

1970 No. 1865

MATRIMONIAL CAUSES

COUNTY COURTS

The Matrimonial Causes (Costs) (Amendment No. 2) Rules 1970

<i>Made - - - -</i>	<i>10th December 1970</i>
<i>Laid before Parliament</i>	<i>18th December 1970</i>
<i>Coming into Operation</i>	<i>11th January 1971</i>

We, the authority having power to make rules of court for the purposes mentioned in section 7(1) of the Matrimonial Causes Act 1967(a), hereby exercise that power as follows:—

1.—(1) These Rules may be cited as the Matrimonial Causes (Costs) (Amendment No. 2) Rules 1970 and shall come into operation on 11th January 1971.

(2) In these Rules unless the context otherwise requires, a rule referred to by number means the rule so numbered in the Matrimonial Causes (Costs) Rules 1968(b), as amended (c).

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

2. In rule 2(1) for the words “section 32(1)(a) of the Act of 1965” there shall be substituted the words “section 16(1)(a) of the Act of 1970” and for the words “scale 4 (divorce)” there shall be substituted “the divorce scale”.

3. In rule 4(9) for the words “Paragraphs (1) and (2)” there shall be substituted the words “Paragraphs (1), (2) and (3)”.

4. The following rule shall be substituted for rule 5:—

“Scale of costs of matrimonial proceedings in divorce county court

5. The costs of matrimonial proceedings in a divorce county court, other than proceedings for or incidental to the enforcement of an order for the payment of money, shall be on the divorce scale.”

5. Rule 6 shall be amended as follows:—

(1) In paragraph (1) for the words “the items specified” to the end there shall be substituted the words “the following items in the divorce scale, namely items 1, 2, 3, 6, 7, 8, 9, 19, 21, 26, 27, 30 and 31”.

(a) 1967 c. 56.

(b) S.I. 1968/281 (1968 I, p. 810).

(c) There are no relevant amendments.

(d) 1889 c. 63.

(2) The following paragraph shall be added at the end:—

“(4) C.C.R. Order 47, rule 29(2), shall apply to matrimonial proceedings as it applies to an action or matter in which the costs are on scale 3 or 4”.

6. Rule 7 shall be amended as follows:—

(1) In paragraph (1) for the definitions of “consent order for maintenance” and “higher rate case” there shall be substituted the following definitions:—

“ ‘consent order for maintenance’ means an order for maintenance pending suit, a periodical payments order or a lump sum order, made or to be made in terms agreed upon by the parties or under rule 82 of the principal rules;

‘higher rate case’ means a cause in which the petitioner alleges any such fact as is mentioned in paragraph (b) or (e) of section 2(1) of the Act of 1969, or alleges any such facts as are mentioned in two or more paragraphs of the said section 2(1), or prays for a decree of nullity”.

(2) In paragraph (2) for the words “divorce or judicial separation” there shall be substituted the words “divorce, judicial separation or nullity of marriage” and after the words “with costs” there shall be inserted the words “whether as between party and party or not”.

(3) The following paragraph shall be substituted for paragraph (3):—

“(3) Where costs are fixed, there shall be allowed as between party and party such of the following items as are applicable:—

(a) in respect of solicitors’ charges—

(i) if counsel was briefed at the hearing, £47 or, in a higher rate case, £50.10s. (£50·50);

(ii) if counsel was not briefed at the hearing, £55 or, in a higher rate case, £58.10s. (£58·50);

(iii) if the petitioner’s solicitor so requests, £6.10s. (£6·50) in respect of any ancillary application on which a consent order for maintenance has been made;

(iv) £2 in respect of any statement as to the arrangements for the children filed under rule 9(3) of the principal rules;

(v) where an affidavit of means has been filed under rule 9(4) of the principal rules, £2.5s. (£2·25) or, if the affidavit has been settled by counsel, £2.15s. (£2·75); and

(vi) £1 in respect of any certificate as to reconciliation filed under rule 12(3) of the principal rules;

(b) in respect of counsel’s fees—

(i) for settling the petition, £3.10s. (£3·50) or, in a higher rate case, £4.10s. (£4·50);

(ii) for settling an affidavit of means filed under rule 9(4) of the principal rules, £3;

(iii) for giving written advice on evidence, £3.10s. (£3·50);

(iv) with brief on hearing £10 and, where there is no local Bar in the court town or within 25 miles thereof, a further sum of £4; and

(v) on conference, £2.10s. (£2·50):

(c) in respect of other disbursements—

- (i) the court fees paid on the petitioner's behalf;
- (ii) such sums in respect of witnesses' allowances, medical reports and the other disbursements mentioned in items 32, 33 and 34 of the divorce scale as would have been allowed if the costs had been taxed, not exceeding, in the case of inquiry agents' fees, the sum of £25.

(4) In paragraph (4), for the words "£5", "£3" and "£2.4s.6d." there shall be substituted the words "£6", "£3.10s. (£3.50)" and "£3" respectively.

7. The Appendix to the Matrimonial Causes (Costs) Rules 1968 shall be amended as follows:—

(1) In the title for the words "SCALE 4 (DIVORCE)" there shall be substituted the words "DIVORCE SCALE".

