a statement in general terms of her husband's income and property in so far as they are within her knowledge or belief.

(a) 7 & 8 Geo. 6. c. 43.

(3) The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages, any claim for costs, and, in appropriate cases, a prayer that the court will exercise its discretion to grant a decree nisi notwithstanding the adultery of the petitioner during the marriage.

The prayer may also include a claim for—

(*a*) custody of the children of the marriage;
(*b*) alimony pending suit;
(*c*) maintenance of the children;
(*d*) maintenance; or
(*e*) a secured provision.

(4) A petition for jactitation of marriage shall state—

(*a*) the occupation, residence and domicil of the petitioner and the respondent at the date of the institution of the cause;
(*b*) the dates, times and places of the alleged boastings and assertions;
(*c*) that the alleged boastings and assertions are false and that the petitioner has not acquiesced therein;

and shall conclude with a prayer setting out the relief claimed.

(5) Every petition shall, if settled by counsel, be signed by him. If not settled by counsel, it shall be signed by the solicitor for the petitioner, or by the petitioner if he is acting in person.

(6) The solicitor for a petitioner represented by a solicitor shall endorse on the petition his name or the name of his firm and the address of his or of his firm's place of business within the jurisdiction, which shall be an address for service.

(7) A petitioner acting in person shall endorse on the petition an address for service, which shall be his place of residence, or, if he has no place of residence within the jurisdiction, an address for service within the jurisdiction.

Co-respondent and interveners

5.—(1) Unless otherwise directed, where a husband's petition alleges adultery, the alleged adulterer shall, if living at the date of the filing of the petition, be made a co-respondent in the cause, and where a wife's petition alleges adultery with a woman named and contains a claim for costs against her, she shall be made a respondent in the cause.

(2) Where a person charged with adultery or sodomy in a petition is not made a co-respondent or respondent under the last foregoing paragraph, he shall be entitled to appear and intervene in the proceedings.

(3) Unless otherwise directed, a party intervening in a cause under these Rules shall join in the proceedings at the stage which those proceedings have reached at the time he appears and his name shall appear thereafter in the title of the cause.

Affidavit in support of petition

6.—(1) Every petition shall be supported by an affidavit by the petitioner verifying the facts of which he has personal knowledge and deposing as to belief in the truth of the other facts.

(2) Where the petition contains an allegation of desertion without cause for a period of at least three years immediately preceding the presentation of the petition, this Rule shall be deemed to be complied with if the affidavit is sworn not more than fourteen days before the petition is filed, or such longer time as may be allowed by a registrar having regard to the circumstances of the case.

(3) The affidavit in support of the petition shall be contained in the same document as the petition and shall follow at the foot or end thereof.

Notice of petition and notice of proceedings

7.—(1) Every copy of a petition for service on a respondent spouse shall be accompanied by a notice of petition in accordance with Form 3, a form of acknowledgment of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 5.

(2) Every copy of a petition for service on a co-respondent or person charged with adultery or sodomy, whether made a respondent or not, shall be accompanied by a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 7.

Notice of application for ancillary relief

8.—(1) A notice of an application for ancillary relief and every copy thereof for service shall, if the respondent to the application has not already entered an appearance to the petition in the matrimonial cause in which the application is made, contain a notice to appear in accordance with Form 8, and 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 9.

(2) A notice of an application for alimony pending suit, maintenance of the children, maintenance, a secured provision, permanent alimony, periodical payments or for securing periodical payments to a wife, and every copy thereof for service, shall contain a notice to file evidence in accordance with Form 10.

Service of petition, originating summons and notice of application for ancillary relief.

9.—(1) Unless otherwise directed—

(*a*) a copy of every petition shall be served personally or by registered post upon every respondent, co-respondent and person charged with adultery or sodomy who is named in the petition ; and

(*b*) a copy of every originating summons shall be served personally or by registered post upon the respondent thereto ; and

(*c*) a copy of every notice of an application for ancillary relief shall be served personally or by registered post upon the respondent thereto, unless the respondent thereto is the petitioner or, being respondent in the cause, has entered a general appearance to the petition in the cause in which the application is made, in which case the notice may be served by leaving it at, or sending it by pre-paid post to, the address for service.

Personal service shall in no case be effected by the petitioner or the intended petitioner.

(2) For the purposes of the last foregoing paragraph, a document shall be deemed to have been duly served by registered post if it is sent by pre-paid registered post to the party to be served, and an acknowledgment of service in accordance with Form 4, of his identity and of his receipt of the document is signed by him and returned to the solicitor for the petitioner, or to the petitioner if he is acting in person, at the address for service:

Provided that where the party to be served is a respondent spouse, his signature on the acknowledgment of service shall be proved at the trial or hearing.

(3) An application for leave to substitute for the modes of service prescribed by the foregoing paragraphs of this Rule some other mode of service, or to substitute for service notice of the proceedings by advertisement or otherwise, shall be made ex parte by lodging with a registrar an affidavit setting out the grounds on which the application is made.

(4) Where leave is given to substitute for service notice of the proceedings by advertisement, the form of the advertisement shall be settled by the registrar and copies of the newspapers containing the advertisement shall be filed, together with any notice of petition or notice of proceedings.

(5) Service may be dispensed with altogether in any case in which it may appear necessary or expedient to do so. An application for leave to dispense with service on a respondent spouse shall be made to a judge and an application for leave to dispense with service in any other case shall be made to a registrar.

Service out of the jurisdiction

10.—(1) A petition, originating summons, notice or other document in a matrimonial cause or matter may be served out of the jurisdiction without leave in manner provided by these Rules, or may be served in accordance with the procedure prescribed by Rules 8 and 11 of Order XI of the Rules of the Supreme Court and in such event the provisions of Rule 12 of that Order shall apply to the service of the document, so however that the official certificate required by paragraph (3) of Rule 8 of that Order shall, in the case of a document served personally, show the server's means of knowledge as to the identity of the person served.

(2) Where a petition or notice of an application for ancillary relief is to be served out of the jurisdiction the time limited for appearance which is to be entered in the notice accompanying the petition or contained in the notice shall be fixed having regard to the place or country where or within which the petition or notice is to be served in accordance with the practice adopted under Rule 5 of the said Order XI.

(3) Where an originating summons is to be served out of the jurisdiction, the return date shall be fixed having regard to the time which would be limited for appearance under the last foregoing paragraph if the document to be served were a petition.

Proof of service

11. Unless otherwise directed, and except where the provisions of Rule 9 (4) have been complied with, a petition shall not proceed to trial unless the respondent and every co-respondent thereto and every person named therein—

(*a*) has entered an appearance ; or

(*b*) is shown by affidavit in accordance with Form 11 (which shall be filed) to have been served with the petition personally or in accordance with an order for substituted service ; or

(*c*) has returned to the solicitor for the petitioner, or to the petitioner if he is acting in person, an acknowledgment of service in accordance with Form 4, which shall be lodged with a registrar.

Service of other documents

12.—(1) Unless otherwise directed, service or delivery of any notice or other document in a matrimonial cause may, if no other mode of service or delivery is prescribed, be effected—

(*a*) where the party to be served is the petitioner or has entered an appearance, by leaving the notice or document at, or by sending it by pre-paid post to, the address for service ;

(*b*) in any other case, by delivering the notice or document to the party to be served or by leaving it at, or by sending it to him by pre-paid registered post to, his last known address.

(2) A copy of every affidavit filed in support of an application under Rule 2, or in support of or in answer to an application for ancillary relief, or an application under Rule 56, or in pursuance of an order for interrogatories or discovery shall be delivered to the opposite party, if he is the petitioner or has entered an appearance, within twenty-four hours after the affidavit has been filed. If the opposite party is not the petitioner and has not entered an appearance and the time for entering an appearance has not expired, a copy of the affidavit shall be served upon him with the originating summons or notice in support of which the affidavit is filed.

Entry of appearance

13.—(1) If the person desiring to appear is acting in person he shall either leave at or send by post to the Divorce Registry a memorandum of appearance in duplicate in accordance with Form 5, 7, 9 or 12, whichever is appropriate, containing an address for service within the jurisdiction.

(2) If a solicitor is acting on behalf of the person desiring to appear, he shall leave at or send by post to the Divorce Registry a memorandum of appearance in duplicate in accordance with Form 5, 7, 9 or 12, whichever is appropriate, containing an address for service which shall be the place at which he carries on business within the jurisdiction.

(3) The registrar, on receipt of the memorandum of appearance, shall forthwith enter an appearance in the court minutes, and shall send by post to the petitioner or his solicitor, as the case may be, one copy of the memorandum sealed with the seal of the Divorce Registry, and shall deliver or send by post to the person entering the appearance a notice in accordance with Form 13, and the production of that notice shall be prima facie evidence that the appearance has been duly entered.

Form of appearance

14.—(1) An appearance may be under protest, may be either general or limited to any claim made in the petition or by subsequent application, or to making an application under these Rules and may be entered at any time.

(2) An appearance under protest shall state concisely the grounds of protest and the party so appearing shall, before the expiration of the time allowed for filing an answer, apply for directions as to the determination of any question arising by reason of such appearance and in default of such application he shall be deemed to have entered an unconditional appearance. Any such directions may provide for the trial of a preliminary issue, with or without a stay of proceedings, or for determination of the matters in question at the hearing of the cause, and for any interlocutory matters incidental to the application.

Amended and supplemental petitions

15.—(1) A petition may be amended before service—

(*a*) upon the filing of an affidavit by the petitioner, or

(*b*) with leave, upon the filing of an affidavit by the solicitor acting for the petitioner

verifying the new facts alleged.

After service a petition may be amended only with leave.

(2) A supplemental petition may be filed only after service of the original proceedings and only with leave.

(3) An application for leave to amend a petition after service or for leave to file a supplemental petition shall, unless otherwise directed, be supported by an affidavit by the petitioner verifying the new facts alleged and shall, unless otherwise directed, be served on every opposite party who has entered an appearance, or may, if no appearance has been entered, be made ex parte by filing the affidavit.

(4) Any affidavit filed under this Rule shall verify the new facts of which the deponent has personal knowledge and depose as to belief in the truth of the other new facts alleged. The affidavit shall, in relation to those facts, contain the information required by sub-paragraph (*l*) and (*n*) of Rule 4 (1) in the case of the original petition.

(5) An order made under this Rule shall—

(*a*) in cases where an appearance has been entered in the original proceedings fix the time within which the memorandum of appearance must be amended or the answer must be filed or amended ;

(*b*) if made after the registrar has given his certificate under Rule 30, provide for a stay of the hearing until that certificate has been renewed.

(6) Unless otherwise directed, a copy of the amended petition or of the supplemental petition, together with a copy of the order (if any) made under this Rule, shall be served upon the respondent, co-respondent or person named therein and, in the case of a respondent, co-respondent or person who is not named in the original petition or who is named therein but has not entered an appearance thereto, the amended petition or supplemental petition shall be accompanied by a notice of petition in accordance with Form 3 or, as the case may be, by a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4, and a memorandum of appearance in duplicate in accordance with whichever of Forms 5 or 7 is appropriate. The provisions of Rules 9, 10 and 11 shall apply to amended petitions and supplemental petitions as they apply to petitions.

Answer

16.—(1) A respondent, co-respondent or person named who has entered an appearance to a petition and who wishes to defend all or any charges made therein shall, within fourteen days after the expiration of the time limited for the entry of appearance, file an answer to the petition by sending it by pre-paid post to, or by leaving it at, the Divorce Registry:

Provided that a co-respondent or person named, whether made a respondent or not, who indicates in the memorandum of appearance that he intends only to deny the charges of adultery, or any of them, shall be entitled, without filing an answer, to defend at the trial by denying such charges.

(2) Where the time limited for entry of appearance has expired and no appearance has been entered, then, if the registrar's certificate is granted under Rule 30, the time for filing an answer shall be deemed to have expired, notwithstanding that the said period of fourteen days has not elapsed.

Form of answer, parties cited, and service of answer

17.—(1) Every answer or subsequent pleading containing more than a simple denial of the facts stated in the petition or answer, as the case may be, shall set out with sufficient particularity the facts relied upon but not the evidence by which they are to be proved, and, if the answer or subsequent pleading is filed by the husband or wife, it shall, in relation to those

facts, contain the information required by sub-paragraphs (*l*) and (*n*) of Rule 4 (1) in the case of a petition, and shall be supported by an affidavit verifying the facts of which the deponent has personal knowledge and deposing as to belief in the truth of the other facts. The affidavit shall be contained in the same document as the answer or subsequent pleading and shall follow at the foot or end thereof.

(2) Where the answer of a husband alleges adultery and prays for relief, or where the answer of a husband or a wife contains a claim for costs against an alleged adulterer, the alleged adulterer shall, if living at the date of the filing of the answer, be added to the title of the cause as "A.B. cited" and shall, unless otherwise directed, be served with a copy of the answer accompanied by a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4, and a memorandum of appearance in duplicate in accordance with Form 7, as if it were a petition.

