

No. 524.

THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 1953.

A. B. WRIGHT,
Governor.

In exercise of the powers conferred by section 37 of the Courts of Justice (Supplementary Provisions) Law, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules of Court :—

1. These Rules of Court may be cited as the Matrimonial Causes (Amendment) Rules, 1953, and shall be read as one with the Matrimonial Causes Rules, 1936 (hereinafter referred to as "the principal Rules") and the principal Rules and these Rules may together be cited as the Matrimonial Causes Rules, 1936 and 1953.

2. Rule 1 of the principal Rules is hereby amended as follows :—

- (a) by the deletion of sub-paragraph (7) of paragraph (A);
- (b) by the insertion in paragraph (A) immediately after sub-paragraph (6) of the following sub-paragraphs :—

"(7) Where adultery is alleged, whether the petitioner has in any way been accessory to or connived at or condoned the adultery, and, where cruelty is alleged, whether the petitioner has condoned the cruelty ;

(8) Whether (except in the case of a petition for restitution of conjugal rights) the petition is presented or prosecuted in collusion with the respondent or any of the co-respondents." ;

- (c) by the substitution for paragraph (B) of the following paragraph :—

"(B)—(1) The petition shall conclude with a prayer setting out particulars of the relief claimed, including the amount of any claim for damages, any claim for costs, and, in appropriate cases, a prayer that the Court will exercise its discretion to grant a decree *nisi* notwithstanding the adultery of the petitioner during the marriage.

The prayer may also include a claim for—

- (a) custody of the children of the marriage ;
- (b) alimony pending suit ;
- (c) maintenance of the children ;
- (d) maintenance ; or
- (e) a secured provision.

(2) Every petition shall, if settled by an advocate, be signed by him. If not settled by an advocate, it shall be signed by the petitioner."

3. For paragraph (B) of Rule 3 of the principal Rules there shall be substituted the following paragraph :—

"(B) Where the petition contains an allegation of desertion without cause for a period of at least three years immediately preceding the presentation of the petition, this Rule shall be deemed to be complied with if the affidavit is sworn not more than fourteen days before the petition is filed, or such longer time as may be allowed by a Judge, having regard to the circumstances of the case."

4. For Rule 74 of the principal Rules there shall be substituted the following Rule :—

"74. Application for an order for a settlement of property of a wife under the powers contained in section 24 of the Matrimonial Causes Act, 1950 (14 Geo. 6, c. 25) shall be made and proceeded with in the manner prescribed in Rule 73 with regard to applications for variation of settlements."

5. For Rule 89 of the principal Rules there shall be substituted the following Rule:—

“ 89. In divorce and matrimonial causes advocates shall be entitled to charge and be allowed costs at the rates set forth in Part II of Appendix C to the Rules of Court, 1938 to (No. 2) 1953, for civil actions between one hundred and two hundred pounds, proceedings in the first instance being treated as if they were matters before the District Court.”

Gazettes :
Supplement
 No. 3 :
 1.6.1938
 to
 2.9.1953.

6. Rule 96 of the principal Rules is hereby revoked.

7. The principal Rules are hereby amended by the insertion therein immediately after Rule 95 of the following Rules:—

“ 96.—(1) No petition shall be in force for more than twelve months from the day of its issue including that day ; but if the respondent or co-respondent named in it has not been served, the petitioner may, before the twelve months expire, apply for an order to renew the petition ; and a Judge, if satisfied that reasonable efforts have been made to serve such respondent or co-respondent, or for other good reasons, may order that the petition be renewed for six months from the date of such renewal inclusive, and so from time to time during the currency of the renewed petition. And the petition shall in such case be marked in red ink by the Chief Registrar with the words “ Renewed by order dated theday of....., 19..... ”, or words to the like effect.

(2) After a petition is renewed every office copy used for service shall bear a copy of the words on the original petition indicating that it has been renewed.

96A.—(1) If the respondent or co-respondent shall fail to appear within the time limited for appearance, and the petitioner shall fail to proceed upon such default for one month after the expiration of the time so limited, a Judge may direct the Chief Registrar to give notice to the petitioner requiring him so to proceed within fourteen days after the giving of the notice, and informing him that upon failure so to proceed within the fourteen days aforesaid the petition shall stand dismissed for want of prosecution.

