The Rules of the Supreme Court (No. 2), 1950

1950 No. 1941 (L. 28)

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

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

1. In Order VII, paragraph (1) of Rule 2 (which relates to change of solicitors) shall be amended by deleting the words "(subject to the provisions of Order XVI, Rule 30 relating to poor persons)".

2. In Order XIX, Rule 9 (which relates to the printing of pleadings) shall be amended by deleting the words "unless otherwise ordered by the court or a judge in a proceeding under the Rules relating to poor persons".

3. In Order XXII, paragraph (2) of Rule 2 (which relates to payment out of court) shall be amended by adding thereto the following proviso:—

"Provided that where the plaintiff is a person in respect of whom a certificate is in force entitling him to legal aid under Part I of the Legal Aid and Advice Act, 1949, payment shall be made only to his solicitor, without any authority from the plaintiff for that purpose."

4. In Order XXXI, Rule 28A (which relates to an order for discovery made against the Crown) shall be amended by inserting after the words "the court" the words "or a judge".

5. The following amendments shall be made in Order LVA (which relates to proceedings under the Guardianship of Infants Acts, 1886 and 1925) that is to say:—

(1) The following Rule shall be substituted for Rule 6:—

"Appeals from inferior courts.

6.—(1) An appeal against an order made or against the refusal of an order by a county court or a court of summary jurisdiction under the Act of 1886 or the Act of 1925 shall be brought by originating notice of motion as nearly as may be in Form No. 18H in Part II of Appendix B. The notice shall state the grounds of the appeal and whether the whole or part only of the order is complained of.

(2) The notice of motion shall be served and the appeal entered at the Chancery Registrars' Office (Room 136) within twenty-one days from the date of the order complained of.

(3) The notice of motion shall be served on all parties directly affected by the appeal and on the registrar or clerk of the court from which the appeal is brought.

(4) Within ten days after service of the notice of motion the appellant shall obtain an appointment for the purpose of obtaining the judge's directions as to the hearing of the appeal, and shall notify the respondent of the date of the appointment.

(5) The appeal shall not operate as a stay of proceedings unless the county court or the court of summary jurisdiction shall so direct.

(6) Subject to the provisions of this Order, Rules 35 and 36 of Order LIX shall apply to the appeal."

(2) The following Rule shall be added after Rule 7 :—

" Registration of orders under Maintenance Orders Act, 1950.

8.—(1) In this Rule—

" The Maintenance Orders Act " means the Maintenance Orders Act, 1950 ;

" The Chief Master " and " the Chief Registrar " mean respectively the Chief Master and the Chief Registrar for the time being of the Chancery Division ;

" Maintenance order " means an order for the payment of weekly or other periodical sums made by the High Court under section 3 (2) or 5 (4) of the Act of 1925 and " Scottish order " means an order for the payment of weekly or other periodical sums made by the Court of Session under either of those sections.

(2) An application for the registration of a maintenance order in the Court of Session or the Supreme Court of Judicature of Northern Ireland under the Maintenance Orders Act shall be made to the Chief Registrar (Room 171A), by lodging the duplicate and two plain copies of the maintenance order and an affidavit by the applicant (together with a copy thereof) stating:—

(*a*) the address in the United Kingdom and the 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.

(3) If it appears to the Chief 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, he shall send a 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.

(4) The Chief 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 main-

tenance order has been so registered shall be noted upon the original of the maintenance order and on the duplicate thereof, which shall thereupon be returned to the applicant.

(5) 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 Chief Registrar shall cause particulars of the notice of cancellation to be entered in Part I of the register and on the original order as well as on the duplicate order on its being produced for that purpose by the person entitled to payments as aforesaid.

(6) Where a maintenance order which is registered in the Court of Session or the Supreme Court of Judicature of Northern Ireland is discharged or varied by a subsequent order, the Chief Registrar shall send a certified copy of the last-mentioned order to the clerk of the Court of Session or to the registrar in Northern Ireland, as the case may be.

(7) On receiving a certified copy of a Scottish order for registration under the Maintenance Orders Act, the Chief Registrar shall cause the Scottish order to be registered in Part II of the register and shall notify the clerk of the Court of Session that this has been done. The certified copy of the Scottish order and any statutory declaration or affidavit as to the amount of any arrears due thereunder shall be filed by the Chief Registrar.