(3) Where the answer of a husband alleges adultery, but does not pray for relief and does not contain a claim for costs against the alleged adulterer, or where the answer of a wife alleges adultery or sodomy with a person named, a copy of the answer shall, unless otherwise directed, be served on the alleged adulterer or person named, together with a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4, and a memorandum of appearance in duplicate in accordance with Form 7, and the alleged adulterer or person named shall be entitled to appear and intervene in the proceedings.

(4) Service of a copy of an answer under either of the two last foregoing paragraphs shall be effected and proof of service shall be given in the manner provided for by Rules 9, 10 and 11 in the case of service of a copy of a petition on a co-respondent.

(5) A party cited or person named in an answer who has entered an appearance to the answer and who wishes to defend all or any charges made therein shall, within fourteen days after the expiration of the time limited for the entry of appearance, file an answer to the charges by sending it by pre-paid post to, or by leaving it at, the Divorce Registry.

Provided that a party cited or person named in an answer who indicates in the memorandum of appearance that he intends only to deny the charges of adultery, or any of them, shall be entitled, without filing an answer, to defend at the trial by denying such charges.

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

Reply

18.—(1) No reply shall be filed without leave except where the answer contains counter-charges and a prayer for relief, in which case a reply may be filed within fourteen days from the delivery of the answer.

(2) No subsequent pleading shall be filed without leave.

Amendment of originating summons, etc.

19. Any originating summons, notice of an application for ancillary relief, summons, pleading or other document may be amended without leave before service, or with leave after service, subject to any directions as to verification by affidavit, as to re-service or as to consequential amendment of pleadings already filed.

Pleadings out of time

20.—(1) No pleading shall be filed out of time without leave after the registrar's certificate has been granted under Rule 30.

(2) A co-respondent, party cited or person named, whether made a respondent or not, shall not, without leave, be heard to deny any charge of adultery, unless he or she has entered an appearance before the registrar's certificate has been granted under Rule 30.

Particulars

21.—(1) Any party may by letter require any other party to furnish particulars of any allegation or other matter pleaded and, if the other party fails to furnish such particulars within a reasonable time, the party requiring the particulars may apply for an order that particulars be given.

(2) All particulars, whether given in pursuance of an order or otherwise, shall be filed within twenty-four hours after being furnished to the party requiring them.

Delivery of subsequent pleadings

22. A copy of every answer (except an answer which is required to be served in the same manner as a copy of a petition), and of every reply and subsequent pleading shall, within twenty-four hours after it is filed, be delivered to the opposite parties or their solicitors.

Discovery

23.—(1) Any party to a matrimonial cause may with leave deliver interrogatories in writing for the examination of an opposite party.

(2) A copy of the interrogatories proposed to be delivered shall be lodged in the Divorce Registry when the summons is issued and a further copy shall be served with the summons.

(3) Interrogatories shall, unless otherwise ordered, be answered by affidavit to be filed within ten days.

(4) Any party to a matrimonial cause may apply for an order for discovery of documents by an opposite party, who may be ordered to make such general or limited discovery on oath as the registrar may think fit.

Medical inspection

24.—(1) In proceedings for nullity on the ground of impotence or incapacity the petitioner shall, after an answer has been filed, or, if no answer has been filed or appearance entered to the cause, after the expiration of the time allowed for filing an answer or entering an appearance, as the case may be, apply to a registrar for the determination of the question whether medical inspectors of the court should be appointed to examine the parties. Upon such application the registrar shall, if in the circumstances of the case he considers it expedient so to do, appoint a medical inspector, or, if it appears to him necessary, two medical inspectors of the court to examine the parties and to report to the court the result of the examination.

(2) At the hearing of any such proceedings the court, if it thinks fit, may appoint a medical inspector, or two medical inspectors, to examine any party who has not been examined or to examine further any party who has been examined.

(3) Notice of the time and place of the inspection shall be served upon the respondent, and service shall be effected and proof of service shall be given in the manner provided for by Rules 9 and 11 in the case of service of a copy of a petition on a respondent:

Provided that where the respondent has appeared by a solicitor service may be effected on the solicitor in the manner provided for by Rule 12.

(4) In proceedings for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage either party may apply for the appointment of medical inspectors to examine the parties and to report to the court the result of the examination. Upon such application the registrar shall appoint a medical inspector, or, if it appears to him necessary, two medical inspectors of the court and either of the parties shall be at liberty to submit himself for examination to the inspector or inspectors so appointed.

(5) Every examination under this Rule shall, if either party so requires, be held at the residence of the medical inspector, or, as the case may be, of one of the medical inspectors so appointed as aforesaid, or at some other convenient place selected by him or them, and in every other case shall be held at the Divorce Registry or at such other place as the registrar may direct.

(6) The medical inspector or inspectors shall call upon the solicitors for the parties to identify the parties to be inspected and, after identification, the parties and their solicitors shall sign their names and the paper bearing the signatures shall be signed by the inspector or inspectors and annexed to the report.

(7) Every report made in pursuance of this Rule shall be filed, and either party shall be entitled to be supplied with a copy upon payment of the prescribed fee.

Evidence

25.—(1) Subject to the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, and of the Act and this Rule, the witnesses at the trial of any matrimonial cause shall be examined viva voce and in open court:

Provided that a judge or registrar may—

(*a*) subject to the provisions of paragraph (2) of this Rule, order that any particular facts to be specified in the order may be proved by affidavit;

(*b*) order that the affidavit of any witness may be read at the trial on such conditions as the judge or registrar may think reasonable;

(*c*) order that evidence of any particular facts to be specified in the order shall be given at the trial by statement on oath of information and belief, or by production of documents or entries in books, or by copies of documents or entries, or otherwise as the judge or registrar may direct; and

(*d*) order that not more than a specified number of expert witnesses may be called.

(2) Where it appears to the judge or registrar that any party reasonably desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit, but the expenses of such witness at the trial shall be specially reserved.

(3) Any party may apply for the appointment of an examiner or for a commission or for letters of request to examine a party or witness in any cause, and for leave to give the depositions taken on the examination in evidence at the trial, and the provisions of Rules 6 to 25 of Order XXXVII of the Rules of the Supreme Court shall apply to the examination, save that in Rule 16 of the said Order there shall be substituted for the reference to the Central Office a reference to the Divorce Registry.

(4) Nothing in any order made under this Rule shall affect the power of the judge at the trial to refuse to admit evidence tendered in accordance with the order if in the interests of justice he should think fit to do so.

Staying proceedings for restitution

26. At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply for an order to stay the proceedings on the ground that he is willing to resume or to return to cohabitation with the petitioner.

Trial of issues

27. An application for directions for the separate trial of any issue or, except in a case to which Rule 14 (2) applies, of any question as to the jurisdiction of the court shall be made to a judge.

Discretion statement

28.—(1) Every party to a matrimonial cause praying that the court shall exercise its discretion to grant a decree nisi notwithstanding his adultery shall lodge in the Divorce Registry a statement (in this Rule called "a discretion statement") signed by him or his solicitor, stating that the court will be asked to exercise its discretion in his favour notwithstanding his adultery, and setting forth particulars of the acts of adultery committed and of the facts which it is material for the court to know for the purpose of the exercise of its discretion.

(2) Where the application for the registrar's certificate under Rule 30 is made by the party praying for the discretion of the court the discretion statement shall be lodged in a sealed envelope with the application for the registrar's certificate or, where the application for that certificate is made by any other party to the cause, the discretion statement shall be lodged in a sealed envelope within ten days after the receipt of notice that the cause has been set down for trial. The envelope shall be endorsed with a certificate by the solicitor for the party praying for the discretion of the court, or by that party if he is acting in person, that the statement is signed and dated, and that paragraph (4) of this Rule does not apply or has been complied with.

(3) A discretion statement shall be open to the inspection of the King's Proctor but, except by the direction of the judge, shall not be open to inspection by any other person:

Provided that where an application is made to a registrar by or on behalf of a party who has filed a discretion statement for leave to give his own evidence by affidavit, the discretion statement shall be open to inspection by the registrar.

(4) Where a discretion statement contains an allegation of adultery or other matrimonial offence on the part of the other spouse which is not referable to any specific allegation in the pleadings, notice of the allegation shall be given forthwith to that spouse:

Provided that the court may at the trial dispense with the notice if it is satisfied that failure to give the notice was justified.

(5) Neither the fact that a discretion statement has been lodged or that such notice as aforesaid has been given nor the contents of the discretion statement or notice shall be given as evidence against the party lodging or giving the same in any matrimonial cause or matter except when that party has put the discretion statement or notice or the contents thereof in evidence in open court.

Mode of trial

29.—(1) Unless otherwise directed, all causes or issues shall be tried by a judge alone.

(2) When the trial is with a jury the judge at the trial shall decide at his discretion whether or not any issues arising on the pleadings (other than the issue of adultery in respect of which damages are claimed, and the amount of the damages) shall be left to the jury.

Registrar's certificate and directions for trial

30.—(1) The petitioner or any party who is defending a matrimonial cause shall, before setting down the cause for trial, refer the pleadings and proceedings in the cause to a registrar, who shall give a certificate that the cause is fit to be set down for trial if he is satisfied—

(*a*) that a copy of the petition, and any document required to be served in the same manner as a copy of a petition, has been duly served ;

(*b*) if appearance has not been entered, that the time for entering an appearance has expired ;

(*c*) if an appearance has been entered, that the time for filing an answer or any subsequent pleading has expired ;

(*d*) in proceedings for nullity on the ground of impotence or incapacity, that a report by a medical inspector or inspectors appointed under Rule 24 (1) has been filed, or an order made that there shall be no medical inspection ;

(*e*) in proceedings for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage, that the report of any medical inspector or inspectors appointed under Rule 24 (4) has been filed.

(2) The application for the registrar's certificate shall ask for directions as to the place of trial and shall include a statement in writing of the probable length of time to be occupied by the hearing. Should circumstances arise before the trial tending to show that the statement is inaccurate, a further statement must be lodged.

(3) In undefended causes, and in defended causes in which relief is sought under section 1 (1) (*d*) or 8 (1) (*b*) of the Act and in which no answer has been filed, the application for the registrar's certificate shall include a statement in writing of the places in which the witnesses whom it is proposed to call at the trial reside and any other facts relevant to the choice of place of trial, and the registrar shall issue directions as to the place of trial with his certificate.

(4) In defended causes other than those referred to in the last foregoing paragraph—

(*a*) the party desiring to set the cause down for trial shall, not less than eight days before applying for the registrar's certificate, give notice to every other party who has entered an appearance in the cause of the place at which it is desired that the trial shall take place ;

(*b*) any such other party who does not consent to the place of trial specified in the notice may within eight days apply to the registrar to vary the place of trial ;

(*c*) the party desiring to set the cause down for trial shall, if no such application is made within the said eight days, lodge with the application for the registrar's certificate a signed statement that the notice required by sub-paragraph (*a*) of this paragraph has been given, and

specifying the number of witnesses to be called on his behalf and the places in which he and his witnesses reside, and, unless otherwise directed, a statement, signed by or by the solicitor for every party defending the cause, to the effect that the said notice has been received, and indicating the number of witnesses to be called on behalf of each such party and the places in which each such party and his witnesses reside;

(*d*) the registrar shall issue directions as to the place of trial with his certificate, and in giving such directions shall have regard to all the circumstances of the case, including the convenience of the parties and their witnesses, costs, the date on which the trial can take place, the estimated length of the hearing, the respective facilities for trial in London and at a divorce town, and the burden imposed on the jurors;

(*e*) in the case of a defended cause fixed for trial at a divorce town, the registrar shall direct whether the cause is to be included in the long defended list or the short defended list referred to in Rule 32, according to the estimated length of the hearing.

Any such direction may be varied, and such consequential directions as to place of trial or otherwise as may be requisite may be given, either by the registrar or by a registrar of the registry in the divorce town at which the cause is directed to be tried.

(5) The registrar may, upon the application of any party, vary any directions given as to the place of trial of any cause.

Setting down for trial

31.—(1) The petitioner, after the registrar's certificate has been obtained, or (where directions have been given for the separate trial of any issue) the plaintiff, after the directions have been complied with, shall set the cause or issue down for trial in the registry in which it is proceeding, and shall, within twenty-four hours thereafter, give to each party who has entered an appearance notice of his having done so. If the petitioner fails to set the cause down within fourteen days after the granting of the registrar's certificate, any party defending the cause may set it down for trial and shall, within twenty-four hours thereafter, give to the petitioner and all other parties who have entered an appearance notice of his having done so.

(2) If an undefended cause is not set down within twenty-eight days after the granting of the registrar's certificate, it shall not thereafter be set down until the certificate has been renewed.

(3) No long defended cause shall be entered for trial at assizes less than twenty-one days, and no other cause shall be so entered less than fourteen days, before the commission day fixed for the assize town at which the cause is to be tried, except by order of a judge, to be obtained on motion.

(4) Except with the consent of all parties or by leave of the judge, no cause shall be tried until after the expiration of ten days from the date of setting down.

(5) Where a cause is to be tried in London, the party who has set the cause down for trial shall, within twenty-four hours after the date of the hearing has been fixed, give notice of such date to any party acting in person who has entered an appearance, and to the petitioner if he is acting in person and the cause has been set down for trial by a party other than the petitioner.

