

1970 No. 29 (L.2)

**MATRIMONIAL CAUSES  
SUPREME COURT OF JUDICATURE, ENGLAND  
COUNTY COURTS**

**The Matrimonial Causes (Amendment) Rules 1970**

|                               |   |   |   |                           |
|-------------------------------|---|---|---|---------------------------|
| <i>Made</i>                   | - | - | - | <i>12th January 1970</i>  |
| <i>Laid before Parliament</i> |   |   |   | <i>20th January 1970</i>  |
| <i>Coming into Operation</i>  |   |   |   | <i>16th February 1970</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 (Amendment) Rules 1970 and shall come into operation on 16th February 1970.

(2) In these Rules a rule referred to by number means the rule so numbered in the Matrimonial Causes 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. The following paragraph shall be added to rule 9 :—

“(8) A petitioner who, in reliance on section 11 or 12 of the Civil Evidence Act 1968(e), intends to adduce evidence that a person—

(a) was convicted of an offence by or before a court in the United Kingdom or by a court-martial there or elsewhere, or

(b) was found guilty of adultery in matrimonial proceedings or was adjudged to be the father of a child in affiliation proceedings before a court in the United Kingdom,

must include in his petition a statement of his intention with particulars of—

(i) the conviction, finding or adjudication and the date thereof,

(ii) the court or court-martial which made the conviction, finding or adjudication and, in the case of a finding or adjudication, the proceedings in which it was made, and

(iii) the issue in the proceedings to which the conviction, finding or adjudication is relevant.

3. Rule 21 shall be amended as follows :—

(1) The following paragraphs shall be inserted after paragraph (4) :—

“(5) Rule 9(8) shall apply with the necessary modifications to a pleading other than a petition as it applies to a petition.

(a) 1967 c. 56.

(b) S.I. 1968/219 (1968 I, p. 665).

(c) There are no relevant amendments.

(d) 1889 c. 63.

(e) 1968 c. 64.

(6) Where a party's pleading includes such a statement as is mentioned in rule 9(8), then if the opposite party—

(a) denies the conviction, finding or adjudication to which the statement relates, or

(b) alleges that the conviction, finding or adjudication was erroneous, or

(c) denies that the conviction, finding or adjudication is relevant to any issue in the proceedings,

he must make the denial or allegation in his pleading.”

(2) Paragraph (5) shall stand as paragraph (7).

4. Paragraph (4) of rule 28 shall be omitted.

5. Paragraph (2) of rule 29 shall be omitted and paragraph (3) of that rule shall stand as paragraph (2).

6. In rule 38 for the words “Evidence Act 1938” there shall be substituted the words “Civil Evidence Act 1968”.

7. After rule 42 there shall be inserted the following rule :—

*“Hearsay evidence*

42A.—(1) R.S.C. Order 38, rules 20 to 33, shall apply in relation to a defended cause as if in rule 21—

(a) for the reference in paragraph (4) to Order 38, rule 3, there were substituted a reference to rule 39 of these Rules ;

(b) paragraph (5) were omitted.

(2) Unless in any particular case the court otherwise directs—

(a) R.S.C. Order 38, rule 21(1), shall not apply in relation to an undefended cause pending in the High Court ;

(b) C.C.R. Order 20, rule 21(1), shall not apply in relation to an undefended cause pending in a divorce county court.

and where the court otherwise directs, then—

(i) if the cause is pending in the High Court, paragraph (1) shall apply as it applies in the case of a defended cause ;

(ii) if the cause is pending in a divorce county court, C.C.R. Order 20, rules 20 to 30, shall apply as if paragraph (2) of rule 21 were omitted”.

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Dated 12th January 1970.

EXPLANATORY NOTE

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

These Rules amend the Matrimonial Causes Rules 1968 for the purposes of the Civil Evidence Act 1968. Rules 2 and 3 specify the particulars to be included in a petition or other pleading where it is intended to put in evidence (by virtue of section 11 or 12 of the Act) a previous conviction, finding of adultery or adjudication of paternity. Rules 4 and 5 delete from the Rules of 1968 the restrictions on the making of an order against a party for the discovery or production of any document, or the service of any interrogatory, which may tend to show that he has been guilty of adultery. Rule 7 applies, with modifications, the provisions of the Rules of the Supreme Court and the County Court Rules with regard to the procedure to be followed where a party intends to adduce hearsay evidence under Part I of the Act. He will not have to give notice of his intention in an undefended cause, unless the court otherwise directs.

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