(8) An application under section 21 (2) of the Maintenance Orders Act by a person liable to make payments under a Scottish order which is registered in Part II of the register shall be made by lodging a request for an appointment before the Chief Master (Room 175) stating the last known address of the person entitled to payments under the Scottish order. 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 as aforesaid. The evidence adduced by the applicant shall be affidavit evidence and a summary or transcript of any viva voce examination of the deponents to the affidavits shall be sent to the Chief Registrar and shall be transmitted by him to the clerk of the Court of Session.

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

(10) An application by or on behalf of a person entitled to payments under a Scottish order which is registered in Part II of the register to cancel the registration shall be made ex parte personally or in writing to the Chief Registrar and shall be supported by an affidavit by the applicant. If the registration is cancelled the Chief Registrar shall notify the clerk of the Court of Session and shall cancel the entry in Part II of the register.

(11) Any person who satisfies the Chief Registrar that he is entitled to or liable to make payments under a maintenance order or a Scottish order, or a solicitor acting on behalf of any

such person or, with the leave of the Chief Registrar, any other person, may inspect the register and bespeak copies of any such order which has been registered and any statutory declaration or affidavit filed therewith."

6. In Order LIX, the following amendments shall be made in Rule 30 (which relates to the entry for hearing of cases stated by quarter sessions) that is to say:—

(1) The proviso to paragraph (1) shall be amended by deleting the words "and shall not apply where the appellant is proceeding as a poor person under Part IV of Order XVI".

(2) In paragraph (2) there shall be substituted for the words "a judge" the words "the divisional court" and there shall be added at the end of that paragraph the following sentence, that is to say:—

"Notice in writing of intention to apply for an extension of the time for entry of the appeal shall be served on the respondent at least two clear days before the day named in the notice for the hearing of the application".

7. The following Form shall be added to Part II of Appendix B and shall stand as Form No. 18H:—

"No. 18H

Notice of Motion on Appeal under the Guardianship of Infants Acts, 1886 and 1925

(*Order 55A, r. 6*)

In the High Court of Justice 195 No.
Chancery Division
Group B

In the Matter of A.B., an Infant

and

In the Matter of an Appeal from an Order dated the day of 19 made by [the Justices of the Petty Sessional Division of in the County of] [the County Court]

and

In the Matter of the Guardianship of Infants Acts 1886 and 1925.

Take Notice that this Court will be moved before the Honourable Mr. Justice (*here insert the name of the Judge named by the Lord Chancellor under Order 55A r. 4*), on a date to be appointed by the Judge pursuant to Rule 6 (4) of Order 55A of the Rules of the Supreme Court, by Counsel on behalf of A.B. of (*address*), the Mother/Father of the above-named Infant, by way of appeal from the above-mentioned order, whereby it was ordered (*state terms of order complained of*) and that in lieu thereof it may be ordered (*state terms of order asked for*) And that it may be ordered that the costs of an incidental to this appeal be borne and paid by .

And Take Notice that the grounds of this appeal are (*state briefly the grounds of the appeal*).

Dated this day of 19 .

(*To be signed by the party appealing or by his solicitor.*)

To:— ."

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
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ARRANGEMENT OF RULES

Rule
1. Citation, commencement and interpretation.
2. Applications for leave to present a petition.
3. Commencement of proceedings.
4. Form of petition.
5. Co-respondent and interveners.
6. Affidavit in support of petition.
7. Notice of petition and notice of proceedings.
8. Notice of application for ancillary relief.
9. Service of petition, originating summons and notice of application for ancillary relief.
10. Service out of the jurisdiction.
11. Proof of service.
12. Service of other documents.
13. Entry of appearance.
14. Form of appearance.
15. Amended and supplemental petitions.
16. Answer.
17. Form of answer, parties cited, and service of answer.
18. Reply.
19. Amendment of originating summons, etc.
20. Pleadings out of time.
21. Particulars.
22. Delivery of subsequent pleadings.
23. Discovery.
24. Medical inspection.
25. Evidence.
26. Staying proceedings for restitution.
27. Trial of issues.
28. Discretion statement.
29. Mode of trial.
30. Registrar's certificate and directions for trial.
31. Setting down for trial.