Trial in the provinces

32.—(1) Subject to the provisions of this Rule, matrimonial causes, and any matters arising out of or connected with such causes, may be tried and determined at any divorce town :

Provided that—

(*a*) long defended causes may be fixed for trial only at the towns marked " A " in Appendix II ; and

(*b*) no cause other than a long defended cause may be fixed for trial at Bury St. Edmunds.

(2) Within seven days after a cause has been set down for trial at a divorce town, the registrar of the registry in which the cause is proceeding shall, unless the cause is to be tried or heard at the town in which the registry is situate, transmit the file of the cause, together with a skeleton form of decree, to the registry in the town at which the cause is to be tried.

(3) The registrar of the registry in each divorce town shall prepare, and keep up to date, three lists, to be known as the " undefended list," the " long defended list " and the " short defended list," showing respectively the undefended causes, the long defended causes and the short defended causes which are for the time being set down for trial at that divorce town.

The causes shall be entered in each list in the order in which they were set down for trial in the registry in which the lists are prepared or, in the case of causes proceeding in another registry the files of which have been transmitted under paragraph (2) of this Rule, in the order in which the files were received in the first-mentioned registry. A copy of each list shall be displayed in a conspicuous place in the registry, and shall be open to inspection by the public at all times during office hours.

(4) Not less than fourteen days before commission day at a divorce town at which assizes are held (not being Liverpool or Manchester), the registrar preparing the list of long defended causes set down for trial at assizes at that town shall furnish a copy of the list to the Senior Registrar and to the associate of the circuit on which that assize town is.

(5) Not less than ten days before the date fixed for the trial of any undefended cause, or any short defended cause, which has been set down for trial at a divorce town, the registrar of the registry at that town shall—

(*a*) cause notice of the date and place fixed for the trial to be made public in such manner as appears most likely to come to the notice of the parties and other persons likely to be interested ; and

(*b*) send notice by post of the date, place, and approximate time of the trial to the petitioner and to any person who has entered an appearance in the cause,

and it shall be the duty of the party who has set the cause down for trial to provide a sufficient number of stamped and addressed envelopes for the purpose of the last-mentioned notice.

(6) An officer of the Divorce Registry or of a district registry shall attend the judge upon the trial of every matrimonial cause and shall draw the decree or order pronounced or made by the court.

(7) A decree or order made in respect of a cause tried at a divorce town shall be signed by the district registrar of the registry at that town.

(8) Where the file of papers in any cause has been transmitted from one registry to another under paragraph (2) of this Rule, the registrar of the registry to which the file was transmitted shall, as soon as may be after the cause has been tried, return the file to the registry in which the cause is proceeding, together with any documentary evidence produced during the trial and not ordered to be handed out, and the decree or order pronounced or made in the cause.

(9) Where a cause is set down for trial at Bodmin, Bury St. Edmunds, Lewes or Winchester, the references in this Rule to the registry of the divorce town at which the cause is to be tried and to the registrar of that registry shall be construed in relation to that cause as references to the registries at Plymouth, Ipswich, Brighton and Southampton respectively, and to the registrars thereof.

Right of respondent, co-respondent or party cited to be heard without filing answer

33. After entering an appearance, a respondent, co-respondent, or party cited in an answer may, without filing an answer, be heard in respect of any question as to costs or damages and a respondent spouse may, without filing an answer, be heard as to any question of custody of or access to any children of the marriage:

Provided that—

(*a*) without leave, a co-respondent or party cited in an answer shall not be heard in respect of any question as to damages unless he has entered an appearance before the registrar's certificate has been granted under Rule 30;

(*b*) no bill of costs not directly referable to a decree nisi or decree absolute or other final decree shall be taxed against a party who has appeared (other than a spouse against whom a decree has been pronounced), unless notice has been given to such party of the intention to apply for an order that the costs should be costs in the cause; and

(*c*) such party as aforesaid (whether he has appeared or not) may, before the expiration of the period mentioned in the order for payment of the costs by him after taxation, apply to a judge to discharge the order making the costs costs in the cause, so however that a party who has not appeared shall first enter an appearance for the purpose.

Form of decree

34.—(1) Every decree of the court shall be signed by a registrar.

(2) Where in any case there has been a finding of adultery against one of the parties to the cause, but the judge has refused to exercise his discretion under section 4 (2) of the Act, that finding and the refusal shall be set out in the decree, and where there has been such a finding but the judge has exercised his discretion, the decree shall state that it is made in the exercise of the discretion conferred on the court by the said section.

(3) A sealed or other copy of any decree of the court may be issued to any person requiring it on payment of the prescribed fee.

Non-payment of court fees

35. Where any part of any court fees payable in respect of a matrimonial cause or matter is not paid, a judge may, upon the application of the Official Solicitor and upon a report signed by a registrar stating the amount of the

unpaid fee, order the solicitor (if any) of the party by whom the fee has been incurred personally to pay the fee and the Official Solicitor's costs of the application.

Re-hearing

36.—(1) An application for re-hearing of a cause heard by a judge alone where no error of the court at the hearing is alleged shall be made to a Divisional Court of the Probate, Divorce and Admiralty Division. The application shall be by notice of motion, stating the grounds on which it is based, filed in the Divorce Registry and served upon the opposite parties within six weeks after judgment. The notice shall be a fourteen days' notice and may be amended at any time by leave of the judge.

(2) Any other application for re-hearing shall be made by way of appeal to the Court of Appeal.

Intervention by King's Proctor

37.—(1) When the King's Proctor desires to show cause against making absolute a decree nisi, he shall enter an appearance in the cause in which the decree has been pronounced, and shall, within fourteen days thereafter, file his plea setting forth the grounds upon which he desires to show cause, and within twenty-four hours of filing the plea shall deliver a copy thereof to the party in whose favour the decree has been pronounced and, if the plea alleges collusion, to the other party or parties to the alleged collusion.

(2) Where the plea alleges adultery by the petitioner with any named person, the King's Proctor shall, unless otherwise directed, serve each such person with a copy of the plea, omitting any part thereof which contains any allegation in which the person so served is not named. Such copy shall be accompanied by a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 7, so far as the same are applicable, and service shall be effected and proof of service shall be given in the manner provided for by Rules 9, 10 and 11 in the case of a copy of a petition served on a co-respondent.

(3) Except as hereinafter provided, these Rules shall apply to all subsequent pleadings and proceedings in respect of the plea as if it were a petition.

(4) If no answer to the plea is filed within the time limited, or if an answer is filed and is struck out or not proceeded with, the King's Proctor may apply forthwith by motion to rescind the decree nisi and dismiss the petition.

(5) If any of the charges contained in the plea are not denied in the answer thereto, the party in whose favour the decree nisi has been pronounced shall apply for the registrar's certificate under Rule 30 (1) and shall, within fourteen days after obtaining it, set the intervention down for trial and shall, within twenty-four hours thereafter, give to the King's Proctor notice of his having done so. If default is made in setting down and giving notice to the King's Proctor as aforesaid, the King's Proctor may apply forthwith by motion to rescind the decree and dismiss the petition.

(6) If all the charges contained in the plea are denied in the answer thereto, the King's Proctor shall apply for the registrar's certificate and shall, within fourteen days after obtaining it, set the intervention down for trial and shall, within twenty-four hours thereafter, give to the other parties to the intervention notice of his having done so.

Intervention by person other than King's Proctor

38.—(1) When any person other than the King's Proctor desires to show cause against making absolute a decree nisi, he shall enter an appearance in the cause in which the decree has been pronounced and shall, within four days thereafter, file an affidavit setting forth the facts upon which he relies and within twenty-four hours of filing such affidavit shall deliver a copy thereof to the party in whose favour the decree has been pronounced and, if the affidavit alleges collusion, to the other party or parties to the alleged collusion.

(2) Any party to whom a copy of the affidavit has been delivered as aforesaid may, within fourteen days thereafter, file an affidavit in answer, and shall, within twenty-four hours after filing the affidavit, deliver a copy thereof to the person showing cause who may within fourteen days file an affidavit in reply and shall, within twenty-four hours after filing the affidavit, deliver a copy thereof to each party to whom he delivered a copy of his original affidavit.

No further affidavits shall be filed without leave.

Interventions to be heard in London

39. The trial of any intervention under Rule 37 or 38, whether the cause is proceeding in the Divorce Registry or in a district registry, shall take place in London unless the President shall otherwise direct.

Decree absolute

40.—(1) An application by a spouse to make absolute a decree nisi pronounced in his favour shall be made by lodging in the registry where the cause is proceeding a notice of application in accordance with Form 14 on any day after the expiration of the period prescribed for making the decree absolute. If a registrar, after searching the court minutes, is satisfied—

(*a*) that no appeal against the decree and no application for re-hearing under Rule 36 is pending,

(*b*) that no order has been made by the Court of Appeal enlarging the time for appealing against the decree or by the Divisional Court enlarging the time for making application for re-hearing, or, if any such order has been made, that the time so enlarged has expired, and

(*c*) that no appearance has been entered, or, if appearance has been entered, that no affidavits have been filed within the time allowed for filing, by or on behalf of any person wishing to show cause against the decree being made absolute,

the notice shall be filed:

Provided that if the application 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 leave.

(2) Upon the filing of the said notice the decree nisi shall become absolute.

(3) An application by a spouse to make absolute a decree nisi pronounced against him shall be made to a registrar on not less than four days' notice and shall be accompanied by a notice of application in accordance with Form 14. On any such application the registrar may make such order as he thinks fit, or may refer the application to a judge.

(4) A certificate in accordance with Form 15 or Form 16, whichever is appropriate, that the decree has been made absolute shall be prepared and filed by the registrar. The certificate shall be authenticated by fixing thereto the seal of the registry.

(5) On a decree nisi being made absolute in a cause proceeding in a district registry, the district registrar shall send to the Senior Registrar an index card relating to the cause.

Reversal of decree of judicial separation

41.—(1) A petition for the reversal of a decree of judicial separation shall set out particulars of the decree and the grounds for reversal on which the petitioner relies.

(2) No such petition shall be filed unless an appearance was entered in the cause in which the decree was pronounced by the party praying for a reversal of the decree.

(3) A copy of the petition, accompanied by a form of acknowledgment of service in accordance with Form 4, shall be served upon the party in whose favour the decree was pronounced, who may within fourteen days after service file an answer to the petition. A copy of the answer shall be delivered to the petitioner within twenty-four hours after the answer is filed.

Service of a copy of the petition shall be effected and proof of service shall be given in the manner provided for by Rules 9, 10 and 11 in the case of a document served on a respondent to a petition.

(4) All subsequent proceedings on the petition shall be carried on in the same manner, so far as practicable, as the proceedings on the petition for judicial separation.

Alimony pending suit

42. A wife petitioner who has not included in her petition a prayer for alimony pending suit may apply for alimony pending suit at any time after filing the petition, and a respondent wife, or a respondent husband against whom a petition for divorce or judicial separation is presented on the ground of his insanity, may apply for alimony pending suit at any time after entering appearance to a petition.

Maintenance of children

43. An application for maintenance of the children may be made—

(*a*) by a petitioner who has not included in the petition a prayer for maintenance of the children, at any time after service of a petition in which custody of any children of the marriage is claimed or after making a subsequent application for custody;

(*b*) by a respondent spouse, after entering an appearance to a petition; or

(*c*) by the guardian of any children of the marriage or by any person who has obtained leave to intervene in the cause for the purpose of applying for the custody of, or who has under an order of the court, the custody or control of, such children, after entering an appearance to the petition in accordance with Form 12.

Maintenance, secured provision, settlement of wife's property and variation of marriage settlements.

44.—(1) An application for maintenance or a secured provision, where a prayer for such relief has not been included in the petition, and an application for settlement of a wife's property, or variation of marriage settlements, in the case of proceedings for divorce, may be made by the petitioner at any time after the time for entering an appearance to the petition has expired, and by a respondent spouse at any time after entering an appearance to the petition, but no such application shall be made later than two months after final decree except by leave.

(2) An application for settlement of a wife's property, in the case of proceedings for judicial separation or for restitution of conjugal rights, may be made at any time after the decree has been pronounced.

(3) Upon an application for a secured provision, settlement of a wife's property or variation of marriage settlements, the court shall, unless it is satisfied that the secured provision or settlement makes adequate provision for any children of the marriage, or, as the case may be, that the proposed variation does not adversely affect the rights or interests of any children of the marriage, direct that the children be separately represented on the application by a solicitor, or by a solicitor and counsel, and may assign a guardian ad litem by whom any infant children may appear upon the application. An affidavit of fitness of the proposed guardian in accordance with Form 17 shall be filed.

Permanent alimony

45. An application for permanent alimony may be made at any time after a decree for judicial separation or for restitution of conjugal rights, as the case may be, has been pronounced.

Periodical payments

46. An application for periodical payments or for securing periodical payments to a wife may be made at any time after non-compliance with a decree for restitution of conjugal rights, but where the application is one for the benefit of children of the marriage and is made by the guardian of such children or by a person who has obtained leave to intervene in the cause for the purpose of applying for custody or who has the custody or control of such children under an order of the court, he shall first enter an appearance to the petition in accordance with Form 12.

