STATUTORY INSTRUMENTS

1971 No. 1269 (L.32)

SUPREME COURT OF JUDICATURE, ENGLAND

PROCEDURE

The Rules of the Supreme Court (Amendment No. 4) 1971

Made - - -	23*rd July* 1971
Laid before Parliament	10*th August* 1971
Coming into Operation-	
Parts I, III *and rules* 45, 46 *and* 48	31*st August* 1971
Remainder	1*st October* 1971

We, the Rule Committee of the Supreme Court, being the authority having for the time being power under section 99(4) of the Supreme Court of Judicature (Consolidation) Act 1925(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature, hereby exercise those powers and all other powers enabling us in that behalf as follows :—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Amendment No. 4) 1971.

(2) Parts I and III of these Rules and rules 45, 46 and 48 shall come into operation on 31st August 1971, and the remainder shall come into operation on 1st October 1971.

(3) In these Rules an Order referred to by number means the Order so numbered in the Rules of the Supreme Court 1965(b), as amended (c).

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

(a) 1925 c. 49.
(b) S.I. 1965/1776 (1965 III, p. 4995).
(c) The relevant amending instruments are S.I. 1966/1055, 1514, 1967/829, 1809, 1968/1244, 1969/1105, 1970/944, 1208, 1861, 1971/354, 835 (1966 II, p. 2588; III, p. 4196; 1967 II, p. 2476; III, p. 4832; 1968 II, p. 3360; 1969 II, p. 3228; 1970 II, pp. 2932, 4001; III, p. 6081; 1971 I, p. 1144; II, p. 2388).
(d) 1889 c. 63.

PART II

AMENDMENTS CONSEQUENTIAL ON THE RECONSTITUTION OF THE HIGH COURT

2. Order 1 shall be amended as follows :—

(1) In rule 4(2), for the words "registrar of the Probate, Divorce and Admiralty Division" there shall be substituted the words "the Admiralty Registrar or any registrar of the Family Division".

(2) The following rule shall be inserted after rule 4 :—

"Construction of references to proceedings in Queen's Bench Division, etc.

4A. In these Rules, unless the context otherwise requires—

(*a*) any reference to proceedings in the Queen's Bench Division shall be construed as including a reference to proceedings in the Commercial Court but not to proceedings in the Admiralty Court ; and

(*b*) any reference to a master, if it relates only to a master of the Queen's Bench Division, shall in relation to any Admiralty cause or matter be construed as including the Admiralty Registrar."

3. In Order 4, rule 9, for paragraph (2) there shall be substituted the following paragraph :—

"(2) Paragraph (1) shall apply in relation to registrars of the Family Division, and as between masters of the Queen's Bench Division and the Admiralty Registrar, as it applies in relation to masters."

4. In Order 11, rule 1, the following sub-paragraph shall be inserted after sub-paragraph (*l*) :—

"(*m*) if the action is a probate action within the meaning of Order 76."

5. Order 12 shall be amended as follows :—

(1) In rule 8, for paragraph (2) there shall be substituted the following paragraph :—

"(2) An application under this rule must be made—

(*a*) in an action in the Queen's Bench Division, by summons ;

(*b*) in any other action, by summons or motion."

(2) In rule 9, the following paragraph shall be inserted after paragraph (3) :—

"(3A) Where an originating summons to which an appearance is required is issued out of the principal registry of the Family Division, the appropriate office for entering an appearance is in all cases that registry ; and where an originating summons by which proceedings assigned to the Family Division are begun is issued out of a district registry, the appropriate office for entering an appearance is in all cases the district registry."

6. Order 28 shall be amended as follows :—

(1) In rule 2, the following sub-paragraph shall be inserted at the end of paragraph (1) :—

"(*c*) of the principal registry of the Family Division, where the cause or matter is assigned to the Family Division."

(2) In rule 9(3), after the words "Queen's Bench Division" there shall be inserted the words "or the Family Division".

7. Order 32 shall be amended as follows :—

(1) In rule 8(1), after the word "masters" there shall be inserted the words "the Admiralty Registrar".

(2) In rule 10, after the word "master" there shall be inserted the words "or to the Admiralty Registrar".

8. Order 34 shall be amended as follows :—

(1) In rule 3, sub-paragraph (*e*) of paragraph (5) shall be deleted.

(2) In rule 4, the word "or" shall be inserted at the end of sub-paragraph (*a*); in sub-paragraph (*b*), for the words "the senior judge of the Chancery Division" there shall be substituted the words "the Vice-Chancellor" and the word "or" shall be deleted; and sub-paragraph (*c*) shall be deleted.

9. Order 35 shall be amended as follows :—

(1) In rule 10, after the word "Division" where it first occurs there shall be inserted the word "and", and the words "and of any probate action so tried" shall be deleted.

(2) In rule 12, after the word "action" there shall be inserted the words "in the Queen's Bench Division".

10. Order 37 shall be amended as follows :—

(1) In rule 1(1), after the words "assessed by a master" there shall be inserted the words "or, in an Admiralty cause or matter, by the Admiralty Registrar."

(2) In rule 2(*b*), there shall be inserted at the end the words "except in an Admiralty cause or matter, when the certificate shall be filed in the Admiralty Registry."

11. In Order 43, the following rule shall be added after rule 8 :—

"*Guardian's accounts*

9. The accounts of a person appointed guardian of a minor's estate must be verified and passed in the same manner as that provided by Order 30 in relation to a receiver's account or in such other manner as the Court may direct."

12. In Order 46, rule 6(6)(*b*), for sub-paragraph (*b*) there shall be substituted the following sub-paragraph :—

"(*b*) where that cause or matter is proceeding in the principal registry of the Family Division, that registry;".

13. In Order 50, rule 9, after the words "a master" there shall be inserted the words "and the Admiralty Registrar".

14. In Order 51, rule 2, after the words "a master" there shall be inserted the words "and the Admiralty Registrar".

15. Order 54 shall be amended as follows :—

(1) In rule 1(1), there shall be inserted at the beginning the words "Subject to rule 11".

(2) The following rule shall be inserted at the end :—

"Applications relative to the custody etc., of minors

11. An application by a parent or guardian of a minor for a writ of habeas corpus ad subjiciendum relative to the custody, care or control of the minor must be made in the Family Division, and this Order shall accordingly apply to such applications with the appropriate modifications."

16. Order 56 shall be amended as follows :—

(1) In rule 1(1), there shall be inserted at the beginning the words "Except where they relate to affiliation proceedings".

