

Women's Charter (Matrimonial Proceedings) (Amendment) Rules 2005

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No. S 227

WOMEN'S CHARTER

(CHAPTER 353)

WOMEN'S CHARTER (MATRIMONIAL PROCEEDINGS) (AMENDMENT) RULES
2005

In exercise of the powers conferred on us by section 139(1) and (2) of the Women's Charter, we, the Judges of the Supreme Court, hereby make the following Rules:

Citation, commencement and application

1.—(1) These Rules may be cited as the Women's Charter (Matrimonial Proceedings) (Amendment) Rules 2005 and shall come into operation on 30th April 2005.

(2) These Rules shall apply to proceedings under Part X of the Women's Charter whether commenced before, on or after 30th April 2005, except that the Rules in force immediately before 30th April 2005 shall continue to apply to any application made by way of summons-in-chambers filed before 30th April 2005 as if these Rules had not come into operation.

Amendment of rule 2

2. Rule 2(1) of the Women's Charter (Matrimonial Proceedings) Rules (R 4) (referred to in these Rules as the principal Rules) is amended by inserting immediately before the definition of "agreed matrimonial property plan", the following definition:

““Affidavit of Assets and Means” means an affidavit in such form as is prescribed under rule 37;”.

Amendment of rule 3

3. Rule 3 of the principal Rules is amended by inserting, immediately after paragraph (2), the following paragraph:

“(3) For the avoidance of doubt, Orders 21, 23, 24, 26 and 26A of the Rules of Court shall not apply to any proceedings under Part X of the Act to which these Rules relate, unless otherwise stated.”.

Deletion and substitution of rule 24

4. Rule 24 of the principal Rules is deleted and the following rule substituted therefor:

“Discovery, inspection of documents and interrogatories

24.—(1) Order 24 of the Rules of Court shall apply, with the necessary modifications, to a defended cause begun by petition or originating summons under

Part X of the Act as it applies to an action begun by writ, except in relation to any claim therein for ancillary relief.

(2) Orders 26 and 26A of the Rules of Court shall apply, with the necessary modifications, to a defended cause begun by petition or originating summons under Part X of the Act as it applies to an action begun by writ, except in relation to any claim therein for ancillary relief.

(3) Rules 24A, 24B, 24C, 24D, 24E, 24F, 24G, 24H, 24I, 24J, 24K, 24L, 24M, 24N and 24O shall apply to all matters involving ancillary relief, arising under any cause begun by petition under Part X of the Act.”.

New rules 24A, 24B, 24C, 24D, 24E, 24F, 24G, 24H, 24I, 24J, 24K, 24L, 24M, 24N and 24O

5. The principal Rules are amended by inserting, immediately after rule 24, the following Rules:

“Discovery in respect of ancillary relief

24A.—(1) Subject to paragraph (9) and rule 24K, the court may, at any time, on the application of any party to a cause or matter, make an order requiring any other party to make an affidavit stating whether any document specified or described in the application or any class of document so specified or described is, or has at any time been, in his possession, custody or power, and if not then in his possession, custody or power, when he parted with it and what has become of it.

(2) Upon the making of an order under paragraph (1), if a document or class of documents is stated by the party in his affidavit to be in his possession, custody or power, the court may order the party to exhibit a copy or copies of the document or class of documents in the affidavit.

(3) An application for an order under this rule must be in such form as the Registrar may direct, and supported by an affidavit stating the belief of the deponent —

- (a) that the party from whom discovery is sought under this rule has, or at some time had, in his possession, custody or power, the document or class of documents specified or described in the application; and
- (b) that the document falls within one of the following descriptions:
 - (i) a document on which the party relies or will rely;
 - (ii) a document which could —

- (A) adversely affect his own case;
 - (B) adversely affect another party's case; or
 - (C) support another party's case; and
- (iii) a document which may lead the party seeking discovery of it to a train of inquiry resulting in his obtaining information which may —
- (A) adversely affect his own case;
 - (B) adversely affect another party's case; or
 - (C) support another party's case.

(4) No application under paragraph (1) may be made without the leave of court in respect of any document or class of documents until the party making the application has served a request on the other party seeking discovery of the said document or class of documents, in such form as the Registrar may direct, at least 14 days before the filing of the application.

(5) The request referred to under paragraph (4) must set out, in respect of each such document or class of documents, the reasons for requesting discovery.

(6) A party who is served with such a written request for discovery shall serve a notice, in such form as the Registrar may direct, within 7 days of having been served with the said request, stating —

- (a) which document or class of documents he is willing to provide discovery of, and in what mode he is willing to provide such discovery; and
- (b) which document or class of documents he is not willing or not able to provide discovery of.

(7) Unless otherwise agreed by parties, the document or class of documents which the party is willing to provide discovery of under paragraph (6)(a) shall be provided or made available, as the case may be, within 14 days of the service of the written request for discovery.

(8) In deciding whether to grant an order under paragraph (1), the court shall take into account the extent of discovery which the party from whom discovery is sought has stated that he is willing to provide under paragraph (6)(a), as well as

any offer made by the party to give particulars or make admissions relating to any matter in question.

(9) An order under paragraph (1) shall not be made in respect of any party before the granting of the decree nisi, or before the Affidavit of Assets and Means has been filed by the petitioner and the respondent, unless, in the opinion of the court —

- (a) the order is necessary to prevent the disposal of a party's assets; or
- (b) the order is made in conjunction with an order preventing the disposal of a party's assets; or
- (c) there is any other exceptional circumstance necessitating the making of the order.

Duty to discover continues throughout proceedings

24B. After the making of any order under rule 24A, the party required to give discovery under any such order shall remain under a duty to continue to give discovery of all documents falling within the ambit of such order until the proceedings in which the order was made are concluded.

Inspection of documents in respect of ancillary relief

24C.—(1) Any party to a cause or matter shall be entitled at any time to serve a notice, in such form as the Registrar may direct, on any other party in whose pleadings or affidavits reference is made to any document, requiring such party to produce that document for the inspection of the party giving the notice and to permit him to take copies thereof.

(2) The party on whom a notice is served under paragraph (1) must, within 7 days after service of the notice, serve on the party giving the notice a notice in such form as the Registrar may direct —

- (a) stating a time within 7 days after the service thereof at which the documents, or such of them as he does not object to produce, may be inspected at a place specified in the notice; and
- (b) stating which (if any) of the documents he objects to produce and on what grounds.

Order for production of documents for inspection

24D.—(1) If a party who is served with a notice under rule 24C(1) —