(2) After the number of each of the following items there shall be inserted an asterisk:—

items 1, 2, 3, 6, 7, 8, 9, 19, 21, 26, 27, 30 and 31;

and at the end of the Appendix there shall be inserted the following note:—

"*These items are subject to increase under rule 6(1)".

(3) Paragraphs (iv) and (v) of item 1 shall be omitted.

(4) In item 4(b) for the words "per folio" there shall be substituted the words "per two folios".

(5) Item 29 shall be amended as follows:—

(a) after the words "was necessary" there shall be inserted the words "for each half hour or part thereof";

(b) the words "and, in addition, for every hour or part thereof after the first hour" (twice) and the sums relating thereto shall be omitted.

(6) In the items mentioned in the following table for the sum shown in column 1 there shall be substituted the sum shown in column 2 together with, in the case of a sum not expressed in whole pounds, the decimal equivalent shown in column 3:—

Item No.	Column 1	Column 2	Column 3
	£ s. d.	£ s. d.	£
1	{ 15 0	{ 1 0 0	
	{ to 1 10 0	{ to 2 0 0	
2	{ 1 10 0	{ 1 10 0	1.50 to 8.00
	{ to 7 10 0	{ to 8 0 0	
3(a)	{ 15 0	{ 1 0 0	
	{ to 3 0 0	{ to 3 0 0	
3(b)	5 0	10 0	.50
	1 0	2 0	.10

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<i>Item No.</i>	<i>Column 1</i> £ s. d.	<i>Column 2</i> £ s. d.	<i>Column 3</i> £
4(b)	3	1 0	.05
4(c)	6	1 0	.05
6(a)	40 0 0	45 0 0	
9(a)	{ 1 0 0 to 7 10 0	{ 1 0 0 to 9 0 0	
9(b)	{ 1 0 0 to 3 0 0	{ 1 0 0 to 4 10 0	1.00 to 4.50
13(a)	10 0	1 0 0	
13(b)	10 0	1 0 0	
13(c)	5 0	10 0	.50
15(a)	1 0 0	2 0 0	
15(b)	10 0	1 0 0	
16	5 0	10 0	.50
17	5 0	10 0	.50
18	5 0	10 0	.50
20	2 0	5 0	.25
24	5 0	10 0	.50
25	2 0	5 0	.25
26(a)	{ 1 10 0 to 5 0 0	{ 2 0 0 to 6 0 0	
26(b)	{ 1 10 0 to 5 0 0	{ 2 0 0 to 6 0 0	
26(c)	{ 15 0 to 1 10 0	{ 1 0 0 to 2 0 0	
27(a)	{ 7 12 0 to 27 0 0	{ 7 10 0 to 28 0 0	7.50 to 28.00
27(b)	{ 5 10 0 to 27 0 0	{ 5 10 0 to 30 0 0	5.50 to 30.00
28	2 4 6	4 0 0	
29	2 7 0 3 8 0	2 10 0 3 10 0	2.50 3.50
30(a)	{ 3 5 6 to 13 2 0	{ 3 0 0 to 15 0 0	

<i>Item No.</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	£ s. d.	£ s. d.	£
30(b)	$\left\{ \begin{array}{l} 2 \ 4 \ 6 \\ \text{to} \\ 7 \ 12 \ 0 \end{array} \right.$	$\left\{ \begin{array}{l} 3 \ 0 \ 0 \\ \text{to} \\ 8 \ 0 \ 0 \end{array} \right.$	
31(a)	$\left\{ \begin{array}{l} 2 \ 4 \ 6 \\ \text{to} \\ 7 \ 12 \ 0 \end{array} \right.$	$\left\{ \begin{array}{l} 3 \ 0 \ 0 \\ \text{to} \\ 8 \ 0 \ 0 \end{array} \right.$	
31(b)	$\left\{ \begin{array}{l} 2 \ 4 \ 6 \\ \text{to} \\ 7 \ 12 \ 0 \end{array} \right.$	$\left\{ \begin{array}{l} 3 \ 0 \ 0 \\ \text{to} \\ 8 \ 0 \ 0 \end{array} \right.$	

8.—(1) Any costs which fall to be taxed or fixed by virtue of an order made after the date of the coming into operation of these Rules shall be taxed or fixed, as the case may be, as if all the work to which the costs relate had been done after that date.

(2) The definition of “higher rate case” substituted by rule 6(1) of these Rules shall apply, in relation to a petition for divorce or judicial separation, only if the petition is presented on or after 1st January 1971.

(3) Except as aforesaid, nothing in these Rules shall apply to anything done before the date on which they come into operation.

Dated 10th December 1970.

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EXPLANATORY NOTE

(This Note is not part of the Rules.)

These rules make minor alterations in the costs of undefended matrimonial proceedings in consequence of the introduction of new scales of costs in ordinary county court cases and the coming into force of the Divorce Reform Act 1969 (1969 c. 55), the Matrimonial Proceedings and Property Act 1970 (1970 c. 45) and the Matrimonial Causes (Amendment No. 3) Rules 1970 (S.I. 1970/1349). They also enable fixed costs to be allowed where a decree of nullity is granted and enlarge the classes of disbursements which may be allowed as part of fixed costs.

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