(2) The following rule shall be inserted after rule 4 :—

"Appeals relating to affiliation proceedings

4A. Appeals from a court of quarter sessions by case stated which relate to affiliation proceedings shall be heard and determined by a Divisional Court of the Family Division, and the foregoing provisions of this Order shall accordingly apply to such appeals with the substitution of references to the principal registry of the Family Division for references to the Crown Office and such other modifications as may be appropriate."

(3) For rule 5 there shall be substituted the following rule :—

"Appeal from magistrates' court by case stated

5.—(1) Except as provided by paragraph (2), all appeals from a magistrates' court by case stated shall be heard and determined by a Divisional Court of the Queen's Bench Division.

(2) An appeal by way of case stated against an order or determination of a magistrates' court shall be heard and determined by a Divisional Court of the Family Division if the order or determination appealed against was made or given in affiliation proceedings, or on an application under section 14 of the Matrimonial Proceedings and Property Act 1970(**a**), or if it relates to the enforcement of—

(*a*) an order for the payment of money made by virtue of the Matrimonial Proceedings (Magistrates' Courts) Act 1960(**b**), or

(**a**) 1970 c. 45. (**b**) 1960 c. 48.

(*b*) an order for the payment of money to a wife for her maintenance or for her maintenance and that of any child or children of hers, registered in a court in England or Wales under Part II of the Maintenance Orders Act 1950(**a**) or the Maintenance Orders (Facilities for Enforcement) Act 1920(**b**) or confirmed by such a court under the last-mentioned Act, or

(*c*) an order for alimony, maintenance or other payments made or having effect as if made under Part II or III of the Matrimonial Causes Act 1965(**c**) or Part I of the Matrimonial Proceedings and Property Act 1970 and registered in a magistrates' court under the Maintenance Orders Act 1958(**d**)."

17. Order 57 shall be amended as follows :—

(1) In rule 2(3), there shall be inserted at the beginning the words "Except where it relates to proceedings in the Admiralty Court".

(2) The words "or the Admiralty Registry, as the circumstances of the case require" shall be deleted from rules 2(4)(*c*) and 3(*a*) and inserted in rules 2(4)(*a*), 3(*b*), 4(1) and (2) and 6 after the words "the Crown Office".

(3) In rule 2(4), after the words "Queen's Bench Division" there shall be inserted the words "(including the Admiralty Court)".

(4) In rule 5, after the words "the Crown Office" there shall be inserted the words "or the principal registry of the Family Division, as the circumstances of the case require".

18. Order 58 shall be amended as follows :—

(1) In rule 1(1), after the words "master of the Queen's Bench Division" there shall be inserted the words "the Admiralty Registrar or a".

(2) In rule 2(1), the words from "including" to "1882" in sub-paragraph (*a*) shall be omitted ; and at the end there shall be inserted the following paragraph :—

"In this paragraph "master of the Queen's Bench Division" does not include the Admiralty Registrar."

(3) In rule 2(2), the words from the beginning to "1882" shall be omitted, and for the words "any such registrar" there shall be substituted the words "a registrar of the Family Division" ; and in sub-paragraph (*a*), for the words "the said section 17", there shall be substituted the words "section 17 of the Married Women's Property Act 1882(**e**)".

(4) In rule 7(1), after the words "Queen's Bench Division" there shall be inserted the words "(including the Admiralty Court)".

19. In Order 59, rule 5(5)(*c*), the words "in a probate cause or" shall be omitted.

20. In Order 61, rule 2, the following paragraph shall be added at the end :—

"(6) In this rule, references to a tribunal other than the Lands Tribunal include references to a judge of the Commercial Court acting as an arbitrator or umpire under section 4 of the Administration of Justice Act 1970(**f**).'

(**a**) 1950 c. 37. (**b**) 1920 c. 33. (**c**) 1965 c. 72.
(**d**) 1958 c. 39. (**e**) 1882 c. 75. (**f**) 1970 c. 31.

21. In Order 62, rule 1(1), in the fifth definition, the words "or Admiralty proceedings (as so defined)" shall be deleted; and for the definition of "registrar" there shall be substituted the following definition:—

" "registrar" (except where the context otherwise requires) means the Admiralty Registrar or a registrar of the Family Division;".

22. In Order 68, rule 1(1), after the words in brackets, there shall be inserted the words "and in every cause or matter taken in the Admiralty Court".

23. Order 72 shall be amended as follows:—

(1) In the title, the words "in the Queen's Bench Division" shall be omitted.

(2) In rule 2(1), for the words after "provisions of this Order" there shall be substituted the words "for trial in the Commercial Court, and one of the Commercial Judges shall be in charge of that list."

(3) In rule 4(1), for the words " "Commercial List" " there shall be substituted the words " "Commercial Court" ".

(4) In rule 5(3), for the words "commercial list" there shall be substituted the words "Commercial Court"; and for the words "that list" where they first appear there shall be substituted the words "the commercial list."

24. Order 74 shall be amended as follows:—

(1) In the title, for the date "1965" there shall be substituted the date "1970".

(2) In rule 1(1), for the words "1965 shall be assigned to the Probate, Divorce and Admiralty Division" there shall be substituted the words "1970 shall be assigned to the Queen's Bench Division and taken by the Admiralty Court".

(3) In rule 1(2), the words from "and proceedings" to the end shall be deleted.

(4) In rule 2(1), for the words "Probate, Divorce and Admiralty Division" there shall be substituted the words "Queen's Bench Division constituted so far as practicable of Admiralty Judges".

25. Order 75 shall be amended as follows:—

(1) In rule 1(2), in the definition of "limitation action", for the date "1960" there shall be substituted the date "1970".

(2) In rule 2(1), for the words "section 56(3)" there shall be substituted the words "section 56(2)"; for the words "Probate, Divorce and Admiralty Division" there shall be substituted the words "Queen's Bench Division"; and at the end there shall be added the words "and taken by the Admiralty Court".

(3) In rule 22(7), rule 24(2), rule 25(5) and rule 35(1), for the words "the judge in person" there shall be substituted the words "a judge in person"; and in rule 35(1), for the words "the judge" where they first appear there shall be substituted the words "a judge".

(4) In rule 26(3) and rule 30(6), for the words "President of the Probate, Divorce and Admiralty Division" there shall be substituted the words "Lord Chief Justice".

(5) Rule 29 shall be omitted.

(6) In rule 33(1), for the words "Probate, Divorce and Admiralty Division and" there shall be substituted the words "Queen's Bench Division and taken by the Admiralty Court, and shall".

(7) In rule 36(3), the words "as it applies in relation to Queen's Bench proceedings so begun but" shall be omitted.

(8) In rule 42(3), the words after "or in such other manner as may be agreed upon" shall be omitted.