Variation of orders for alimony, etc.

47. A petitioner, or a respondent if he has entered an appearance to the petition, may at any time apply for a modification order.

Evidence on applications for alimony, etc.

48.—(1) Where a husband is served with a petition in which alimony pending suit, maintenance of the children, maintenance or a secured provision is claimed, and enters an appearance, he shall, within fourteen days after the expiration of the time limited for appearance, file an affidavit setting out full particulars of his property and income.

(2) Where a husband is served with a notice of an application for alimony pending suit, maintenance of the children, maintenance, a secured provision, permanent alimony, periodical payments or for securing periodical payments to a wife, he shall, within fourteen days after service of the notice

upon him, or if he has not at the time of such service entered an appearance, after entering an appearance and within fourteen days after the expiration of the time limited for appearance, file an affidavit setting out full particulars of his property and income, unless in the case of any such application, other than an application for alimony pending suit, the wife at the time of service of the application gives notice to the husband of her intention to proceed with the application upon the evidence already filed on her application for alimony pending suit.

(3) Within fourteen days after delivery of any affidavit by a husband under this Rule, the wife may file an affidavit in reply.

(4) Where a wife is served with a notice of an application for alimony pending suit, maintenance, a secured provision, permanent alimony, or periodical payments, paragraphs (2) and (3) of this Rule shall have effect as if for the references to the husband there were substituted references to the wife, and for the references to the wife there were substituted references to the husband.

Evidence on applications for settlement of wife's property or variation of settlements

49.—(1) An application for settlement of a wife's property or variation of marriage settlements shall state the nature of the settlement or variation proposed and shall, unless otherwise directed, be supported by an affidavit by the petitioner stating the facts relied on in support of the application. The affidavit shall set out, in the case of an application for settlement of a wife's property, full particulars of the property to which she is entitled either in possession or reversion, or, in the case of an application for variation of marriage settlements, full particulars of the marriage, any children of the marriage, all settlements, whether ante-nuptial or post-nuptial, and of the funds brought into the settlements by the husband and the wife.

(2) The application shall, in addition to being served on the respondent, be served on the trustees of any settlements and upon such other persons as a registrar may direct, and any party so served may, within fourteen days after such service and after entering an appearance in accordance with Form 12, file an affidavit in answer.

Evidence on application for modification order

50.—(1) An application for a modification order shall be supported by an affidavit by the applicant setting out full particulars of his property and income and the grounds on which the application is made.

(2) The respondent to the application may, within fourteen days after delivery of the affidavit, and (unless he is the petitioner in the cause) after entering an appearance, file an affidavit in answer, but no further evidence shall be filed by any party without leave.

Preliminary investigation by registrar of application for ancillary relief

51. Unless the judge shall otherwise direct, an appointment shall be fixed for the hearing by a registrar of any application for ancillary relief which has not been dealt with by the judge at the trial. Notice of the appointment shall be given by the applicant to every other party to the application who has entered an appearance and to the petitioner if he is not the applicant, and at the appointment so fixed the registrar shall, in the presence of the parties or their solicitors, investigate the allegations made in support of and in answer to the application, and may take the oral evidence of witnesses,

and may order the attendance of any person for the purpose of being examined or cross-examined, and may at any stage of the proceedings order the discovery and production of any document or call for further affidavits.

Applications heard by registrar

52. In the case of a claim, contained in a petition, for alimony pending suit, maintenance of the children, maintenance or a secured provision, or of an application for ancillary relief, other than an application for settlement of a wife's property or variation of marriage settlements where there are children of the marriage, the registrar shall, after completing his investigation under the last foregoing rule, make such order as he thinks fit, or refer the application or any question arising therefrom to the judge for his decision and, pending the final determination of the application, the registrar may make an interim order upon such terms as he may think just.

Applications heard by judge

53.—(1) In the case of an application for settlement of a wife's property or variation of marriage settlements where there are children of the marriage, the registrar shall, after completing his investigation, report the result thereof in writing to the judge to whom the application shall be adjourned.

(2) The registrar's report under the last foregoing paragraph shall be filed and any party shall be entitled to be supplied with a copy of the report upon payment of the prescribed fee.

(3) The judge, upon hearing the application, may confirm or vary the registrar's report or make such other order as he thinks fit.

Custody of and access to children

54.—(1) The petitioner, or (if he has entered an appearance to the petition for this purpose) the respondent spouse or the guardian of any children of the marriage or any person who has obtained leave to intervene in the cause for the purpose of applying for the custody of, or who has under an order of the court the custody or control of, such children may at any time, either before or after final decree, apply to a judge for an order relating to the custody or education of the children of the marriage, or for directions that proper proceedings be taken for placing such children under the protection of the Chancery Division.

(2) A petitioner may at any time after filing a petition in a matrimonial cause, and a respondent spouse may at any time after entering an appearance, apply for access to any children of the marriage, but an application for access by the spouse against whom a decree (whether nisi, final or absolute) has been made, shall be made to a judge, unless the other party consents to give access to the children and the only question for determination is the extent to which access shall be given.

Information as to other proceedings relating to children

55. On any application under these Rules relating to any children of a marriage, there shall, if there are any proceedings relating to such children in progress in the High Court, be filed a statement as to the nature of those proceedings.

Applications in case of wilful neglect to maintain

56.—(1) An application by a wife who alleges that her husband has been guilty of wilful neglect to provide reasonable maintenance for her or the infant children of the marriage shall be made by originating summons in accordance with Form 18.

(2) There shall be filed in support of the summons an affidavit by the applicant which shall state—

(*a*) the names of the parties to the marriage, the place and date of the marriage and the name and status of the applicant before the marriage;

(*b*) the names and dates of birth or ages of any living children of the marriage and the place where and the person with whom such children are residing;

(*c*) whether there have been in any court any, and if so what, previous proceedings with reference to the marriage or the children of the marriage by or on behalf of either of the parties to the marriage or any other person, the date and effect of any decree or order made in such proceedings, and, in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making thereof;

(*d*) particulars of the alleged wilful neglect by the husband to provide reasonable maintenance for the applicant or the infant children of the marriage and whether the husband is or has been making any, and if so what, payments to the applicant by way of maintenance for herself or the infant children;

(*e*) the means of the applicant and of her husband in so far as they are within the applicant's knowledge or belief;

(*f*) whether application is made for an order that the husband do secure the payments prayed for by the applicant; and

(*g*) the facts upon which it is claimed that the court has jurisdiction to entertain the proceedings.

(3) 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.

(4) If the respondent enters an appearance to the summons, he shall, within fourteen days after the expiration of the time limited for appearance, file an affidavit in answer to the application, setting out the grounds on which he intends to contest the application and containing in a schedule full particulars of his property and income.

(5) Where the respondent's affidavit alleges adultery, a copy of the affidavit (but omitting the schedule referred to in the last foregoing paragraph) shall, unless otherwise directed, be served on the alleged adulterer, together with a notice of proceedings in accordance with Form 6, a form of acknowledgment of service in accordance with Form 4 and a memorandum of appearance in duplicate in accordance with Form 7, with such modifications as the case may require, and the alleged adulterer shall be entitled to appear and intervene in the proceedings.

(6) The provisions of Rules 9 and 10 relating to service of petitions shall apply to service of a copy of an affidavit under the last foregoing paragraph. If the person named as an adulterer does not enter an appearance or return an acknowledgment of service to the respondent or his solicitor (which acknowledgment shall be lodged with a registrar) such person shall, except where the provisions of Rule 9 (4) have been complied with, be shown by means of an affidavit in accordance with Form 11 (with such modifications as the case may require) to have been served with the copy of the affidavit personally or in accordance with an order for substituted service.

(7) Any person named as an adulterer in the respondent's affidavit who has entered an appearance and who wishes to defend all or any charges made in the affidavit shall, within fourteen days after the expiration of the time limited for the entry of appearance, file an affidavit in answer by sending it by prepaid post to, or by leaving it at, the Divorce Registry:

Provided that it shall not be necessary to file an affidavit in answer if the memorandum of appearance indicates an intention to deny the charge of adultery but not to defend on any other ground.

Where the person named as an adulterer has entered an appearance, his name shall appear thereafter in the title of the application.

(8) Within fourteen days after receiving the respondent's affidavit the applicant may file an affidavit in reply and shall, within twenty-four hours after filing the affidavit, deliver a copy thereof to any person named as an adulterer in the respondent's affidavit in addition to the copy required by Rule 12 (2) to be delivered to the respondent. No further affidavits may be filed without leave.

(9) When all the affidavits have been filed, a time and date shall be fixed for the hearing of the summons before a judge in court and the applicant shall, unless otherwise directed, serve notice thereof in accordance with Form 19 on any party who has entered an appearance.

(10) On the hearing of the application the judge may make such order as he thinks fit, or may refer the application to a registrar for an investigation into the means of the parties to the marriage and, pending the final determination of the application, the judge may make an interim order upon such terms as he may think just.

(11) Where an application is referred to a registrar under the last foregoing paragraph, he shall fix an appointment for the hearing of the application and the provisions of Rules 51 and 52 shall apply to the proceedings before the registrar as if the application were an application for ancillary relief, except that where the judge has not made a finding as to the respondent's wilful neglect to maintain, the registrar shall not make an order but shall, after completing his investigation, report thereon in writing to the judge.

(12) Every report made by the registrar under the last foregoing paragraph shall be filed and the parties shall be entitled to be supplied with a copy upon payment of the prescribed fee.

(13) When the registrar has not made an order on the application, the applicant shall, after the registrar's report has been filed, apply for a date and time to be fixed for the continuance of the hearing before the judge and notice thereof in accordance with Form 19 shall, unless otherwise directed, be served by the applicant on any party who has entered an appearance.

(14) An application to discharge, modify or suspend an order made under this Rule shall be made to and dealt with by a registrar in the same manner as an application for a modification order under these Rules.

(15) A wife may apply for security for her costs of an application under this Rule when all the affidavits have been filed and the registrar shall ascertain what is a sufficient sum of money to cover those costs, and if, after taking all the circumstances into account, including the means of the husband and the wife, he considers that the husband should provide security for all

or some of the wife's costs of and incidental to the application, he may order the husband to pay the sum so ascertained, or some portion of it, into court, or to give security therefor within such time as he may fix.

(16) The provisions of Rules 9, 10, 11, 12, 13, 14, 23, 32, 35, 36, 69 and 70 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 the petitioner.

Proceedings in chambers

57. The name of the cause or matter and of the person taking out a summons shall be endorsed on the summons, and a copy thereof shall be served on the party to whom the summons is addressed or on his solicitor at least two clear days before the summons is returnable.

Hearing of summons

58.—(1) The party taking out a summons shall, at the time appointed therein, attend with the original summons at the place appointed for hearing. If any party to the summons does not attend within a reasonable time after the time appointed, the judge or registrar, as the case may be, may proceed in his absence upon being satisfied by affidavit or otherwise that such party had due notice of the time appointed.

(2) Any summons to be heard by a judge may, unless otherwise ordered, be heard—

(*a*) in London ; or

(*b*) in the case of a summons in a cause proceeding in a district registry, at the divorce town in which that registry is situate or, if that registry is not situate in a divorce town, at the divorce town nearest to that registry ; or

(*c*) in the case of a summons in a cause set down for trial at a divorce town, at that town.

(3) All orders, whether made on summons or otherwise, shall be drawn up in the registry in which the cause is proceeding.

Appeals from registrar

59. A party may appeal from an order or decision of a registrar to a judge in chambers by summons to be issued within seven days of the order or decision complained of and returnable on the first day on which summonses are heard after that period has elapsed, but the appeal shall not, unless otherwise ordered, act as a stay of the order or decision complained of.

Subpœnas

60. Subpœnas in any cause or matter to which these Rules apply may issue out of the registry in which the cause or matter is proceeding or out of the registry to which the file relating to that cause or matter has been transmitted for the purpose of the trial.

Attachment and committal

61. An application for attachment or committal shall be made to a judge, and any person attached or committed may apply to a judge for his discharge.

Enforcement of orders

62.—(1) In default of payment to any person of any sum of money at the time appointed by any order of the court for the payment thereof, a writ of fieri facias, sequestration, or elegit shall be sealed and issued as of course out of the Divorce Registry upon an affidavit of service of the order and of non-payment.

(2) A decree or order requiring a person to do an act thereby ordered shall state the time within which the act is to be done, and the copy to be served upon the person required to obey the same shall be endorsed with a notice in accordance with Form 20 and shall be served personally on that person (the original decree or order or a copy issued by the court being produced to him at the time of service) or shall be delivered to his solicitor.

(3) Where a party who has been ordered to lodge damages in court fails to do so in accordance with the order, the party in whose favour the order was made may at any time apply to a judge to vary the order by directing the payment of such damages to an individual to be specified in the application and the judge may, if satisfied that in the circumstances it is just and equitable to do so, vary the order accordingly upon an undertaking by that individual to lodge the damages in court or otherwise deal with them, as and when received, as the judge may direct. If the application is made after decree absolute or other final decree the judge may, if satisfied as aforesaid, dispense with the undertaking.

