

## 1986 No. 634

**MATRIMONIAL CAUSES  
SUPREME COURT OF ENGLAND AND WALES  
COUNTY COURTS**

**The Matrimonial Causes (Amendment) Rules 1986**

<i>Made</i> - - - -	<i>26th March 1986</i>
<i>Laid before Parliament</i>	<i>7th April 1986</i>
<i>Coming into Operation</i>	<i>28th April 1986</i>

We, the authority having power to make rules of court for the purposes mentioned in section 50 of the Matrimonial Causes Act 1973(a), hereby exercise that power as follows—

**1.**— (1) These Rules may be cited as the Matrimonial Causes (Amendment) Rules 1986 and shall come into operation on 28th April 1986.

(2) In these Rules, except where the context otherwise requires, a rule referred to by number means the rule so numbered in the Matrimonial Causes Rules 1977(b).

**2.** Rule 2(2) shall be amended as follows—

- (a) the words “the Act of 1967” means the Matrimonial Causes Act 1967(c) shall be omitted;
- (b) in the definition of “cause”, for the words “10(1) of the Act of 1967” there shall be substituted the words “32 of the Act of 1984”;
- (c) in the definitions of “court of trial” and “divorce county court”, for the words “1(1) of the Act of 1967” there shall be substituted the words “33(1) of the Act of 1984”;
- (d) before the definition of “financial provision order” there shall be inserted—
 

“document exchange” means any document exchange for the time being approved by the Lord Chancellor;
- (e) in the definition of “Royal Courts of Justice”, for the words “4(2)(a) of

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(a) 1973 c.18.  
 (b) S.I. 1977/344; relevant amending instruments are S.I. 1978/527, 1981/1099, 1984/1511 and 1985/1315.  
 (c) 1967 c.56.

the Act of 1967” there shall be substituted the words “42(2)(a) of the Act of 1984”.

3. In rule 4, the following shall be substituted for the second sentence of paragraph (1)—

“In this paragraph “matrimonial proceedings” includes—

- (a) proceedings for the exercise of any power under section 27 or 35 of the Act of 1973; and
- (b) proceedings for the exercise of any other power under Part II or III of that Act if, but only if, the power is exercisable in connection with any petition, decree or order pending in or made by, or treated as pending in or made by, a divorce county court.”.

4. Rule 18(5) shall be revoked.

5. Rule 27 shall be revoked.

6. Rule 28(1) shall be amended by inserting after the word “petition” the words “and pending in the High Court”.

7. Rule 29(1) shall be amended by inserting after the word “petition” the words “and pending in the High Court”.

8. For rule 32 there shall be substituted the following rule—

*“Orders for transfers of matrimonial proceedings and causes*

32.— (1) Where a cause is pending in the High Court, the registrar of the registry in which the cause is pending or a judge may order that the cause be transferred to another registry.

(2) Where a cause is pending in a divorce county court, the court may order that the cause be transferred to another divorce county court.

(3) The court shall not, either of its own motion or on the application of any party, make an order under paragraph (1) or (2) unless the parties have either (a) had an opportunity of being heard on the question, or (b) consented to such an order.

(4) Where the parties, or any one of them, desire to be heard on the question of a transfer, the court shall give the parties notice of a date, time and place at which the question will be considered.

(5) Paragraphs (3) and (4) shall apply with the necessary modifications to an order for the transfer of matrimonial proceedings under section 38 or 39 of the Act of 1984 as they apply to an order under paragraph (1) or (2) of this rule.”.

9. For rule 33(4) there shall be substituted the following paragraphs—

“(4) In the case of a defended cause the registrar may treat the request for

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directions for trial as a summons or application for directions so as to enable him to give such directions with regard to—

- (a) the future course of the cause, and
- (b) any application made therein for ancillary relief or for an order relating to a child,

as appear best adapted to secure the just, expeditious and economical disposal thereof; and he shall give the parties notice of a date, time and place at which the request will be considered.

(5) In any other case the registrar shall give directions for trial by setting the cause down for trial and giving notice that he has done so to every party to the cause.”.

10. In rule 34(7), for the words after the word “place” the second time it occurs, there shall be substituted the words “and the estimated length of the trial.”.

11. For rule 43(4) there shall be substituted the following paragraph—

“(4) A judge or the district registrar of the registry for the divorce town at which any cause has been set down for trial may, where it appears to him that the cause cannot conveniently be tried at that town, order that it be tried at some other divorce town; and rule 32(3) and (4) shall apply to such an order as it applies to an order under paragraph (1) of that rule.”.

12. Rule 46(4) shall be amended by inserting after the word “cause” the words “pending in the High Court”.

13. In rule 61(1) a full stop shall be inserted after the word “pronounced”, and the remainder of the paragraph shall be omitted.

14. Rule 62(8) shall be revoked.

15. Rule 63 shall be revoked.

16. For rule 80 there shall be substituted the following rule—

*“Transfer of application for ancillary relief*

**80.**— (1) Where an application for ancillary relief is pending in the High Court, the registrar of the registry in which the application is pending or a judge may order that the application be transferred to another registry; but before making such an order the registrar or judge, as the case may be, shall consider whether it would be more convenient to transfer the cause under rule 32(1).

(2) Where an application for ancillary relief is pending in a divorce county court, the court may order that the application be transferred to another divorce county court; but before making such an order the court shall

consider whether it would be more convenient to transfer the cause under rule 32(2).