26. For Order 76 there shall be substituted the following Order :—

"ORDER 76

CONTENTIOUS PROBATE PROCEEDINGS

Application and interpretation

1.—(1) This Order applies to probate causes and matters, and the other provisions of these Rules apply to those causes and matters subject to the provisions of this Order.

(2) In these Rules "probate action" means an action for the grant of probate of the will, or letters of administration of the estate, of a deceased person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will, not being an action which is non-contentious or common form probate business.

(3) In this Order, "will" includes a codicil.

Requirements in connection with issue of writ

2.—(1) A probate action must be begun by writ, and the writ must be issued out of the Central Office.

(2) Before a writ beginning a probate action is issued it must be indorsed with—

(*a*) a statement of the nature of the interest of plaintiff and of the defendant in the estate of the deceased to which the action relates ; and

(*b*) a memorandum signed by a master of the Chancery Division showing that the writ has been produced to him for examination and that two copies of it have been lodged with him.

Parties to action for revocation of grant

3. Every person who is entitled or claims to be entitled to administer the estate of a deceased person under or by virtue of an unrevoked grant of probate of his will or letters of administration of his estate shall be made a party to any action for revocation of the grant.

Lodgment of grant in action for revocation

4.—(1) Where, at the commencement of an action for the revocation of a grant of probate of the will or letters of administration of the estate of a deceased person, the probate or letters of administration, as the case may be, have not been lodged in court, then—

(*a*) if the action is commenced by a person to whom the grant was made, he shall lodge the probate or letters of administration in the office of the Chief Master within 7 days after the issue of the writ;

(*b*) if any defendant to the action has the probate or letters of administration in his possession or under his control, he shall lodge it or them in the office of the Chief Master within 14 days after the service of the writ upon him.

In this paragraph "court" includes the principal registry of the Family Division or a district probate registry.

(2) Any person who fails to comply with paragraph (1) may, on the application of any party to the action, be ordered by the Court to lodge the probate or letters of administration in the office of the Chief Master within a specified time; and any person against whom such an order is made shall not be entitled to take any step in the action without the leave of the Court until he has complied with the order.

Affidavit of testamentary scripts

5.—(1) Unless the Court otherwise directs, the plaintiff and every defendant who has entered an appearance in a probate action must swear an affidavit—

(*a*) describing any testamentary script of the deceased person, whose estate is the subject of the action, of which he has any knowledge or, if such be the case, stating that he knows of no such script, and

(*b*) if any such script of which he has knowledge is not in his possession or under his control, giving the name and address of the person in whose possession or under whose control it is or, if such be the case, stating that he does not know the name or address of that person.

(2) Any affidavit required by this rule must be filed, and an office copy thereof and any testamentary script referred to therein which is in the possession or under the control of the deponent, must be lodged in the judge's chambers within 14 days after the entry of appearance by a defendant to the action or, if no defendant enters an appearance therein and the Court does not otherwise direct, before an order is made for the trial of the action.

(3) Where any testamentary script required by this rule to be lodged in the judge's chambers or any part thereof is written in pencil, then, unless the Court otherwise directs, a facsimile copy of that script, or of the page or pages thereof containing the part written in pencil, must also be lodged in the judge's chambers and the words which appear in pencil in the original must be underlined in red ink in the copy.

(4) Except with the leave of the Court, a party to a probate action shall not be allowed to inspect an affidavit filed, ar any testamentary script lodged, by any other party to the action under this rule, unless and until an affidavit sworn by him containing the information referred to in paragraph (1) has been filed.

(5) In this rule "testamentary script" means a will or draft thereof, written instructions for a will made by or at the request or under the instructions of the testator and any document purporting to be evidence of the contents, or to be a copy, of a will which is alleged to have been lost or destroyed.

Default of appearance

6.—(1) Order 13 shall not apply in relation to a probate action.

(2) Where any of several defendants to a probate action fails to enter an appearance, the plaintiff, upon filing an affidavit proving due service of the writ, or notice of the writ, on that defendant may, after the time limited for appearing, proceed with the action as if that defendant had entered an appearance.

(3) Where the defendant, or all the defendants, to a probate action, fails or fail to enter an appearance, then, unless on the application of the plantiff the Court orders the action to be discontinued, the plaintiff may after the time limited for appearing by the defendant apply to the Court for an order for trial of the action.

(4) Before applying for an order under paragraph (3) the plaintiff must file an affidavit proving due service of the writ, or notice of the writ, on the defendant and, if no statement of claim is indorsed on the writ, he must lodge a statement of claim in the judge's chambers.

(5) Where the Court grants an order under paragraph (3), it may direct the action to be tried on affidavit evidence.

Service of statement of claim

7. The plaintiff in a probate action must, unless the Court gives leave to the contrary or unless a statement of claim is indorsed on the writ, serve a statement of claim on every defendant who enters an appearance in the action and must do so before the expiration of 6 weeks after entry of appearance by that defendant or of 8 days after the filing by that defendant of an affidavit under rule 5, whichever is the later.

Counterclaim

8.—(1) Notwithstanding anything in Order 15, rule 2(1), a defendant to a probate action who alleges that he has any claim or is entitled to any relief or remedy in respect of any matter relating to the grant of probate of the will, or letters of administration of the estate, of the deceased person which is the subject of the action must add to his defence a counterclaim in respect of that matter.

(2) If the plaintiff fails to serve a statement of claim, any such defendant may, with the leave of the Court, serve a counterclaim and the action shall then proceed as if the counterclaim were the statement of claim.

Contents of pleadings

9.—(1) Where the plaintiff in a probate action disputes the interest of a defendant he must allege in his statement of claim that he denies the interest of that defendant.

(2) In a probate action in which the interest by virtue of which a party claims to be entitled to a grant of letters of administration is disputed, the party disputing that interest must show in his pleading that if the allegations made therein are proved he would be entitled to an interest in the estate.

(3) Without prejudice to Order 18, rule 7, any party who pleads that at the time when a will, the subject of the action, was alleged to have been executed the testator did not know and approve of its contents must specify the nature of the case on which he intends to rely, and no allegation in support of that plea which would be relevant in support of any of the following other pleas, that is to say :—

(*a*) that the will was not duly executed,

(*b*) that at the time of the execution of the will the testator was not of sound mind, memory and understanding, and

(*c*) that the execution of the will was obtained by undue influence or fraud,

shall be made by that party unless that other plea is also pleaded.

Default of pleadings

10.—(1) Order 19 shall not apply in relation to a probate action.

(2) Where any party to a probate action fails to serve on any other party a pleading which he is required by these Rules to serve on that other party, then, unless the Court orders the action to be discontinued or dismissed, that other party may, after the expiration of the period fixed by or under these Rules for service of the pleading in question, apply to the Court for an order for trial of the action ; and if an order is made the Court may direct the action to be tried on affidavit evidence.