(4) Where a party who has been ordered to pay costs into court fails to do so in accordance with the order, the party in whose favour the order was made may apply to a registrar to vary the order by directing payment to an individual to be specified in the application and the registrar may, if satisfied that in the circumstances it is just and equitable to do so, vary the order accordingly, so however that, if the application is made before decree absolute, the order shall be made only upon an undertaking by the said individual to pay the costs into court as and when received.

Motions

63.—(1) Except as otherwise provided by these Rules and unless a judge shall otherwise direct, five clear days' notice of any motion to be made to the court, other than an ex parte motion, shall be served on all parties who may be affected by the proposed order.

(2) A copy of the notice shall be filed in the Divorce Registry, and the affidavits to be used in support of the motion and the original documents referred to therein or intended to be used at the hearing of the motion shall at the same time be lodged in the Divorce Registry. Copies of all such affidavits or documents shall be delivered upon request to the parties who are entitled to be heard on the motion.

(3) All motions, except such ex parte motions as can properly be made to a judge at a divorce town, shall be heard by a judge in London, unless the judge hearing matrimonial causes at a divorce town shall in a particular case otherwise direct.

Infants and persons of unsound mind

64.—(1) An infant or a person of unsound mind may commence and prosecute any cause or make any application to which these Rules apply by his next friend and may defend or intervene in any such cause by his guardian ad litem, and, except as otherwise provided by this Rule, no appointment of a guardian ad litem shall be necessary.

(2) Before the name of any person is used in any proceedings as next friend the solicitor for the infant or person of unsound mind shall obtain a written authority signed by that person. The authority shall be attested by a solicitor, who shall certify that the proposed next friend has no interest in the proceedings adverse to that of the infant or person of unsound mind.

(3) Where in any cause to which these Rules apply any document is required to be served and the person on whom service is to be effected is an infant, the document shall, unless otherwise directed, be served on the father or guardian of the infant or, if he has no father or guardian, upon the person with whom he resides or under whose care he is, and service so effected shall be deemed good service on the infant, so however that a registrar may order that service effected or to be effected on the infant shall be deemed good service.

(4) Where a person entitled to defend or intervene in any cause to which these Rules apply is of unsound mind, the Official Solicitor shall, if he consents, be the guardian ad litem of that person:

Provided that at any stage of the proceedings an application may be made on not less than four days' notice to the Official Solicitor for the appointment of some other person as guardian.

(5) Where in any such cause any document is required to be served and the person on whom service is to be effected is of unsound mind, then, unless otherwise directed, that document shall, if the Official Solicitor has consented to act as guardian ad litem, be served on him and shall, in any other case, be served upon the person with whom the person of unsound mind resides or under whose care he is, and service so effected shall be deemed good service upon the person of unsound mind.

(6) Any document served in accordance with the last foregoing paragraph shall be endorsed with a notice that the contents or purport of the document shall be communicated to the person of unsound mind to whom it relates unless the person on whom the document was served is satisfied, after consultation with the medical attendant of the person of unsound mind or the medical officer of the institution in which the person of unsound mind is, that the communication would be detrimental to the mental condition of the person of unsound mind, and, in a case where any order has been made under section 108 or 116 of the Lunacy Act, 1890(a) in respect of the person of unsound mind, appointing a committee or receiver, the document shall be endorsed with a further notice that the contents or purport of the document shall be communicated to the committee or receiver so appointed.

(7) After service of any document has been effected on a person of unsound mind in accordance with the last foregoing paragraph, the party at whose instance the document was served shall, unless otherwise directed, file an affidavit made by the person with whom the person of unsound mind resides or under whose care he is, stating whether or not the contents or purport of the document were communicated to the person of unsound mind and, if not, giving the reasons why the contents or purport of the document were not so communicated.

(8) A solicitor (not being the Official Solicitor), or other person seeking to enter an appearance on behalf of an infant or person of unsound mind shall file an affidavit of fitness in accordance with Form 17, and in the case of a person of unsound mind shall, if an order has been made under section 108 or 116 of the Lunacy Act, 1890, in respect of that person, exhibit thereto a certificate of the Court of Protection that it approves the proposed

(a) 53 & 54 Vict. c. 5.

guardian, or, if no such order has been made with respect to that person, lodge with the affidavit a note from the Court of Protection under its seal to that effect.

(9) Where a petition or answer has been served on a person who is an infant or a person of unsound mind and no appearance has been entered in the cause by or on behalf of the infant or person of unsound mind, or where an originating summons has been served on an infant or person of unsound mind, the party at whose instance the petition, answer or originating summons was served shall, before proceeding further with the cause, apply for an order that some proper person be assigned guardian of the infant or person of unsound mind by whom he may appear and defend or intervene in the proceedings.

(10) Where any cause to which these Rules apply is commenced against a person who is a mental defective within the meaning of the Mental Deficiency Acts, 1913 to 1938, or where a petition is filed for nullity of marriage on the ground that the respondent was at the time of the marriage of unsound mind or a mental defective, or subject to recurrent fits of insanity or epilepsy, the applicant or petitioner shall not proceed with the cause without leave, whether an appearance is entered or not, and a registrar may, if he considers that the respondent is not properly represented or ought to be represented, order that some proper person be assigned guardian of the respondent by whom he may appear and defend the cause.

Security for wife's costs

65.—(1) After the registrar's certificate under Rule 30 has been granted, or, with leave, at an earlier stage of the cause, a wife who is a petitioner or who has filed an answer may apply for security for her costs of the cause up to the hearing, and of and incidental to the hearing.

(2) At the hearing of an application for a commission or for letters of request or for the appointment of a special examiner to examine a party or witness who is outside the jurisdiction of the court, or at any time after such an examination is granted, a wife who is a petitioner or who has entered an appearance to a petition may apply for security for her costs of and incidental to the examination.

(3) Where an application for security has been made under this Rule, a registrar shall ascertain what is a sufficient sum of money to cover the costs of the wife, and if, after taking all the circumstances into account, including the means of the husband and the wife, he considers that the husband should provide security for all or some of the wife's costs, he may order the husband to pay the sum so ascertained, or some portion of it, into court or to give security therefor within such time as he may fix, and may direct a stay of the proceedings until the order is complied with.

(4) The bond taken to secure the costs of a wife under this Rule shall be given to the Senior Registrar by the name of the Principal Probate Registrar and shall be filed and shall not be delivered out or sued upon without leave of a registrar.

Taxation

66.—(1) Every bill of costs shall be referred to a registrar for taxation and may be taxed by him or such other taxing officer as the President may appoint. The bill shall be filed and notice of the time appointed for taxation shall be given to the party filing the bill who shall give the other parties to be heard on the taxation at least three clear days notice of the appointment, and shall at the same time, if he has not already done so, deliver to them a copy of the bill to be taxed.

(2) If any party to be heard on the taxation does not attend within a reasonable time after the time appointed, the registrar or taxing officer may proceed to tax the bill upon being satisfied by affidavit or otherwise that such party had due notice of the time appointed.

(3) In any cause or matter to which these Rules apply the costs allowed to solicitors and the taxation of such costs shall, except where these Rules otherwise provide, be in accordance with the provisions of Order LXV of the Rules of the Supreme Court so far as the same are applicable.

(4) The fees payable on taxation shall be paid by the party on whose application the bill is taxed and shall be allowed as part of the bill.

Payment of costs

67.—(1) Upon the registrar's certificate as to costs being signed, an order of the court may issue for payment of the amount allowed within seven days after service of the order or such other time as the registrar may direct.

(2) An order for payment of costs contained in a decree nisi, if drawn up before the decree is made absolute, shall direct payment into court, and, unless otherwise directed, such costs shall not be paid out of court until the decree has been made absolute, but a wife who is unsuccessful in a cause and who at the trial has obtained an order for costs may proceed forthwith to obtain payment of the amount allowed on taxation.

Payment of money out of court

68. A person entitled to payment of money out of court shall, on applying for payment, lodge in the registry in which the cause is proceeding a form in writing setting out the date on which the money applied for was paid into court, the amount applied for, and the name and address of the person to receive it.

Proceedings in district registries

69.—(1) Subject to the provisions of these Rules, any matrimonial cause or matter may be commenced and prosecuted in a district registry and these Rules shall apply to any matrimonial cause or matter so commenced or prosecuted and shall, unless the context otherwise requires, have effect as if for the references to the Divorce Registry and a registrar there were substituted references to the district registry and the district registrar, who shall, in relation to any such cause or matter, be deemed to act as a registrar of the Divorce Registry.

(2) The practice of the Divorce Registry shall be observed in the district registries and the President may issue directions for the purpose of securing in the district registries due observance of statutory requirements and uniformity of practice with the Divorce Registry and for providing the necessary facilities for the discharge of the duties of the King's Proctor.

(3) Any party to a cause proceeding in the Divorce Registry may apply to a registrar for an order to remove the cause to a district registry, and any party to a cause proceeding in a district registry may apply to the district registrar for an order to remove the cause to the Divorce Registry or to another district registry, and the registrar or the district registrar, as the case may be, may make an order accordingly upon such terms, if any, as may be just, and where any such order is made, the cause shall, as from the date of the order, proceed in the registry to which it has been removed.

(4) The provisions of the last foregoing paragraph shall apply to the transfer of an application for ancillary relief from the Divorce Registry to a district registry or from a district registry to the Divorce Registry or to another district registry, so however that the transfer may be ordered without any application being made by a party for that purpose.

Where an order of transfer has been made, the registrar or the district registrar, as the case may be, shall send the notice of application for ancillary relief and the file of proceedings to the district registrar or to the Senior Registrar, as the case may require, and shall notify the solicitors accordingly.

Shorthand notes

70.—(1) Shorthand notes shall be taken of the proceedings at the trial of any matrimonial cause.

(2) Shorthand writers shall be appointed by the President for the purpose of trials in London and by the Lord Chancellor and the President for the purpose of trials at divorce towns for such periods and on such conditions as he or they shall think fit:

Provided that if at any divorce town no shorthand writer has been appointed under this paragraph or if the person so appointed is not available, a shorthand writer may be appointed by the judge hearing matrimonial causes at that town.

(3) The shorthand writer shall sign the shorthand note taken by him and shall certify it to be a correct shorthand note of the proceedings and shall retain the note unless he is directed by a registrar to forward the shorthand note to him.

(4) The shorthand writer shall, on being so directed by a registrar, furnish to him a transcript of the whole or any part of the shorthand note taken by him in pursuance of this Rule.

(5) The petitioner, any party who has at any time entered an appearance or intervened in the cause, and the King's Proctor shall be entitled to require from a shorthand writer a transcript of the shorthand note of the proceedings and the shorthand writer shall, at the request of any person so entitled, furnish that person with a transcript of the whole or any part of the shorthand note on payment by that person of the shorthand writer's charges on such scale as the Treasury may fix.

(6) Except as aforesaid, the shorthand writer shall not, without permission of a judge, furnish the shorthand note, or any typescript of the whole or any part of the shorthand note, to anyone.

(7) Where under this Rule a transcript of the whole or any part of any shorthand note is required, that transcript shall be typewritten and may be made by the shorthand writer who took and certified the shorthand note, or by such other competent person as a registrar may approve.

Appeals from courts of summary jurisdiction

71.—(1) Every appeal under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, against an order made, or against the refusal of an order, under those Acts shall be heard by a Divisional Court of the Probate, Divorce and Admiralty Division.

(2) The appeal shall be by notice of motion stating the grounds of appeal and whether the whole or a part only of the order is complained of. The

notice of motion shall be an eight days' notice and shall be served on every party affected by the appeal and on the justices' clerk of the court from which the appeal is brought.

(3) The appeal shall be entered by lodging at the Divorce Registry two copies of the notice of motion. There shall be lodged at the same time two certified copies of the summons and of the order appealed against, two copies of the justices' clerk's notes of the evidence and two copies of the reasons of the justices for their decision.

(4) The notice of motion shall be served and the appeal entered within twenty-one days from the date of the order, calculated from the time at which the order is signed or otherwise perfected, or from the date of refusal of an order and there shall be lodged, not less than seven days before the date of hearing, a certificate that the notice of motion has been duly served on the respondent.

(5) The Divisional Court may extend the time for appealing, or give leave to amend the grounds of appeal, or make any other order on such terms as the court shall think just to ensure the determination on the merits of the real questions in controversy between the parties.

(6) The Divisional Court may draw all inferences of fact which might have been drawn in the court below and may give any judgment and make any order which ought to have been made. No appeal shall succeed on the ground merely of misdirection or improper reception or rejection of evidence unless, in the opinion of the court, substantial wrong or miscarriage of justice has been thereby occasioned in the court below.

(7) The Divisional Court may, if the justices' clerk's notes of the evidence are not produced, hear and determine the appeal upon any other evidence or statement of what occurred before the justices which the court may deem sufficient.

(8) A wife may apply for security for her costs of an appeal under this Rule and a registrar shall ascertain what is a sufficient sum of money to cover those costs, and if, after taking all the circumstances into account, including the means of the husband and of the wife, he considers that the husband should provide security for all or some of the wife's costs of and incidental to the appeal, he may order the husband to pay the sum so ascertained or some portion of it into court or to give security therefor within such time as he may fix, and may direct a stay of the appeal until the order is complied with.