(2) Upon failure so to proceed within the fourteen days aforesaid, or within such extended time as may be allowed, the petition shall stand dismissed for want of prosecution but without prejudice to the filing of a fresh petition, and the Chief Registrar shall forthwith lay the file of the petition before a Judge, who shall endorse it with a note to that effect.

(3) The notice from the Chief Registrar mentioned in paragraph (1) of this Rule shall be served at the petitioner's address for service, and a copy thereof shall be sent by post to the petitioner, if he has furnished an address in Cyprus ; and the fourteen days mentioned in the notice shall be reckoned as from the day of service or posting, whichever be the later. An affidavit of service and posting shall be filed.

96B.—(1) If the respondent or co-respondent shall fail to file in the Registry an answer to the petition within the time allowed for that purpose, and the petitioner shall fail to proceed upon such default for one month after the expiration of the time so limited, a Judge may direct the Chief Registrar to give notice to the petitioner requiring him so to proceed within fourteen days after the giving of the notice, and informing him that upon failure so to proceed within the fourteen days aforesaid the petition shall stand dismissed for want of prosecution.

(2) Upon failure so to proceed within the fourteen days aforesaid, or within such extended time as may be allowed, the petition shall stand dismissed for want of prosecution but without prejudice to the filing of

a fresh petition, and the Chief Registrar shall forthwith lay the file of the petition before a Judge, who shall endorse it with a note to that effect.

(3) The provisions of paragraph (3) of Rule 96A shall apply *mutatis mutandis* to a notice under this Rule.

96c.—(1) If the petitioner shall fail to apply under Rule 32 to set the cause down for trial or hearing for three months after the close of the pleadings, a Judge may direct the Chief Registrar to give notice to the petitioner requiring him to apply under Rule 32 within fourteen days after the giving of the notice and informing the petitioner that upon failure to apply within the fourteen days aforesaid the petition shall stand dismissed for want of prosecution.

(2) Upon failure to apply within the fourteen days aforesaid, or within such extended time as may be allowed, the petition shall stand dismissed for want of prosecution but without prejudice to the filing of a fresh petition, and the Chief Registrar shall lay the file of the petition before a Judge, who shall endorse it with a note to that effect.

(3) The provisions of paragraph (3) of Rule 96A shall apply *mutatis mutandis* to a notice under this Rule”.

8. Appendix I to the principal Rules is hereby amended as follows :—

(a) for Form 1 there shall be substituted the following Form :—

“ FORM 1.—HUSBAND’S PETITION FOR DISSOLUTION OF MARRIAGE. (*Rule 1.*)

In the Supreme Court of Cyprus.

Matrimonial Jurisdiction.

Dated theday of....., 19.....

The petition of A.B. (suing as a poor person—if *this is the case*) showeth—

(1) That your petitioner was on the.....day of....., 19....., lawfully married to C.E. then C.D. spinster (or widow as the case may be) (hereinafter called the respondent) at..... (*here copy accurately the name of the place from the marriage certificate*).

(2) That after his said marriage your petitioner lived and cohabited with the said respondent at..... and at..... (*at least one specific address must be given. If no address given is within the jurisdiction, state this fact*) and that there is no issue of the said marriage, now living or that there is issue of the said marriage, now living..... children, to wit (*here state names and dates of birth of the children*).

(3) That your petitioner resides at (*here give specific address*) and is a (*here state occupation*) and is domiciled in Cyprus. That the said respondent resides at..... and is domiciled in Cyprus.

(4) That neither your petitioner nor the said respondent is a member of the Greek-Orthodox Church nor was their marriage celebrated in accordance with the rites of that church.

(5) That neither your petitioner nor the said respondent is of the Moslem faith nor was their marriage contracted in accordance with the Moslem Sacred Law before the 28th day of May, 1951, nor was it, after that date, solemnized in accordance with the provisions of the Turkish Family (Marriage and Divorce) Law, 1951.

(6) That no previous proceedings with reference to the said marriage have taken place in the Supreme Court of Cyprus by or on behalf of either party to the said marriage (*or set out previous proceedings, the result of same and go on to state that ‘save and except’ these there have been no other proceedings*).