Discontinuance and dismissal

11.—(1) Order 21 shall not apply in relation to a probate action.

(2) At any stage of the proceedings in a probate action the Court may, on the application of the plaintiff or of any party to the action who has entered an appearance therein, order the action to be discontinued or dismissed on such terms as to costs or otherwise as it thinks just, and may further order that a grant of probate of the will, or letters of administration of the estate, of the deceased person, as the case may be, which is the subject of the action, be made to the person entitled thereto.

(3) An application for an order under this rule may be made by motion or summons or by notice under Order 25, rule 7.

Compromise of action: trial on affidavit evidence

12. Where, whether before or after the service of the defence in a probate action, the parties to the action agree to a compromise, the Court may order the trial of the action on affidavit evidence.

Transmission of documents and orders between Family Registry and Chancery Chambers

13.—(1) If after a probate action has been commenced a master of the Chancery Division so requests, the principal registrar of the Family Division shall send him any documents in the custody of the principal registry of the Family Division, or of any district probate registry, which are relevant to that action.

(2) Immediately after an order for the grant or revocation of probate or administration has been drawn up and entered, the chief registrar of the Chancery Division shall send an office copy of the order to the principal registry of the Family Division, together with any document of which probate or administration with the will annexed is to be granted.

Application for order to bring in will, etc.

14.—(1) Any application in a probate action for an order under section 26 of the Court of Probate Act 1857(a) shall be for an order requiring a person to bring a will or other testamentary paper into the office of the Chief Master or to attend in court for examination.

(2) An application under paragraph (1) shall be made by summons in the action, which must be served on the person against whom the order is sought.

(3) Any application in a probate action for the issue of a subpoena under section 23 of the Court of Probate Act 1858(b) shall be for the issue of a subpoena requiring a person to bring into the office of the Chief Master a will or other testamentary paper.

(4) An application under paragraph (3) may be made ex parte and must be supported by an affidavit setting out the grounds of the application.

(5) An application under paragraph (3) shall be made to a master who may, if the application is granted, authorise the issue of a subpoena accordingly.

(6) Any person against whom a subpoena is issued under the said section 23 and who denies that the will or other testamentary paper referred to in the subpoena is in his possession or under his control may file an affidavit to that effect.

Administration pendente lite

15.—(1) An application under section 163 of the Act for an order for the grant of administration may be made by summons issued in the Chancery Division.

(2) Where an order for a grant of administration is made under the said section 163, Order 30, rules 2, 4 and 6 and (subject to sub-section (2) of the said section) rule 3, shall apply as if the administrator were a receiver appointed by the Court; and every application relating to the conduct of the administration shall be made in the Chancery Division."

27. In Order 80, paragraph (1) of rule 3, and rules 4 and 5, shall be omitted.

(a) 1857 c. 77. (b) 1858 c. 95.

28. In Order 81, rule 10(2), for the words "or district registrar" there shall be substituted the words "or the Admiralty Registrar or a district registrar".

29. Order 89, rule 1, shall be amended as follows :—

(1) In paragraph (1), for the words from the beginning to "by which they" there shall be substituted the words "the originating summons by which proceedings under section 17 of the Married Women's Property Act 1882".

(2) In paragraph (2), the words from the beginning to "a master" shall be omitted.

(3) In paragraph (3), the words "a master and" shall be omitted.

30. Order 91 shall be omitted, and Order 90 shall be re-numbered as Order 91 ; and the following Order shall be inserted after Order 89 :—

"ORDER 90

MISCELLANEOUS PROCEEDINGS IN THE FAMILY DIVISION

I. GENERAL

Interpretation

1. In this Order, "principal registry" means the principal registry of the Family Division, and "registrar" means a registrar of that Division.

Assignment and commencement of proceedings

2. All proceedings to which this Order relates shall be assigned to the Family Division and, except as provided by rules 3 and 5, shall be begun in the principal registry.

II. PROCEEDINGS CONCERNING MINORS

Application to make minor a ward of court

3.—(1) An application to make a minor a ward of court must be made by originating summons issued out of the principal registry or out of a district registry as defined by the matrimonial causes rules.

(2) Where there is no person other than the minor who is a suitable defendant, an application may be made ex parte to a registrar for leave to issue either an ex parte originating summons or an originating summons with the minor as defendant thereto ; and, except where such leave is granted, the minor shall not be made a defendant to an originating summons under this rule in the first instance.

(3) Particulars of any summons under this rule issued in a district registry shall be sent by the district registrar to the principal registry for recording in the register of wards.

When minor ceases to be a ward of court

4.—(1) A minor who, by virtue of section 9(2) of the Law Reform (Miscellaneous Provisions) Act 1949(a), becomes a ward of court on the issue of a summons under rule 3 shall cease to be a ward of court—

(*a*) if an application for an appointment for the hearing of the summons is not made within the period of 21 days after the issue of the summons, at the expiration of that period;

(*b*) if an application for such an appointment is made within that period, on the determination of the application made by the summons unless the Court hearing it orders that the minor be made a ward of court.

(2) Nothing in paragraph (1) shall be taken as affecting the power of the Court under section 9(3) of the said Act to order that any minor who is for the time being a ward of court shall cease to be a ward of court.

(3) If no application for an appointment for the hearing of a summons under rule 3 is made within the period of 21 days after the issue of the summons, a notice stating whether the applicant intends to proceed with the application made by the summons must be left at the registry in which the matter is proceeding immediately after the expiration of that period.

Applications under Guardianship of Minors Act 1971

5. Where there is pending any proceeding by reason of which a minor is a ward of court, any application under the Guardianship of Minors Act 1971(b) (hereafter in this Part of this Order referred to as "the Act of 1971") with respect to that minor may be made by summons in that proceeding, but except in that case any such application must be made by originating summons issued out of the principal registry or out of a district registry as defined by the matrimonial causes rules.

Defendants to guardianship summons

6.—(1) Where the minor with respect to whom an application under the Act of 1971 is made is not the plaintiff, he shall not, unless the Court otherwise directs, be made a defendant to the summons or, if the application is made by ordinary summons, be served with the summons, but, subject to paragraph (2) any other person appearing to be interested in, or affected by, the application shall be made a defendant or be served with the summons, as the case may be, including, where the application is made under section 5 of the Act of 1971 with respect to a minor who has been received into the care of a local authority under section 1 of the Children Act 1948(c), that authority.

(2) The Court may dispense with service of the summons (whether originating or ordinary) on any person and may order it to be served on any person not originally served.