Legitimacy proceedings

72.—(1) A petition under section 17 of the Act shall, in addition to stating the grounds on which the petitioner relies, set out the date and place of birth of the petitioner and the maiden name of his mother, and, if the petitioner is known by a name other than that which appears in the certificate of his birth, that fact shall be stated in the petition and in any decree made thereon. Unless otherwise ordered by a judge, all such petitions shall be filed in the Divorce Registry, and all proceedings in connection therewith shall take place in London.

(2) The petition shall be supported by an affidavit by the petitioner verifying the facts of which he has personal knowledge and deposing as to belief in the truth of the other facts. The affidavit shall be contained in the same document as the petition and shall follow at the foot or end thereof.

(3) When the petition has been filed, notice of filing shall be given by the petitioner to the Treasury Solicitor on behalf of the Attorney General, who may within eight days enter an appearance to the petition.

(4) After the expiration of the time limited for appearance by the Attorney General, the petitioner shall issue and serve upon the Treasury Solicitor an application for directions as to what parties other than the Attorney General shall be served with the petition. Such application shall be supported by an affidavit setting out particulars of all persons whose interests may be affected by the legitimation of the petitioner, and their relationship to the petitioner.

(5) The petitioner shall serve the persons directed to be served with a copy of the petition, endorsed with a notice to appear in accordance with Form 21, and a form of acknowledgment of service in accordance with Form 4. Service shall be effected and proof of service shall be given in the manner provided for by Rules 9, 10 and 11 in the case of service of a copy of a petition on a respondent. Such persons may enter an appearance to the petition by filing a memorandum of appearance in duplicate in accordance with Form 12 within the time limited for the purpose and may within fourteen days thereafter file an answer to the petition. A copy of the answer shall be delivered to the petitioner or his solicitor and to the Treasury Solicitor.

(6) The Attorney General shall, within fourteen days after the order for directions has been made, file his answer to the petition and deliver a copy thereof to the petitioner or his solicitor.

(7) Where it appears that more than one petition has been filed on behalf of petitioners claiming to be children of the same father and mother, the Attorney General may, on giving notice to the petitioner or his solicitor in each proceeding which it is sought to consolidate, apply at any time after he has entered an appearance for an order that the proceedings be consolidated.

Registration of orders under Maintenance Orders Act, 1950

73.—(1) An application for the registration in the Court of Session or the Supreme Court of Judicature of Northern Ireland under the Maintenance Orders Act, 1950(**a**), (in this Rule referred to as " the Maintenance Orders Act ") of an order to which this Rule applies (in this Rule referred to as " a maintenance order ") shall be made to a registrar by lodging in the Divorce Registry a certified copy of the maintenance order and an affidavit by the applicant (together with a copy thereof) stating—

(*a*) the address in the United Kingdom and occupation of the person liable to make payments under the maintenance order ;

(*b*) the date of service of the maintenance order on the person liable to make payments thereunder or, if the maintenance order has not been served, the reason why service has not been effected ;

(*c*) the reason why it is convenient that the maintenance order should be enforceable in Scotland or Northern Ireland as the case may be ;

(*d*) the amount of any arrears due to the applicant under the maintenance order ; and

(*e*) that the maintenance order is not already registered under the Maintenance Orders Act.

(2) If it appears to the registrar that the person liable to make payments under the maintenance order resides in Scotland or Northern Ireland and that it is convenient that the maintenance order should be enforceable there,

(a) 14 Geo. 6. c. 37.

he shall send the certified copy of the maintenance order and the applicant's affidavit to the Deputy Principal Clerk in charge of the Petition Department of the Court of Session (in this Rule referred to as " the clerk of the Court of Session ") or to the Chief Registrar of the King's Bench Division (Matrimonial) of the High Court of Justice in Northern Ireland (in this Rule referred to as " the registrar in Northern Ireland "), as the case may be.

(3) The Senior Registrar shall be the prescribed officer for the purpose of section 17 (4) of the Maintenance Orders Act and on being notified of the registration of the maintenance order in the Court of Session or the Supreme Court of Judicature of Northern Ireland, as the case may be, he shall cause particulars of the registration to be entered in Part I of a register to be kept for the purpose of the Maintenance Orders Act (in this Rule referred to as " the register "). The fact that the maintenance order has been so registered shall be noted in the court minutes.

(4) On being notified by the clerk of the Court of Session or the registrar in Northern Ireland of the cancellation of the registration of a maintenance order on an application made by or on behalf of the person entitled to payments thereunder, the Senior Registrar shall cause particulars of the notice of cancellation to be entered in Part I of the register.

(5) Where a maintenance order which is registered in the Court of Session or the Supreme Court of Judicature of Northern Ireland is discharged, modified or suspended, the registrar shall send a certified copy of the modification order to the clerk of the Court of Session or to the registrar in Northern Ireland, as the case may be.

(6) Where a maintenance order has been made in a cause or matter proceeding in a district registry, an application for the registration of the maintenance order in the Court of Session or the Supreme Court of Judicature of Northern Ireland may be made to the district registrar and paragraphs (1) to (5) of this Rule shall have effect as if for references to the Senior Registrar and a registrar there were substituted references to the district registrar, except that the district registrar shall not be required to enter in a register particulars of the registration of the maintenance order but shall send such particulars to the Divorce Registry for entry in Part I of the register and shall note in the court minutes the fact that this has been done.

(7) On receiving a certified copy of a decree for payment of aliment granted by the Court of Session (not being an order for the payment of weekly or other periodical sums under section 3 (2) or 5 (4) of the Guardianship of Infants Act, 1925(a)), or of an order for alimony, maintenance or other payments made by the Supreme Court of Judicature of Northern Ireland, the Senior Registrar shall cause the decree or order to be registered in Part II of the register and shall notify the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be, that this has been done. The certified copy of the decree or order and any statutory declaration or affidavit as to the amount of any arrears due thereunder shall be filed in the Divorce Registry.

(8) An application under section 21 (2) of the Maintenance Orders Act by a person liable to make payments under a decree which is registered in Part II of the register shall be made by lodging a request for an appointment before a registrar and notice of the date and time fixed for the hearing shall be sent by post to the applicant and to the person entitled to payments under the decree. A transcript or summary of the evidence of the person liable to make payments under the decree shall be sent to the clerk of the Court of Session.

(a) 15 & 16 Geo 5. c. 45.

(9) On being notified by the clerk of the Court of Session or the registrar in Northern Ireland of the discharge or variation of a decree or order which is registered in Part II of the register, the Senior Registrar shall cause particulars of the notice of discharge or variation to be entered in the said Part II.

(10) An application by or on behalf of a person entitled to payments under a decree or order which is registered in Part II of the register to cancel the registration shall be made by ex parte summons to a registrar who shall, if the registration is cancelled, notify the clerk of the Court of Session or the registrar in Northern Ireland, as the case may be.

(11) A person entitled to payments under a decree or order which is registered in Part II of the register who wishes to take proceedings in a district registry for or with respect to the enforcement of the decree or order may apply to a registrar who may, if satisfied that the decree or order ought to be enforceable in the district registry, make an order accordingly upon such terms, if any, as may be just.

(12) Any person entitled to or liable to make payments under a maintenance order, a decree for payment of aliment granted by the Court of Session, or an order for alimony, maintenance or other payments made by the Supreme Court of Judicature of Northern Ireland, or a solicitor acting on behalf of any such person or, with the leave of a registrar, any other person, may inspect the register and bespeak copies of any order or decree which has been registered and of any statutory declaration or affidavit filed therewith.

(13) This Rule applies to any order for alimony, maintenance or other payments made or deemed to be made under section 19, 20, 22, 23, 24, 26 or 27 of the Act.

Registration and transmission of orders under Maintenance Orders (Facilities for Enforcement) Act, 1920.

74.—(1) The Senior Registrar shall be the prescribed officer for the purpose of section 1 (1) of the Maintenance Orders (Facilities for Enforcement) Act, 1920(a) (in this Rule referred to as " the 1920 Act "), and on receiving from the Secretary of State a copy of a maintenance order made by a court in any part of His Majesty's dominions outside the United Kingdom to which the 1920 Act extends he shall cause the order to be registered in a register to be kept for the purpose of the 1920 Act (in this Rule referred to as " the register "). The copy of the order received from the Secretary of State shall be filed in the Divorce Registry.

(2) An application for the transmission of an English maintenance order under section 2 of the 1920 Act shall be made to a registrar by lodging in the Divorce Registry a certified copy of the English maintenance order and an affidavit by the applicant stating the applicant's reason for believing that the person liable to make payments under the English maintenance order is resident in some part of His Majesty's dominions outside the United Kingdom to which the 1920 Act extends, together with full particulars, so far as known to the applicant, of such person's address and occupation.

(3) If it appears to the registrar that the person liable to make payments under the English maintenance order is resident in some part of His Majesty's dominions outside the United Kingdom to which the 1920 Act extends, he shall send the certified copy of the English maintenance order to the Secretary of State for transmission to the Governor of that part of His Majesty's dominions.

(a) 10 & 11 Geo. 5. c. 33.

Particulars of any English maintenance order sent to the Secretary of State shall be entered in the register and the fact that this has been done shall be noted in the court minutes.

(4) Where an English maintenance order has been made in a cause or matter proceeding in a district registry, an application for the transmission of the said order under section 2 of the 1920 Act may be made to the district registrar and paragraphs (2) and (3) of this Rule shall have effect as if for references to a registrar there were substituted references to the district registrar. The district registrar shall send to the Divorce Registry for entry in the register particulars of any order sent by him to the Secretary of State.

(5) Any person entitled to or liable to make payments under an English maintenance order or a maintenance order made by a court in any part of His Majesty's dominions outside the United Kingdom to which the 1920 Act extends or a solicitor acting on behalf of any such person or, with the leave of a registrar, any other person, may inspect the register and bespeak copies of any order which has been registered and of any document filed therewith.

(6) In this Rule the expression "English maintenance order" means an order for alimony, maintenance or other payments made or deemed to be made under section 19, 20, 22, 23, 24, 26 or 27 of the Act.

Exercise of jurisdiction under Married Women's Property Act, 1882

75. Without prejudice to the exercise of any jurisdiction conferred on him by Rule 12 of Order LIV of the Rules of the Supreme Court, a registrar may exercise all the jurisdiction and powers conferred upon a judge of the High Court by section 17 of the Married Women's Property Act, 1882(**a**).

Greek marriages

76. These Rules shall, so far as applicable, extend to applications and proceedings under the Greek Marriages Act, 1884(**b**).

Divorce Registry

77.—(1) The Divorce Registry and the clerks employed therein shall be subject to and under the control of the President, who shall have the custody of all documents lodged or filed in the Divorce Registry and of all orders and decrees made or pronounced in any cause or matter to which these Rules apply which is proceeding in the Divorce Registry.

(2) Copies of or extracts from documents, the originals of which are retained in the Divorce Registry, may be issued upon application and may be issued as office copies. They shall be certified under the hand of a registrar to be true copies only if it is required that the seal of the court be affixed thereto.

Exercise of powers of President and judge

78.—(1) In the case of incapacity of the President through illness or otherwise, or of a vacancy in the office of President, the powers of the President under these Rules shall be exercisable by the senior puisne judge of the Probate, Divorce and Admiralty Division.

(**a**) 45 & 46 Vict. c. 75. (**b**) 47 & 48 Vict. c. 20.

(2) Where by reason of illness, the existence of any vacation or otherwise, there is no judge conveniently available, applications for—

(*a*) leave to take a child out of the jurisdiction of the court, or

(*b*) the discharge of any person attached or committed,

may be made to a registrar who may, if satisfied of the urgency of the matter and that it is expedient so to do, make such order on the application as a judge could have made.

Time

79. The provisions of Rules 1, 2, 3, 6, 7, 8, 11 and 12 of Order LXIV (which relates to time) of the Rules of the Supreme Court shall apply to the computation of time under these Rules.

Application of Rules of the Supreme Court

80. Subject to the provisions of these Rules and of any enactment, the Rules of the Supreme Court shall, notwithstanding the provisions of Order LXVIII thereof, apply with the necessary modifications to the practice and procedure in any cause or matter to which these Rules apply.

Application to pending proceedings

81. These Rules shall apply to any cause or matter which is pending at the date on which these Rules come into operation subject to such directions as a judge or registrar may think fit to give.

Repeal

82.—(1) Section 42 of the Matrimonial Causes Act, 1857(a), and section 3 of the Legitimacy Declaration Act, 1858(b), are hereby repealed.

(2) The Rules and Orders set out in Appendix IV are hereby revoked.

Dated the fourth day of December, 1950.

Jowitt, C.
Goddard, C.J.
Raymond Evershed, M.R.
Merriman, P.
D. B. Somervell, L.J.
F. L. C. Hodson, J.
H. B. Vaisey, J.
Gerald R. Upjohn.
G. G. Baker.
W. Charles Norton.

(a) 20 & 21 Vict. c. 85. (b) 21 & 22 Vict. c. 93.

APPENDIX I

Rules 1, 69.

