1975 No. 178

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

Rules of the Supreme Court (Northern Ireland) (No. 3) 1975

Made . . . . . *20th June* 1975

Coming into operation . . . *1st September* 1975

To be laid before Parliament

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:

1. In Order 36 rule 9A of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows:

(1) paragraphs (1), (3) and (4) shall be revoked;

(2) in paragraph (5) for the words "Jurors Book" there shall be substituted the words "Jurors List" and for the words from "immediately" to the end there shall be substituted the words "at the time and place specified in the summons";

(3) in paragraph (6) the words "£2 or such other sum as the Court shall think meet" shall be deleted and for the words "when the jury panel is called" there shall be substituted the words "in accordance with the summons";

(4) for paragraph (7) there shall be substituted the following paragraph:

"(7) The powers of the Judge under paragraph (1), (2), (3) or (7) of Article 6 of the Juries (Northern Ireland) Order 1974 may be exercised by the Registrar of the Supreme Court or an Assistant Registrar of the Supreme Court or at a court of assize by the clerk of the Crown and peace.".

2. Order 70 shall be amended as follows:

(1) In rule 2(1) for paragraph (*d*) there shall be substituted the following paragraph:

"(*d*) where it is alleged the Court has jurisdiction based on domicile, the domicile of the petitioner, and where the petitioner is not domiciled in Northern Ireland the domicile of the respondent; or

where it is alleged that the Court has jurisdiction based on habitual residence, the habitual residence of the petitioner throughout the period of one year ending with the date when

(a) 1962 c. 30

(b) S.R. & O. 1936 No. 70 (II, p. 2559)

the proceedings are begun, or where the petitioner has not been habitually resident in Northern Ireland for that period the habitual residence of the respondent throughout the period of one year ending with the date when the proceedings are begun; and

where it is alleged that the Court has jurisdiction by virtue of the habitual residence of the petitioner or respondent the details of the habitual residence relied on including the places of residence and the length of residence at each place.".

(2) The following rule shall be inserted immediately after rule 2:

"**2A.**—(1) The provisions of this rule shall have effect where a petition or originating summons asks for matrimonial relief within the meaning of section 3(2) of the Matrimonial Proceedings (Polygamous Marriages) Act 1972(**c**) in respect of a marriage entered into under a law which permits polygamy (in this rule referred to as a polygamous marriage).

(2) The petition or originating summons—

(*a*) shall state that the marriage in question is polygamous;

(*b*) shall state whether or not there is, to the knowledge of the petitioner or applicant, any living spouse of his or her additional to the respondent spouse, or, as the case may be, any living spouse of the respondent spouse additional to the petitioner or applicant (in this rule referred to as an additional spouse); and

(*c*) if there is any additional spouse, shall give his or her full name and address and the date and place of his or her marriage to the petitioner or applicant, or, as the case may be, to the respondent spouse, or state, so far as may be applicable, that such information is unknown to the petitioner or applicant.

(3) The Court may order that any additional spouse be added as a party to the proceedings or be given notice of the proceedings or of any application in the proceedings for any such order as is mentioned in section 3(2)(*d*) of the said Act of 1972.

(4) Any order under paragraph (3) may be made at any stage of the proceedings and either on the application of any party or by the Court of its own motion and, where an additional spouse is mentioned in a petition or answer, the petitioner shall, on making any application in the proceedings, or, if no previous application has been made in the proceedings, on making application for the Registrar's certificate under rule 35 ask for directions as to whether an order should be made under paragraph (3).

(5) Any person to whom notice is given pursuant to an order under paragraph (3) shall be entitled, without filing an answer or affidavit, to be heard in the proceedings or on the application to which the notice relates.".

(3) In rule 15 after paragraph (6) there shall be inserted the following paragraph:

"(7) An answer shall contain the information required by rule 2A(2) to be included in a petition in so far as it has not been so included.".

(**c**) 1972 c. 38

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 3) 1975 and shall come into force on 1st September 1975.

Dated 20th June 1975.

(Signed) *Robert Lowry*
E. W. Jones
A. McGonigal
Maurice W. Gibson
John MacDermott
J. B. E. Hutton
Ivan Montgomery

EXPLANATORY NOTE

(This note is not part of the Rules but is intended to indicate their general purport.)

These Rules amend rule 9A of Order 36 of the Rules of the Supreme Court (Northern Ireland) 1936 mainly in consequence of the coming into force of Articles 5 and 6 of the Juries (Northern Ireland) Order 1974 which deal with the selection, summoning and excusal of jurors.

The Rules also amend Order 70, firstly, by amending rule 2(1) as to the particulars of the domicile or, where appropriate, habitual residence of the parties in a matrimonial cause to be stated in a petition and, secondly, by adding a rule governing proceedings in which matrimonial relief is sought within the meaning of section 3(2) of the Matrimonial Proceedings (Polygamous Marriages) Act 1972.