Guardianship proceedings may be in chambers

7. Applications under the Act of 1971 may be disposed of in chambers.

(a) 1949 c. 100. (b) 1971 c. 3. (c) 1948 c. 43.

Applications for consent to marriage

8.—(1) Subject to paragraph (2), the provisions of this Order relating to applications under the Act of 1971 shall apply with the necessary modifications to applications under section 3 of the Marriage Act 1949(a) for obtaining the Court's consent to the marriage of a minor.

(2) Where an application under the said section 3 is made in consequence of a refusal to give consent to a marriage every person who has refused consent shall be made a defendant to the summons and rule 6(1) shall not apply.

Appeals and applications affecting minors

9.—(1) Every appeal to the High Court—

(*a*) under section 16(2) or (3) of the Act of 1971 from a county court or magistrates' court, or

(*b*) under section 10 of the Adoption Act 1958(b) from a magistrates' court,

shall be heard and determined by a Divisional Court of the Family Division.

(2) Order 55, rule 4(2), shall apply to any appeal under this rule, and subject thereto, rule 16 of this Order (except paragraph (2) thereof) shall apply with the necessary modifications to any such appeal as it applies to appeals under the Matrimonial Proceedings (Magistrates' Courts) Act 1960.

(3) After entry of an appeal from a county court or magistrates' court under the Act of 1971 the Divisional Court may, on an application made ex parte or otherwise, make any order with respect to the custody or maintenance of the minor in question pending the appeal or otherwise as it thinks proper.

Removal of guardianship proceedings from a county court

10.—(1) An application for an order under section 16(1) of the Act of 1971 for the removal of an application from a county court into the High Court shall be made by an originating summons issued out of the principal registry and, unless the Court otherwise directs, the summons need not be served on any person.

(2) The application may be heard by a registrar, but, if an order is made for the removal to the High Court of an application to the county court, that application shall be heard by a single judge of the Family Division.

(3) Where an order is made under the said section 16(1), the plaintiff must send a copy of the order to the registrar of the county court from which the proceedings are ordered to be removed.

(4) On receipt by the proper officer of the documents referred to in Order 16, rule 19, of the County Court Rules 1936(c), that officer must forthwith file the said documents and give notice to all parties that the application removed is proceeding in the High Court.

(a) 1949 c. 76. (b) 1958 c. 5.
(c) S.R. & O. 1936/626 (1936 I, p. 282).

(5) The application so removed shall proceed in the High Court as if it had been made by originating summons issued out of the principal registry.

Drawing up and service of orders

11. The provisions of the matrimonial causes rules relating to the drawing up and service of orders shall apply to proceedings under this Part of this Order as if they were proceedings under those rules.

Jurisdiction of registrars

12.—(1) In proceedings to which this Part of this Order applies a registrar may transact all such business and exercise all such authority and jurisdiction as may be transacted and exercised by a judge in chambers.

(2) Paragraph (1) is without prejudice to the power of the judges to reserve to themselves the transaction of any such business or the exercise of any such authority or jurisdiction.

III. Other Proceedings

Application for declaration affecting matrimonial status

13.—(1) Where, apart from costs, the only relief sought in any proceedings is a declaration with respect to the matrimonial status of any person, the proceedings shall be begun by petition.

(2) The petition shall state—

(*a*) the names of the parties and the residential address of each of them at the date of presentation of the petition;

(*b*) the place and date of any ceremony of marriage to which the application relates;

(*c*) whether there have been any previous proceedings between the parties with reference to the marriage or the ceremony of marriage to which the application relates or with respect to the matrimonial status of either of them and, if so, the nature of those proceedings;

(*d*) all other material facts alleged by the petitioner to justify the making of the declaration and the grounds on which he alleges that the Court has jurisdiction to make it;

and shall conclude with a prayer setting out the declaration sought and any claim for costs.

(3) Nothing in the foregoing provisions shall be construed—

(*a*) as conferring any jurisdiction to make a declaration in circumstances in which the Court could not otherwise make it, or

(*b*) as affecting the power of the Court to refuse to make a declaration notwithstanding that it has jurisdiction to make it.

(4) This rule does not apply to proceedings to which rule 14 applies.

Application under section 39 of Matrimonial Causes Act 1965

14.—(1) A petition under section 39 of the Matrimonial Causes Act 1965 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.

(2) The petition shall be supported by an affidavit by the petitioner verifying the petition and giving particulars of every person whose interest may be affected by the proceedings and his relationship to the petitioner:

Provided that if the petitioner is under 16, the affidavit shall, unless otherwise directed, be made by his next friend.

(3) An affidavit for the purposes of paragraph (2) may contain statements of information or belief with the sources and grounds thereof.

(4) On filing the petition, the petitioner shall issue and serve on the Attorney-General a summons for directions as to the persons, other than the Attorney-General, who are to be made respondents to the petition.

(5) It shall not be necessary to serve the petition on the Attorney-General otherwise than by delivering a copy of it to him in accordance with subsection (6) of the said section 39.

(6) The Attorney-General may file an answer to the petition within 21 days after directions have been given under paragraph (4) and no directions for trial shall be given until that period has expired.

(7) A respondent who files an answer shall at the same time lodge in the divorce registry as many copies of the answer as there are other parties to the proceedings and a registrar shall send one of the copies to each of those parties.

Further proceedings on petition under rule 13 or 14

15.—(1) Unless a judge otherwise directs, all proceedings on any petition to which rule 13 or 14 relates shall take place in London.

(2) Subject to rules 2, 13 and 14 and paragraph (1) of this rule, the matrimonial causes rules shall apply with the necessary modifications to the petition as if it were a petition in a matrimonial cause.

Appeals under the Matrimonial Proceedings (Magistrates' Courts) Act 1960

16.—(1) Every appeal to the High Court under the Matrimonial Proceeedings (Magistrates' Courts) Act 1960 shall be entered by lodging two copies of the notice of motion in the principal registry.

(2) Order 55, rule 4(2), shall apply to the appeal as if for the period of 28 days therein specified there were substituted a period of 6 weeks.

(3) Notwithstanding anything in Order 10, rule 5, notice of the motion need not be served personally.

(4) On entering the appeal or as soon as practicable thereafter, the appellant shall, unless otherwise directed, lodge in the principal registry—

(*a*) two certified copies of the summons and of the order appealed against,

(*b*) two copies of the clerk's notes of the evidence,

(*c*) two copies of the justices' reasons for their decision,

(*d*) a certificate that notice of the motion has been duly served on the clerk and on every party affected by the appeal, and

(*e*) where the notice of the motion includes an application to extend the time for bringing the appeal, a certificate (and a copy thereof) by the appellant's solicitor, or the appellant if he is acting in person, setting out the reasons for the delay and the relevant dates.