DISTRICT REGISTRIES OF THE HIGH COURT IN WHICH PROCEEDINGS MAY BE TAKEN UNDER THESE RULES

Barnsley,
Barnstaple,
Bath,
Bedford,
Birkenhead,
Birmingham,
Blackburn,
Blackpool,
Bolton,
Boston,
Bournemouth,
Bradford,
Brighton,
Bristol,
Burnley,
Bury,
Caernarvon,
Cambridge,
Cardiff,
Carlisle,
Carmarthen,
Chester,
Chesterfield,
Coventry,
Derby,
Dewsbury,
Doncaster,
Dudley,
Durham,
Exeter,
Gloucester,
Grimsby,
Halifax,
Hanley,
Harrogate,
Hastings,
Huddersfield,
Ipswich,
Kingston-upon-Hull,
Leeds,
Leicester,
Lincoln,
Liverpool,
Maidstone,
Manchester,
Newcastle,
Newport (Mon.),
Northampton,
Norwich,
Nottingham,
Oldham,
Peterborough,
Plymouth,
Pontypridd,
Portsmouth,
Preston,
Reading,
Rochdale,
Rochester,
Scarborough,
Sheffield,
Shrewsbury,
Southampton,
Southport,
Stockport,
Stockton-on-Tees,
Sunderland,
Swansea,
Taunton,
Truro,
Wakefield,
Walsall,
Wigan,
Wolverhampton,
Yeovil,
York.

APPENDIX II

Rules 1, 32.

DIVORCE TOWNS

Birmingham (A)
Bodmin (A)
Bolton
Bournemouth
Bradford
Brighton
Bristol (A)
Bury St. Edmunds (A)
Caernarvon (A)
Cambridge
Cardiff (A)
Carlisle (A)
Carmarthen (A)
Chester (A)
Derby (A)
Durham (A)
Exeter (A)
Gloucester (A)
Hanley
Ipswich (A)
Kingston-upon-Hull
Leeds (A)
Leicester (A)
Lewes (A)
Lincoln (A)
Liverpool (A)
Manchester (A)
Newcastle (A)
Newport (A)
Northampton
Norwich (A)
Nottingham (A)
Preston
Plymouth
Reading
Sheffield
Shrewsbury (A)
Southampton
Swansea (A)
Winchester (A)
York (A)

APPENDIX III

Rule 2 (1).

FORM 1

Originating Summons under Rule 2

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).
(District Registry).[1]

(1) If appropriate.

In the Matter of a Proposed Petition by A.B. for the Dissolution of his (or her) Marriage with C.D.

LET of in the County of attend the Judge in Chambers at the Royal Courts of Justice, Strand, London, W.C.2 [*or elsewhere as the case may be*] on day the day of 19 , at

o'clock in the noon on the hearing of an application of for an order that the said may be at liberty to file a petition in the Divorce Registry, Somerset House, Strand, London, W.C.2 [*or elsewhere as the case may be*] for dissolution of his (or her) marriage with the said solemnized on the day of 19 , notwithstanding that three years have not passed since the date of the said marriage.

A copy of the affidavit to be used in support of the application is delivered herewith.

You are required to complete the accompanying Form of Acknowledgment of Service and send it to the under-mentioned solicitor.

If you wish to be heard on the application, you must attend at the time and place above-mentioned and if you do not attend, such order will be made and proceedings taken as the Judge may think just and expedient.

DATED the day of 19 .

THIS SUMMONS was taken out by solicitor for the above named .

Rule 3 (3).

FORM 2

Notice of Application for Ancillary Relief

In the High Court of Justice,

Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate.

(District Registry)(1)

In the Matter of a Petition by for [*here set out particulars of the matrimonial cause in which the application is made*].

To of

TAKE NOTICE that the petitioner (respondent) intends to apply to the Court for an order that [*here set out the ancillary relief claimed*].

[*Insert here in appropriate cases the contents of Form 8 and/or 10.*]

THIS NOTICE is issued by [*state name and address of applicant or solicitor*].

DATED the day of 19 .

Rules 7 (1) 15 (6).

FORM 3

Notice of Petition

(*Respondent spouse*)

In the High Court of Justice,

Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate.

(District Registry)(1)

To:—

TAKE NOTICE that a Petition has been presented to the High Court of Justice by . A copy of it is delivered with this Notice.

(2)Delete if not applicable.

You must complete the accompanying Form of Acknowledgment of Service and send it to (the solicitor for)(2) the Petitioner, at (*address*) .

If you do not intend to answer the charges, nor to be heard on the other claims made in the Petition, and if you do not wish to make any application on your own account, you need not do anything more than send the Form of Acknowledgment of Service to the above address. The Court may then, without further notice to you, proceed to hear the Petition and pronounce judgment, notwithstanding your absence.

If you wish to be heard on any matter in connection with the Petition you (or your solicitor) must complete the accompanying Memorandum of Appearance in duplicate and send or deliver both copies (without fee) so as to reach this Registry within eight days(3) after you received this Notice. You (or your solicitor) will receive notice of the case being set down for hearing. When the case is heard, you must attend the hearing.

(3)Or as the case may be.

If you wish to defend the case at the hearing, you (or your solicitor) must, in addition to sending the Memorandum of Appearance, send or deliver an Answer in writing together with a fee of 2s. 6d. so as to reach this Registry within fourteen days after the time allowed for sending the Memorandum of Appearance. You (or your solicitor) must at the same time send a copy of your Answer to (the solicitor for)(4) the Petitioner.

(4)Delete if not applicable.

(5) If you wish to oppose the claim for alimony, maintenance of the children, maintenance or a secured provision, you (or your solicitor) must, in addition to sending the Memorandum of Appearance, also send or deliver, so as to reach this Registry within fourteen days after the time allowed for sending the Memorandum of Appearance, an affidavit (which must be sworn before a Commissioner for Oaths) giving full particulars of your property and income, together with a fee of 2s. 6d. You (or your solicitor) must at the same time send a copy of your affidavit to (the solicitor for)(6) the Petitioner. If you wish to allege that your wife has property or income you should say so in your affidavit.

(5)Delete or amend this paragraph as necessary.

(6)Delete if not applicable.

Note:—If you intend to instruct a solicitor to act for you in these proceedings, you should at once complete and sign the Form of Acknowledgment of Service and then give him all the documents which have been served upon you, so that he may take the necessary steps on your behalf within the times specified.

DATED the day of , 19 .

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

(*or*, the District Registry of the High Court at)

FORM 4

Rules 7, 8, 9, 11, 15, 17, 37, 41, 56, 72.

Acknowledgment of Service

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).
(District Registry)(1)

(1)If appropriate.

Between Petitioner
and Respondent
and Co-respondent.

I am the person named as in the Petition(2).

(2)Or as the case may be.

I received on the day of , 19 , at (*place of receipt*)

1. A copy of the Petition(2) filed in this case.
2. Notice of Petition/Proceedings(3).
3. Memorandum of Appearance in duplicate(4).

(3)Delete whichever is not applicable.
(4)Delete if not applicable.

(Signed)

DATED

To [*the Petitioner* [*or the Respondent*] *or his Solicitor*].

Rules 7 (1), 13, 15 (6).

FORM 5

Memorandum of Appearance

(Respondent spouse)

In the High Court of Justice,

Probate, Divorce and Admiralty Division

(Divorce).

(1)If appropriate.

(District Registry)(1)

Between Petitioner

and Respondent

and Co-respondent.

(2)Or as the case may be.

1. Have you received and read the Petition for divorce(2) by your wife/husband(3) and the Notice of Petition which are delivered with this Form?

(3)Delete whichever is not applicable.

2. On what date and at what address did you receive them?

3. Are you the person named as in the Petition?

4. Do you intend to defend the case at the hearing?

(Answer "Yes" or "No".)

5. Even if you do not wish to defend the case:—

(4)To be struck out or altered if not applicable.

A(4)

Do you wish to be heard as to other claims made in the Petition, namely:—

(1) Costs.
(2) Custody of the children.
(3) Maintenance of the children.
(4) Alimony.
(5) Maintenance.
(6) A secured provision.

B

Do you wish to make any application on your own account, namely:—

(1) Access to the children.
(2) Custody of the children.
(3) Maintenance of the children.
(4) Alimony.
(5) Maintenance.

(Answer "Yes" or "No" against each item.)

6. What is your address to which communications should be sent?

(It must be in England or Wales.)

Dated the day of 19 .

(5)To be signed by the Respondent only if a solicitor is not being instructed.

(Signed)(5)

Note.—If you intend to instruct a solicitor to act for you in these proceedings, give this form to him. In any event, leave the space below blank.

To be completed only by the Respondent's solicitor.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum, for the Respondent in this cause.

(Signed) .....

(Address for Service) .....

Note.—If this Form is used, both copies must be completed and sent to the Registry.

Rules 7 (2), 15 (6), 17 (2), 37 (2), 56 (5).

FORM 6

Notice of Proceedings

(Co-respondent, party cited or person named)

In the High Court of Justice,

Probate, Divorce and Admiralty Division

(Divorce).

(1)If appropriate.

(District Registry)(1)

To:—

TAKE NOTICE that in proceedings in the High Court of Justice by for divorce(2), it has been alleged by that you have committed adultery(2) with . A copy of the Petition(2) is delivered with this Notice.

(2)Or as the case may be.

You must complete the accompanying Form of Acknowledgment of Service and send it to (the solicitor for)(3) the Petitioner(4) at (*address*) .

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

If you do not intend to answer the charges, nor to be heard on the other claims made in the Petition(4), you need not do anything more than send the Form of Acknowledgment of Service to the above address. The Court may then without further notice to you, proceed to hear the Petition(4) and pronounce judgment, notwithstanding your absence.

If you wish to be heard on any matter in connection with the Petition(4), you (or your solicitor) must complete the accompanying Memorandum of Appearance in duplicate and send or deliver both copies (without fee) so as to reach this Registry within eight days(4) after you received this Notice.

If you wish to defend the case only by denying the charges of adultery, or by resisting the claim for damages(5), or if you wish to be heard only as to costs(5), you need take no further step after sending the Memorandum of Appearance until the case is heard, when you must attend the hearing. You (or your solicitor) will receive notice of the case being set down for hearing.

(5)Delete if no applicable.

If you wish to defend the case at the hearing on some other ground, you (or your solicitor) must, in addition to sending the Memorandum of Appearance, send or deliver an Answer in writing, together with a fee of 2s. 6d., so as to reach this Registry within fourteen days after the time allowed for sending the Memorandum of Appearance. You (or your solicitor) must at the same time send a copy of your Answer to (the solicitor for)(5) the Petitioner(6).

(6)Or as the case may be.

Note.—If you intend to instruct a solicitor to act for you in these proceedings you should at once complete and sign the Form of Acknowledgment of Service and then give him all the documents which have been served upon you, so that he may take the necessary steps on your behalf within the times specified.

Dated the day of 19 .

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

(*or*, The District Registry of the High Court at)

FORM 7

Rules 7 (2), 13, 15 (6), 17 (2), 37 (2), 56 (5).

Memorandum of Appearance

(*Co-respondent, party cited or person named*)

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(District Registry)(1)

(1)If appropriate.

Between Petitioner
and Respondent
and Co-respondent.

(2)Or as the case may be.

1. Have you received and read the Petition(2) by and the Notice of Proceedings which are delivered with this Form?

2. On what date and at what address did you receive them?

3. Are you the person named as in the Petition(2)?

4. Do you intend to defend the case by denying the charges of adultery made against you, and if so, which of them?

5. Do you intend to defend the case on any ground other than a denial of the charges of adultery made against you?
(Answer "Yes" or "No".)

(3)Not applicable if no claim for damages.

6.(3) Do you intend only to resist the claim for damages against you?
(Answer "Yes" or "No".)

(4)Not applicable if no claim for costs.

7.(4) If you do not intend to defend the case, do you wish to be heard as to costs?
(Answer "Yes" or "No".)

8. What is your address to which communications should be sent?
(It must be in England or Wales.)

Dated the day of , 19 .

(5)To be signed by the party appearing only if a solicitor is not being instructed.

(Signed)(5)

Note.—If you intend to instruct a solicitor to act for you in these proceedings, give this form to him. In any event, leave the space below blank.

To be completed only by the solicitor for the party appearing.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum for the in this cause.

(Signed) .....

(Address for Service) .....

Note.—If this Form is used, both copies must be completed and sent to the Registry.

Rule 8 (1).

FORM 8

Additional Notice to be included in Form 2 only if there has been no appearance to the petition

AND FURTHER TAKE NOTICE that you must complete the accompanying Form of Acknowledgment of Service and send it to ,

(1)Delete if not applicable.

(the Solicitor for) (1) the applicant, at (*address*)

If you do not intend to oppose the application, you need not do anything more than send the Form of Acknowledgment of Service to the above address. The Court may then, without further notice to you, proceed to hear the application and make such order as it may think fit, notwithstanding your absence.

If you do wish to be heard on the application you (or your solicitor) must complete the accompanying Memorandum of Appearance in duplicate and send or deliver both copies (without fee) so as to reach the Registrar (the Divorce Registry, Somerset House, Strand, London, W.C.2) (the District Registry of the High Court at)(2) within eight days(3) after you received this Notice.