(3) Rule 32(3) and (4) shall apply to orders under paragraphs (1) and (2) of this rule as it applies to orders under paragraphs (1) and (2) of that rule.”.

17. Rule 81 shall be revoked.

18. For rule 97 there shall be substituted the following rule—

*“Transfer of proceedings relating to children*

**97.** Rule 80 shall apply to proceedings for the exercise of any power under Part III of the Act of 1973 as it applies to an application for ancillary relief.”.

19. Rule 103(1) shall be amended as follows—

- (a) for the words “rules 80 to 82” there shall be substituted the words “rules 80 and 82”;
- (b) for the words “rules 80(9) and (10)” there shall be substituted the words “rules 80”.

20. Rule 105 shall be revoked.

21. For rule 106 there shall be substituted the following rule—

*“Exercise in divorce registry of county court jurisdiction under section 17 of Act of 1882, etc.*

**106.—** (1) Where any proceedings for divorce, nullity or judicial separation which are either pending in the divorce registry, or are intended to be commenced there by or on behalf of the applicant, are or will be treated as pending in a divorce county court, an application under section 17 of the Act of 1882 by one of the parties to the marriage may be made to the divorce registry as if it were a county court.

(2) In relation to proceedings commenced or intended to be commenced in the divorce registry under paragraph (1) of this rule or transferred from the High Court to the divorce registry by an order made under section 38 of the Act of 1984—

- (a) section 42 of the Act of 1984 and the rules made thereunder shall have effect, with the necessary modifications, as they have effect in relation to proceedings commenced in or transferred to the divorce registry under that section; and
- (b) C.C.R. Order 2, rule 13 (which relates to venue), and C.C.R. Order 46, rule 11(2) (which deals with reference to the registrar), shall not apply, and a registrar may exercise the jurisdiction conferred on a circuit judge by the said section 17 subject to the right of appeal conferred by C.C.R. Order 37, rule 5.

(3) In the case of proceedings intended to be commenced in the divorce registry under paragraph (1) of this rule, rule 4(1) shall apply with the necessary modifications.”.

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22. For rule 107(7) there shall be substituted the following paragraphs—

“(7) A divorce county court in which an application for an order under the said Schedule is pending may order the transfer of the application to another divorce county court; and rule 32(3) and (4) shall apply to such an order as it applies to orders under paragraph (2) of that rule.

(8) Before making an order for the transfer of an application under paragraph (7) the court shall consider whether it would be more convenient to transfer the cause under rule 32(2).

(9) Unless the court otherwise directs, a transfer of the cause in which a decree is sought or granted shall include a transfer of the application.”.

23. For rules 118 and 119 there shall be substituted the following rules—

*“Service on Solicitors*

**118.**— (1) Where a document is required by these rules to be sent to any person who is acting by a solicitor, service shall, subject to any other direction or order, be effected—

(a) by sending the document by first class post to the solicitor’s address for service; or

(b) where that address includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents daily to that document exchange.

(2) Any document which is left at a document exchange in accordance with paragraph (1)(b) shall, unless the contrary is proved, be deemed to have been served on the second day after the day on which it is left.

(3) Where no other mode of service is prescribed, directed or ordered, service may additionally be effected by leaving the document at the solicitor’s address.

*Service on Person Acting in Person*

**119.**— (1) Subject to paragraph (3) and to any other direction or order, where a document is required by these rules to be sent to any person who is acting in person, service shall be effected by sending the document by first class post to the address for service given by him or, if he has not given an address for service, to his last known address.

(2) Subject to paragraph (3), where no other mode of service is prescribed, directed or ordered, service may additionally be effected by delivering the document to him or by leaving it at the address specified in paragraph (1).

(3) Where it appears to the registrar that it is impracticable to deliver the document to the person to be served and that, if the document were left at, or sent by post to, the address specified in paragraph (1), it would be unlikely to reach him, the registrar may dispense with service of the document.”.

24. In rule 121(1), after the words “the address written on the letter” there shall be inserted the words “or, as the case may be, the number of the box at the document exchange.”

Dated 26th March 1986.

*Hailsham of St. Marylebone, C.  
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#### EXPLANATORY NOTE

*(This Note is not part of the Rules.)*

The entry into force of sections 32 to 39, 42 and 43 of the Matrimonial and Family Proceedings Act 1984 (c.42) means that the distribution and transfer of matrimonial proceedings as between the High Court and county courts will be governed by a new statutory code, supplemented by directions given by the President of the Family Division. These Rules revoke the provisions of the Matrimonial Causes Rules 1977 which previously governed the distribution and transfer of these matters between the High Court and county courts, make necessary amendments to the rules governing transfers between different parts of the High Court or different divorce county courts, and rationalise the procedure for all such transfers. Corresponding provisions are made for applications for ancillary relief, proceedings relating to children and applications under Schedule 1 to the Matrimonial Homes Act 1983 (c.19).

The Rules make amendments consequential on the entry into force of those provisions of the 1984 Act which replace the Matrimonial Causes Act 1967 which is repealed.

In addition—

- (a) the rules governing the county court jurisdiction of the Principal Registry of the Family Division are brought into line with the provisions of the 1984 Act (rules 3 and 21); and
- (b) service of documents through document exchanges is for most purposes recognised as good service (rules 2, 23 and 24).



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