(5) If the clerk's notes of the evidence are not produced, the Court may hear and determine the appeal on any other evidence or statement of what occurred in the proceedings before the magistrates' court as appears to the Court to be sufficient.

(6) The Court shall not be bound to allow the appeal 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.

(7) A registrar may dismiss an appeal to which this rule applies for want of prosecution or, with the consent of the parties, may dismiss the appeal or give leave for it to be withdrawn, and may deal with any question of costs arising out of the dismissal or withdrawal."

31. Order 104 shall be amended as follows :—

(1) In rule 1, the definitions of "the Act of 1925" and "the chief registrar" shall be deleted ; and for the definition of "the divorce registry" there shall be substituted :—

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

(2) In rules 1, 2, 4, 5 and 6, for the words "the divorce registry" wherever they appear there shall be substituted the words "the principal registry".

(3) In rule 2, paragraph (7) shall be omitted.

(4) In rule 3, the definition of "guardianship order" shall be deleted.

(5) In rule 4(1), for the words from the beginning to "together, in either case, with" there shall be substituted the words "An application for the registration of an English order may be made by lodging with a registrar of the Family Division a certified copy of the order, together with".

(6) In rule 4, for paragraph (3) there shall be substituted the following paragraph :—

"(3) The prescribed officer for the purposes of the Act of 1950 shall be the senior registrar."

(7) In rule 4(4), the words "the chief registrar or" and the words "as the case may be" shall be deleted.

(8) In rule 4, for paragraph (5) there shall be substituted the following paragraph :—

"(5) The fact that the order has been registered in the Court of Session or the Supreme Court of Northern Ireland shall be noted in the court minutes."

(9) In rule 4(6), the words "other than a guardianship order" shall be deleted.

(10) In rule 4(8), for the words "the appropriate registrar shall give notice of the discharge or variation" there shall be substituted the words "the registrar or district registrar by whom the discharge or variation was ordered shall give notice thereof" ; and the second sentence shall be deleted.

(11) In rule 4, for paragraph (9) there shall be substituted the following paragraph :—

"(9) Where the registration of an English order registered in the Court of Session or the Supreme Court of Northern Ireland is cancelled under section 24(1) of the Act of 1950, the prescribed officer to whom notice of the cancellation is to be sent under section 24(3) of that Act shall be the senior registrar ; and on receipt of such notice he shall cause particulars of it to be entered in Part I of the register."

(12) In rule 5, for paragraph (1) there shall be substituted the following paragraph :—

"(1) In relation to a Scottish or Northern Irish order the prescribed officer for the purposes of section 17(2) of the Act of 1950 shall be the senior registrar."

(13) In rule 5(2), for the words "the chief registrar or the senior registrar, as the case may be" there shall be substituted the words "the senior registrar".

(14) In rule 5(4), for the words "the registrar to whom a certified copy of the order was sent for registration" there shall be substituted the words "the senior registrar".

(15) In rule 5(3) and (5), for the words "the chief master in the case of a guardianship order and before a registrar of the divorce registry in any other case", wherever they appear, there shall be substituted the words "a registrar of the principal registry".

(16) In rule 5(6), the words "(other than a guardianship order)" shall be deleted.

(17) In rule 6, the number "(1)" at the beginning shall be deleted, and for the words "the registrar" where they first appear there shall be substituted the words "a registrar of the principal registry" ; and paragraph (2) shall be omitted.

(18) In rule 7, for the definition of "proper officer" there shall be substituted the following definition :—

" "proper officer" means—

(*a*) in the case of an order registered in the High Court under the Maintenance Orders (Facilities for Enforcement) Act 1920 or Part II of the Act of 1950, the senior registrar ;

(*b*) in the case of an order made by a magistrates' court which is to be or has been registered in the High Court under Part I of the Act of 1958, the senior registrar or the district registrar to whom a certified copy of the order has been sent pursuant to section 2(4)(*c*) of that Act ; and

(*c*) in any other case, the senior registrar or, where the order was made in a cause or matter proceeding in a district registry, the registrar of that registry."

(19) In rule 8(1)(*b*) and (2), the words "and, in the case of an order made under section 3(2), 5(4) or 6 of the Act of 1925, the duplicate order" wherever they appear shall be deleted.

(20) In rule 8(5), for sub-paragraphs (*a*) and (*b*) there shall be substituted the words "enter particulars of the registration in the court minutes".

(21) For rule 11 there shall be substituted the following rule :—

"Appeal from variation etc., of order by magistrates' court

11. An appeal to the High Court under section 4(7) of the Act of 1958 shall be heard and determined by a Divisional Court of the Family Division, and Order 90, rule 9, shall apply as it apples in relation to an appeal from a magistrates' court under the Guardianship of Minors Act 1971."

(22) In rule 17(1), the words from "if the related maintenance order" to "in any other case" shall be deleted.

32. In Order 107, rule 1(1), for the words "registrar of the Probate, Divorce and Admiralty Division" there shall be substituted the words "the Admiralty Registrar or any registrar of the Family Division".

33. In Order 109, rule 2, for paragraph (2) there shall be substituted the following paragraph :—

"(2) An appeal under the said section 13 from an order or decision of a magistrates' court under section 54(3) of the Magistrates' Courts Act 1952(**a**) shall be heard and determined by a Divisional Court of the Family Division."

34. Order 112 shall be omitted.

35. Appendix A shall be amended as follows :—

(1) In Form No. 4 (General form of writ of summons for use in probate action)—

(*a*) in the heading, for the words "Probate, Divorce and Admiralty Division (Probate)" there shall be substituted the words "Chancery Division (Probate)" ;

(**a**) 1952 c. 55.

(*b*) the paragraph headed "DIRECTIONS FOR ENTERING APPEARANCE" shall be deleted, and the following paragraph shall be inserted in its place :—

"DIRECTIONS FOR ENTERING APPEARANCE

The defendant may enter an appearance in person or by a solicitor either (1) by handing in the appropriate forms, duly completed, at the Central Office, Royal Courts of Justice, Strand, London, WC2A 2LL or (2) by sending them to that Office by post. The appropriate forms may be obtained by sending a postal order for [*insert current price*] with an addressed envelope, foolscap size, to the Clerk of Accounts, Vote Office, Royal Courts of Justice, Strand, London WC2A 2LL."

(2) In Form No. 14 (Memorandum of Appearance), in the paragraph beginning "To be completed in duplicate", for the words "(probate action)" there shall be substituted the words "(Family Division proceedings)".