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

FORM 9

Rule (1).

Memorandum of Appearance

(*Limited to application for ancillary relief made by notice*)

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(District Registry)(1)

Between Petitioner
and Respondent.

(1)If appropriate.

1. Have you received and read the Notice of Application for(2) which is delivered with this Form?

(2)Insert nature of ancillary relief claimed.

2. On what date and at what address did you receive it?

3. Are you the person named as in the Notice?

4. Do you wish to oppose the Applicant's claim for(2)

5. What is your address to which communications should be sent? (It must be in England or Wales.)

Dated the day of , 19 .

(Signed)(3)

(3)To be signed by the Respondent only if a solicitor is not being instructed.

Note.—If you intend to instruct a solicitor to act for you in these proceedings, give this form to him. In any event, leave the space below blank.

To be completed only by the Respondent's solicitor.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum, for the Respondent in this cause.

(Signed) .....

(Address for Service) .....

Note.—If this Form is used, both copies must be completed and sent to the Registry.

FORM 10

Rule 8 (2).

Notice to File Evidence

AND FURTHER TAKE NOTICE that if you wish to oppose the application and unless at the time of service hereof upon you (the solicitor for)(1) the applicant gives notice to you dispensing with this requirement you (or your solicitor) must (in addition to sending the Memorandum of Appearance)(2) send or deliver so as to reach the Registrar (the Divorce Registry, Somerset House, Strand, London, W.C.2) (the District Registry of the High Court at)(3) within twenty-two days(4) after you received this Notice an affidavit (which must be sworn before a Commissioner for Oaths) giving full particulars of your property and income, together with a fee of 2s. 6d. You (or your solicitor) must at the same time send a copy of your affidavit to (the solicitor for)(1) the applicant. If you wish to allege that the applicant has property or income, you should say so in your affidavit.

(1)Delete if not applicable.

(2)Delete if an appearance has been entered.

(3)Strike out whichever is not applicable or omit if contents of Form 8 are included.

(4)Or as the case may be, and substitute "Fourteen days" if appearance has already been entered.

Rules 11, 56 (6)

FORM 11

Affidavit of Service

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate.

(District Registry)(1)

Between Petitioner
and Respondent
and Co-respondent.

I, of make oath and say:—

1. That a copy of the [*petition, originating summons or notice*] bearing date the day of 19 filed in this Court [issued out of the Divorce/District Registry] together with a Memorandum of Appearance in duplicate, Notice of Petition/Proceedings(2) and Form of Acknowledgment of Service was duly served by me on the in this case at on the day of 19 by delivering to the said personally a copy thereof.

(2)Delete whichever is not applicable.

(*Means of knowledge of identity of the person served must be inserted here.*)

SWORN etc.

Rules 13, 43, 46 56 (3), 72 (5).

FORM 12

Memorandum of Appearance

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate.

(District Registry)(1)

Between Petitioner
and Respondent
and Co-respondent.

(2)If such is the case.

Enter an appearance [in person](2) for the respondent(3) in this cause.

(3)Or as the case may be.

(Signed)

(4)The address must be in England or Wales.

of whose address for service is (4) agent for
of

DATED the day of 19 .

Rule 13 (3).

FORM 13

Notice of Entry of Appearance

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate.

(District Registry)(1)

Between Petitioner
and Respondent
and Co-respondent.

TAKE NOTICE that an appearance has been entered in the above Registry on your behalf to the petition filed in this cause [*state whether the appearance is general or limited to any particular relief*].

TAKE NOTICE further that any order, notices, copies of pleadings or other instruments which are required to be served on or delivered to you but of which personal service is not required may be served or delivered by the petitioner's solicitor by leaving them at or sending them by post to you at the address for service given by you, namely

DATED the day of 19 .

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

[*or*

The District Registry of the High Court at (2)]

(2)Delete whichever is not applicable.

FORM 14 Rule 40

Notice of Application for Decree Nisi to be made Absolute

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(District Registry)(1) (1)If appropriate.

Between Petitioner
and Respondent
and Co-respondent.

I [*full name and description*] solicitor for the petitioner(2) give notice that application is hereby made on behalf of the petitioner(2) that the decree nisi pronounced in this cause on the day of 19 be made absolute. (2)Or respondent

(Signed)

DATED the day of 19 .

FORM 15 Rule 40 (4).

Certificate of making Decree Nisi Absolute (Nullity)

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(District Registry)(1) (1)If appropriate.

Between Petitioner
and Respondent.

Referring to the decree made in this Cause on the day of 19 , whereby it was ordered that the Marriage in fact had and solemnized on the day of 19 , at between the Petitioner and the Respondent be pronounced and declared to have been and to be absolutely null and void to all intents and purposes in the law whatsoever by reason and the said Petitioner be pronounced to have been and to be free of all bond of Marriage with the said Respondent unless sufficient cause be shown to the Court within weeks from the making thereof why the said Decree should not be made absolute and no such cause having been shown, it is hereby certified that the said Decree was on the day of 19 , made final and absolute and that the said Marriage was absolutely null and void and that the said Petitioner was and is free from all bond of Marriage with the said Respondent.

DATED the day of 19 .

Rule 40 (4).

FORM 16

Certificate of making Decree Nisi Absolute (Divorce)

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate. (District Registry)(1)

Between Petitioner
and Respondent
and Co-respondent.

Referring to the decree made in this Cause on the day of 19 , whereby it was decreed that the Marriage had and solemnized on the day of 19 , at between the Petitioner and the Respondent be dissolved by reason that unless sufficient cause be shown to the Court within weeks from the making thereof why the said Decree should not be made absolute and no such cause having been shown, it is hereby certified that the said Decree was on the day of 19 , made final and absolute and that the said Marriage was thereby dissolved.

DATED the day of 19 .

Rules 44 (3), 64 (8).

FORM 17

Affidavit of fitness of guardian ad litem

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

(1)If appropriate. (District Registry)(1)

Between Petitioner
and Respondent
and Co-respondent.

I, of make oath and say as follows:—

(1) I am well acquainted with A.B. of and verily believe that he is a fit and proper person to act as guardian ad litem of the respondent(2) in this cause. The consent of the said A.B. to act as such guardian is hereto annexed.

(2)Or as the case may be.

(2) The said A.B. has no interest in the matters in question in this cause adverse to that of the said

SWORN etc.

Rule 56 (1).

FORM 18

Originating Summons under Rule 56

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 section 23 of the Matrimonial Causes Act, 1950.

(2)Or as the case may be.

LET C.D. of in the County of within eight days(2) 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 upon the application of A.B. who claims that he the said C.D., being the lawful husband of the applicant, has wilfully neglected to provide reasonable maintenance for her (and the infant children of the marriage)(3) and prays that he be ordered to make to her such payments for her maintenance (and the maintenance of the said infant children)(3) as may be just (and that he be further ordered to secure such payments)(3).

(3)Delete if not applicable.

Dated the day of 19 .

This Summons was taken out by solicitor for the above-named **A.B.**

To C.D.

TAKE NOTICE:—

A copy of the affidavit to be used in support of the application is delivered herewith.

You must complete the accompanying Form of Acknowledgment of Service and send it to , (the solicitor for)(3) the applicant, at (*address*)

If you do not intend to oppose the application you need not do anything more than send the Form of Acknowledgment of Service to the above address. The Court may then, without further notice to you, proceed to hear the application and make such order as it may think fit, notwithstanding your absence.

If you wish to be heard on any matter in connection with this application you (or your solicitor) must complete the accompanying Memorandum of Appearance in duplicate and send or deliver both copies (without fee) so as to reach the Registrar (the Divorce Registry, Somerset House, Strand, London, W.C.2) (the District Registry of the High Court at)(4) within eight days(5) after you received this Summons.

(4)Delete whichever is not applicable.

(5)Or as the case may be.

If you wish to oppose this application, you (or your solicitor) must, in addition to sending the Memorandum of Appearance, send or deliver, so as to reach the Registrar within fourteen days after the time allowed for sending the Memorandum of Appearance, an affidavit (which must be sworn before a Commissioner for Oaths) in answer to the applicant's affidavit, containing in a Schedule exhibited to the affidavit full particulars of your property and income, together with a fee of 2s. 6d. You (or your solicitor) must at the same time send a copy of your affidavit to (the solicitor for)(6) the applicant.

(6)Delete if not applicable.

Note.—If you intend to instruct a solicitor to act for you in these proceedings, you should at once complete and sign the Form of Acknowledgment of Service and then give him all the documents which have been served upon you, so that he may take the necessary steps on your behalf within the times specified.

FORM 19

Rule 56 (9), (13).

Notice of Appointment to hear Originating Summons under Rule 56

In the High Court of Justice,

Probate, Divorce and Admiralty Division

(Divorce).

(District Registry)(1).

(1)If appropriate.

To

TAKE NOTICE that you are required to attend before at the Royal Courts of Justice, Strand, London, W.C.2(2) on the day of , 19 , at o'clock in the noon, for the adjourned(3)

(2)Or elsewhere as the case may be.

(3)Delete if not applicable.

hearing of the summons issued herein on the day of , 19 , 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.

(Signed)
Solicitor for the Applicant.

Rule 62 (2).

FORM 20

Notice to be endorsed on a Decree or Order

TAKE NOTICE that if you the within-named A.B. neglect to obey this decree [or order] within the time therein limited you will be liable to process of execution for the purpose of compelling you to obey the same.

Rule 72 (5)

FORM 21

Form of Notice to Appear in Legitimacy Petition

In the High Court of Justice,
Probate, Divorce and Admiralty Division
(Divorce).

To of

TAKE NOTICE that by an Order of the Court dated the day of 19 , it was ordered that you the said should be served with this Petition. AND FURTHER TAKE NOTICE that you are required to complete the accompanying Form of Acknowledgment of Service and send it to the (solicitor for the)(1) Petitioner and that you are at liberty within eight days(2) after service of this Petition upon you, inclusive of the day of such service, to enter an appearance either in person or by your solicitor at the Divorce Registry, Somerset House, Strand, London, W.C.2, should you think fit to do so and thereafter to make answer to this Petition. AND FURTHER TAKE NOTICE that in default of your doing so the Court will proceed to hear the Petition and pronounce judgment in the cause notwithstanding your absence.

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

The Petition is filed and this Notice to Appear is issued by of

DATED the day of 19 .

Registrar.

Note.—Any person entering an appearance must at the same time furnish an address for service which must be in England or Wales.

If you desire to enter an appearance by post, you must complete and send to the Divorce Registry the accompanying Memorandum of Appearance in duplicate.

The Answer should be filed within fourteen days after the time allowed for sending the Memorandum of Appearance.

APPENDIX IV Rule 82 (2).

The Matrimonial Causes Rules 1947 (S.R. & O. 1947 (No. 523) I p. 2036).
The Matrimonial Causes (Amendment) Rules 1947 (S.R. & O. 1947 (No. 1757) I p. 2079).
The Matrimonial Causes (Amendment) (No. 2) Rules 1947 (S.R. & O. 1947 (No. 2495) I p. 2083).
The Matrimonial Causes (Amendment) Rules 1948 (S.I. 1948 (No. 1444) I p. 4052).
The Matrimonial Causes (Amendment) (No. 2) Rules 1948 (S.I. 1948 (No. 2725) I p. 4056).
The Matrimonial Causes (District Registries) Order 1949 (S.I. 1949 (No. 435) I p. 4011).
The Matrimonial Causes (District Registries) Order (No. 2) 1949 (S.I. 1949 (No. 2068) I p. 4012).
The Matrimonial Causes (Amendment) Rules 1950 (S.I. 1950 No. 571).

EXPLANATORY NOTE

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

These Rules consolidate, with amendments, the Matrimonial Causes Rules, 1947, and the subsequent amending Rules and Orders mentioned in Appendix IV.

The most important changes are in the Forms, which have been revised with a view to making it clearer to parties to proceedings what steps they may take. Full information is now contained in the Notice of Petition (Form 3) and Notice of Proceedings (Form 6), which have been substituted for the Notice to Appear.

Rule 73 deals with the registration, under the Maintenance Orders Act, 1950, of maintenance orders made by superior courts throughout the United Kingdom.

The Non-Contentious Probate Rules, 1950

1950 No. 287 (L. 5)

Made - - - -	13*th February*, 1950
Laid before Parliament	6*th March*, 1950
Coming into Operation	13*th March*, 1950

I, the Right Honourable Frank Boyd, Baron Merriman, President of the Probate, Divorce and Admiralty Division of the High Court of Justice, with the concurrence of the Right Honourable William Allen, Viscount Jowitt, Lord High Chancellor of Great Britain, and the Right Honourable Rayner, Baron Goddard, Lord Chief Justice of England, in exercise of the powers conferred upon me by section 100 of the Supreme Court of Judicature (Consolidation) Act, 1925(a) and of all other powers enabling me in this behalf, do hereby make the following Rules:—

1. In these Rules—

"The Principal Registry Rules" means the Rules and Orders and Instructions for the Registrars of the Principal Registry of the Court

(a) 15 & 16 Geo. 5. c. 49.