

Orders of the Royal Court.



I
1980

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 5th day of February, 1980, before Sir John Loveridge, Kt., C.B.E., Bailiff; present:— Stanley Walter Gavey, Esquire, O.B.E., Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Sydney Haydn Heard, Esquire, M.B.E., and Brian Ernest Herbert Joy, Esquire, Jurats.

No. 1 Order, 1980

ENTITLED

The Matrimonial Causes (Amendment) Rules, 1980

THE ROYAL COURT, in exercise of the powers conferred upon it by Article 6 of the Matrimonial Causes Law (Guernsey) 1939(a), as amended, and by Article 64 of the Reform (Guernsey) Law, 1948(b), and of all other powers enabling it in that behalf, hereby orders:—

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- (a) Ordres en Conseil Vol. XI, p. 318; Vol. XII, p. 278; Vol. XIII, p. 38; Vol. XV, p. 422; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489 and No. VI of 1979.
(b) Ordres en Conseil Vol. XIII, p. 288.

1. The Rules of Court set out in the Schedule to the Matrimonial Causes Rules, 1952, as amended(c), are hereby further amended as follows:

- (a) in Rule 3 thereof paragraphs (2), (3) and (4) are repealed and the following paragraphs numbered “(2)”, “(3)”, “(4)” and “(4A)” are substituted therefor—

“(2) Every petition in a matrimonial suit in which the Court is alleged to have jurisdiction based on domicil shall state—

- (a) the country in which the petitioner is domiciled; and
(b) if that country is not the Bailiwick, the country in which the respondent is domiciled.

(3) Every petition in a matrimonial suit in which the Court is alleged to have jurisdiction based on habitual residence shall state—

- (a) the country in which the petitioner has been habitually resident throughout the period of one year ending with the date of the presentation of the petition; or
(b) if the petitioner has not been habitually resident in the Bailiwick, the country in which the respondent has been habitually resident during that period:

with details in either case, including the addresses of the places of residence and the length of residence at each place.

(4) Every petition in a matrimonial suit shall state whether or not there are or

(c) Orders of the Royal Court Vol. 1, p. 64; No. I of 1973 and No. II of 1973.

have been any other proceedings in any court in the Bailiwick or elsewhere with reference to the marriage or to any children of the marriage or between the petitioner and the respondent with reference to any property of either or both of them and if so—

- (a) the nature of the proceedings;
- (b) the date and effect of any decree or order; and
- (c) in the case of any proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the decree or order.

(4A) A petition for divorce, judicial separation or nullity of marriage shall state whether there are any proceedings continuing in any country outside the Bailiwick which relate to the marriage or are capable of affecting its validity or subsistence and, if so—

- (a) particulars of the proceedings, including the court in or tribunal or authority before which they were begun;
- (b) the date when they were begun;
- (c) the names of the parties;
- (d) the date or expected date of any trial in the proceedings; and
- (e) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979;

and such proceedings shall include any which are not instituted in a court of law in that country if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status and shall be treated as continuing if they have been begun and have not been finally disposed of.”;

- (b) paragraph (6) of Rule 5 thereof is repealed;
- (c) immediately after paragraph (1) of Rule 18 thereof there is inserted the following additional paragraph numbered “(1A)”—

“(1A) Where an answer to any petition contains a prayer for relief, it shall contain the information required by paragraph (4A) of Rule 3 in the case of the petition in so far as it has not been given by the petitioner.”;

- (d) immediately after Rule 40 thereof there is inserted the following additional Rule numbered “40A”—

“Rule 40A—Stay under the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979.

(1) An application by the petitioner or respondent in proceedings for divorce for an order under paragraph 7 of the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979 (in this Rule referred to as “the Schedule”) shall be made to the Court for its decision as if it were an application for ancillary relief.

(2) An application in proceedings for divorce, judicial separation or nullity of marriage for an order under paragraph 8 of the Schedule shall be made to the Court for its decision as if it were an application for ancillary relief.

(3) Where, in proceedings for divorce, judicial separation or nullity of marriage, it appears to the Court from any information given pursuant to paragraph (4A) of Rule 3 or paragraph (1A) of Rule 18 or paragraph (4) of this Rule that any proceedings which are in respect of the marriage in question or which are capable of affecting its validity or subsistence are continuing in any country outside the Bailiwick and the Court considers that the question whether the proceedings on the petition should be stayed under paragraph 8 of the Schedule ought to be determined by the Court, the Court shall consider the question for its decision as if it were an application for ancillary relief; and in this paragraph the reference to proceedings continuing in any country outside the Bailiwick has the same meaning as in paragraph (4A) of Rule 3.

(4) Where in proceedings for divorce, judicial separation or nullity of marriage which are continuing in the Court there has been a change in the information given by a party to the proceedings pursuant to paragraph (4A) of Rule 3 or paragraph (1A) of Rule 18

that party shall file a statement giving particulars of the change by sending it by pre-paid registered post to, or by leaving it with, Her Majesty's Greffier and notice thereof shall, unless the Court otherwise directs, be served by that party on every opposite party who has entered an appearance.

(5) An application by a party to the proceedings for an order under paragraph 9 of the Schedule shall be made to the Court for its decision as if it were an application for ancillary relief.

(6) The hearing of any application under this Rule shall be heard in camera unless otherwise directed by the Court.”;

(e) in the Appendix thereto in Form 1A thereof—

(i) paragraph (3) thereof is repealed and the following paragraph is substituted therefor—

“ (3) *(In the case of a petition for divorce, judicial separation, nullity of marriage or presumption of death and dissolution of marriage where it is alleged that the Court has jurisdiction based on domicil) The petitioner is domiciled in the Bailiwick (or The petitioner is domiciled in and the respondent is domiciled in the Bailiwick) (or, where it is alleged that the Court has jurisdiction based on habitual residence) The*

petitioner has (or The respondent has) (or The petitioner and the respondent have) been habitually resident in the Bailiwick throughout the period of one year ending with the date of the presentation of the petition (or as the case may be) (*give details of the habitual residence relied on including the addresses of places of residence during the one year period and the length of residence at each place*); the petitioner is a (*state occupation*) (and resides at) and the respondent is a (*state occupation*) (and resides at).”;

- (ii) immediately after paragraph (9) thereof there is inserted the following additional paragraph numbered “(9A)”—

“(9A) There are no proceedings continuing in any country outside the Bailiwick which are in respect of the marriage or are capable of affecting its validity or subsistence (except (*give particulars of the proceedings, including the court in or tribunal or authority before which they were begun, the date when they were begun, the names of the parties, the date or expected date of any trial in the proceedings and such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979*)).”.

Savings for petitions presented before these Rules came into force.

2. These Rules (including the repeals and amendments made by them) shall not have effect in relation to any petition in a matrimonial suit presented before the coming into force of these Rules.

Citation.

3. These Rules may be cited as the Matrimonial Causes (Amendment) Rules, 1980.

Collective title.

4. These Rules and the Matrimonial Causes Rules, 1952 and 1973, may be cited together as the Matrimonial Causes Rules, 1952 to 1980.

Commencement.

5. These Rules shall come into force on the first day of March, nineteen hundred and eighty.

R. H. VIDELO,

Her Majesty's Greffier.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.

PRICE 20p