(3) In Form No. 87 (Notice of motion for writ of habeas corpus ad subjiciendum), Form No. 88 (Notice directed by Court of adjourned application for writ of habeas corpus), Form No. 89 (Writ of habeas corpus ad subjiciendum) and Form No. 90 (Notice to be served with writ of habeas corpus ad subjiciendum), after the words "Queen's Bench Division" wherever they appear there shall be inserted the words "[*or* Family Division *as the case may be*]".

(4) In Form No. 104 (Attachment of earnings order under the Maintenance Orders Act 1958), for the word "Division" in the heading there shall be substituted the words "Family Division".

36. In Appendix B, Form No. 1 (Writ of summons in action in rem issued out of Admiralty Registry) and Form No. 2 (Writ of summons in action in rem issued out of district registry) for the words "Probate, Divorce and Admiralty Division" there shall be substituted the words :—

"Queen's Bench Division
Admiralty Court".

37.—(1) Where on the date when section 1 of the Administration of Justice Act 1970 comes into force any proceedings are pending in one Division which, if begun after that date, would have been required by that section to be assigned to another Division, the power conferred on the Court by Order 4, rule 3, to transfer the proceedings to that other Division may at any time be exercised by the Court of its own motion.

(2) Unless the Court has already exercised its power under paragraph (1), it shall, on the first application in any such proceedings after the coming into force of the said section 1, consider whether or not to exercise that power.

(3) Where by virtue of paragraph (1) the Court makes an order under Order 4, rule 3, of its own motion, the order need not be drawn up ; but the Court shall give notice thereof to the parties to the proceedings.

(4) On the coming into force of the said section 1, all proceedings which involve the exercise of the High Court's Admiralty jurisdiction or its jurisdiction as a prize court, shall be treated as having been assigned to the Queen's Bench Division.

38. In the Rules of the Supreme Court, for—

(*a*) the references to the Probate, Divorce and Admiralty Division specified in the first column of the schedule to these Rules;

(*b*) the references to the principal probate registry (or, as the case may be, divorce registry), specified in the second column of the said schedule; and

(*c*) the references to the principal (or, as the case may be, senior) probate registrar specified in the third column of the said schedule,

there shall be substituted references to the Family Division, the principal registry of the Family Division and the principal registrar of the Family Division respectively.

39. The Arrangement of Orders at the beginning of the Rules of the Supreme Court 1965 shall be amended as follows:—

(1) In the title of Order 72, the words "in the Queen's Bench Division" shall be omitted.

(2) In the title of Order 74, for the date "1965" there shall be substituted the date "1970".

(3) For the title of Order 76 there shall be substituted the title "Contentious Probate Proceedings".

(4) For the title of Order 90 there shall be substituted the title "Miscellaneous Proceedings in the Family Division".

(5) For the title of Order 91 there shall be substituted the title "Revenue Proceedings in Chancery Division".

(6) The entry relating to Order 112 shall be omitted.

PART III

DISCOVERY AND RELATED PROCEDURES

40. The following rule shall be inserted in Order 24 after rule 7:—

"*Application under section* 31 *or* 32(1) *of Administration of Justice Act* 1970

7A.—(1) An application for an order under section 31 of the Administration of Justice Act 1970 for the disclosure of documents before the commencement of proceedings shall be made by originating summons and the person against whom the order is sought shall be made defendant to the summons.

(2) An application after the commencement of proceedings for an order under section 32(1) of the said Act for the disclosure of documents by a person who is not a party to the proceedings shall be made by summons, which must be served on that person personally and on every party to the proceedings other than the applicant.

(3) A summons under paragraph (1) or (2) shall be supported by an affidavit which must—

(*a*) in the case of a summons under paragraph (1), state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in the High Court in which a claim for personal injuries is likely to be made;

(*b*) in any case, specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading served or intended to be served in the proceedings, that the documents are relevant to an issue arising or likely to arise out of a claim for personal injuries made or likely to be made in the proceedings and that the person against whom the order is sought is likely to have or have had them in his possession, custody or power.

(4) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(5) An order under the said section 31 or 32(1) for the disclosure of documents may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just, and shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been, in his possession, custody or power and, if not then in his possession, custody or power, when he parted with them and what has become of them.

(6) No person shall be compelled by virtue of such an order to produce any documents which he could not be compelled to produce—

(*a*) in the case of a summons under paragraph (1), if the subsequent proceedings had already been begun, or

(*b*) in the case of a summons under paragraph (2), if he had been served with a writ of subpoena duces tecum to produce the documents at the trial.

(7) In this rule "a claim for personal injuries" means a claim in respect of personal injuries to a person (including any disease contracted by him and any impairment of his physical or mental condition) or in respect of a person's death.

(8) For the purposes of rules 10 and 11 an application for an order under the said section 31 or 32(1) shall be treated as a cause or matter between the applicant and the person against whom the order is sought."

41. In Order 24, rule 8, for the words "rule 3 or rule 7" there shall be substituted the words "rule 3, 7 or 7A".

42. The following rule shall be inserted in Order 29 after rule 7:—

"*Inspection etc. of property under section* 21 *of Administration of Justice Act* 1969 *or section* 32(2) *of Administration of Justice Act* 1970

7A.—(1) The power conferred by section 21(1) of the Administration of Justice Act 1969(a) to make an order in respect of property pending the commencement of proceedings in the High Court shall be exercisable only

(a) 1969 c. 58.

in respect of property as to which it appears to the Court that it may become the subject matter of subsequent proceedings involving a claim for personal injuries.

(2) An application for an order under the said section 21(1) shall be made by originating summons and the person against whom the order is sought shall be made defendant to the summons.

(3) An application after the commencement of proceedings for an order under section 32(2) of the Administration of Justice Act 1970 in respect of property which is not the property of or in the possession of any party to the proceedings shall be made by summons, which must be served on the person against whom the order is sought personally and on every party to the proceedings other than the applicant.

(4) A summons under paragraph (2) or (3) shall be supported by an affidavit which must—

(*a*) in the case of a summons under paragraph (2), state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in the High Court in which a claim for personal injuries is likely to be made;

(*b*) in any case, specify or describe the property in respect of which the order is sought and show, if practicable by reference to any pleading served or intended to be served in the proceedings, that it is or may become the subject matter of the proceedings or that it is property as to which any question arises in the proceedings.

(5) A copy of the supporting affidavit shall be served with the summons on every person on whom the summons is required to be served.

(6) An order made under the said section 21 or 32(2) may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just.

(7) No such order shall be made if it appears to the Court—

(*a*) that compliance with the order, if made, would result in the disclosure of information relating to a secret process, discovery or invention not in issue in the proceedings, and

(*b*) that the application would have been refused on that ground if—

(i) in the case of a summons under paragraph (2), the subsequent proceedings had already been begun, or

(ii) in the case of a summons under paragraph (3), the person against whom the order is sought were a party to the proceedings.

(8) In this rule "a claim for personal injuries" means a claim in respect of personal injuries to a person (including any disease contracted by him and any impairment of his physical or mental condition) or in respect of a person's death."

43. The following paragraph shall be added to Order 62, rule 3 :—

"(12) Where an application is made in accordance with Order 24, rule 7A, or Order 29, rule 7A, for an order under section 21 of the Administration of Justice Act 1969 or section 31 or 32 of the Administration of Justice Act 1970, the person against whom the order is sought shall be entitled, unless the Court otherwise directs, to his costs of and incidental to the application and of complying with any order made thereon and he may, after giving the applicant 7 days' notice of his intention to do so, tax such costs and, if they are not paid within 4 days after taxation, sign judgment for them."

44. The following paragraph shall be added to Appendix 1 to Order 62:—

"6. Where a party is entitled by virtue of rule 3(12) to require any costs to be taxed, the requisite document for the purposes of rule 21 is a copy of the notice given by him pursuant to rule 3(12)."

PART IV

MISCELLANEOUS AMENDMENTS

45. Order 15, rule 6, shall be amended as follows :—

(1) For paragraph (2)(*b*) there shall be substituted the following paragraph :—

"(*b*) order any of the following persons to be added as a party, namely—

(i) any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon, or

(ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between him and that party as well as between the parties to the cause or matter."

(2) In paragraph (3) for the word "defendant" there shall be substituted the word "party" and at the end there shall be added the following words :—

"or, as the case may be, the question or issue to be determined as between him and any party to the cause or matter."

46. Order 62 shall be amended as follows :—

(1) In rule 13(1)—

(*a*) for the words from the beginning to "(Taxing Office)" there shall be substituted the words "A principal clerk of the Supreme Court (Taxing Office) authorised in that behalf by the Lord Chancellor"; and

(*b*) in sub-paragraph (*a*) the words from "if the amount" to "£350" shall be omitted

(2) In Appendix 3, Part III, paragraph 7, for the figures "£4 10*s*. (£4·50)" there shall be substituted the figures "£6 10*s*. (£6·50)".

47. In Order 63, rules 6, 7 and 8 shall be revoked except in relation to any instrument creating a power of attorney, or any copy of such an instrument, filed or deposited in the Central Office before 1st October 1971.

48. The following rule shall be inserted in Order 77 after rule 8 :—

"Joinder of Commissioners of Inland Revenue under Order 15, *rule* 6(2)(*b*)(ii)

8A. Nothing in Order 15, rule 6(2)(*b*)(ii),shall be construed as enabling the Commissioners of Inland Revenue to be added as a party to any cause or matter except with their consent signified in writing or in such manner as may be authorised."

Dated 23rd July 1971.

Hailsham of St. Marylebone, C.
Widgery, C. J.
Denning, M. R.
George Baker, P.
Cyril Salmon, L. J.
John Pennycuick, V-C.
James Fox-Andrews.
Oliver Lodge.
H. Mongomery-Campbell.

SCHEDULE Rule 38

AMENDMENT OF REFFRENCES IN CONSEQUENCE OF THE RE-NAMING OF THE PROBATE, DIVORCE AND ADMIRALTY DIVISION AS THE FAMILY DIVISION

1. *References to Probate, Divorce and Admiralty Division*	2. *References to principal probate registry*	3. *References to principal (or senior) probate registrar*
Order 17, rule 4.	Order 1, rule 4(1).	Order 59, rule 5(5)(*c*).
Order 30, rule 4(4).	Order 4, rule 6(1).	Order 104, rule 1.
Order 32, rules 7(2), 8(1), 10, 11(1), 12, 23 and 24(1).	Order 30, rule 2(4).	Appendix A, Form No. 37.
Order 50, rule 9.	Order 32, rules 2(3)(*c*) and 7(1).	
Order 51, rule 2.	Order 41, rule 9(3).	
Order 56, rule 6(1)(*a*).	Order 56, rule 6(1)(*a*).	
Order 57, rules 2(4)(*c*) and 3(*a*).	Order 57, rules 2(4)(*c*) and 3(*a*).	
Order 58, rules 1(1), 2(2) and 7(2).	Order 59, rules 5(5)(*c*) and 16(2A) and (6).	
Order 62, rules 1(1), 2(2), 12(7), 21(1), (3)(*a*), and (4), 22(1) and (2), 23(4), 24(1), Appendix 1, paragraph 1 and Appendix 2, items 4 and 37.	Order 62, rules 7(6), 12(1) and (7), 21(5)(*a*), 22(4)(*a*), 34(1) and (5), 35(7).	
Order 64, rules 2(1) and 7(1)(*c*).	Order 67, rule 1(2), Table (*e*).	
Order 80, rule 13(2)(*b*).	Order 89, rule 1(1).	
Order 89, rule 1(2).	Order 99, rule 6(2).	
Order 106, rule 2(2).	Appendix A, Forms No. 6 and 14.	

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court in a number of respects.

Part II makes changes consequential on the reconstitution of the Divisions of the High Court by sections 1—4 of the Administration of Justice Act 1970. These sections rename the Probate, Divorce and Admiralty Division as the Family Division, and concentrate in it the family and domestic business of the High Court, including wardship, guardianship and adoption cases; transfer Admiralty and prize business to the Queen's Bench Division, where the Admiralty Court is established for the purpose; transfer contentious probate cases to the Chancery Division; establish the Commercial Court within the Queen's Bench Division to take the commercial list; and empower judges of the Commercial Court in certain circumstances to sit as arbitrators. A large number of rules are amended as a result of these provisions. Order 76 (probate actions) is re-written (rule 26), and Orders 91 and 112 are merged into a new Order 90 entitled "Miscellaneous Proceedings in the Family Division" (rule 30). Provision is made for the transfer of pending proceedings to other Divisions in consequence of the reorganization of business (rule 37) and for the alteration of references to the Probate, Divorce and Admiralty Division generally (rule 38 and Schedule).

Part III provides for the disclosure of documents and the inspection etc. of property under section 21 of the Administration of Justice Act 1969 and sections 31 and 32 of the Administration of Justice Act 1970. Part IV extends the power of the Court to order the joinder of parties; makes fresh provision for the taxation of costs by principal clerks of the Supreme Court Taxing Office; increases the fixed costs allowed on the issue of writs of execution, and revokes the rules dealing with the filing of powers of attorney in consequence of the coming into operation of the Powers of Attorney Act 1971 (c.27).