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STATUTORY INSTRUMENTS

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**1988 No. 226**

**The Matrimonial Causes (Amendment) Rules 1988**

5. For rule 109 there shall be substituted the following rule—

**“Application under section 55 of the Act of 1986 for declaration as to marital status**

**109.**—(1) Unless otherwise directed, a petition by which proceedings are begun under section 55 of the Act of 1986 for a declaration as to marital status shall state—

- (a) the names of the parties to the marriage to which the application relates and the residential address of each of them at the date of the presentation of the petition;
- (b) the place and date of any ceremony of marriage to which the application relates;
- (c) the grounds on which the application is made and all other material facts alleged by the petitioner to justify the making of the declaration;
- (d) whether there have been or are continuing any proceedings in any court, tribunal or authority in England and Wales or elsewhere between the parties which relate to, or are capable of affecting the validity or subsistence of, the marriage, divorce, annulment or legal separation to which the application relates, or which relate to the matrimonial status of either of the parties, and, if so—
  - (i) the nature, and either the outcome or present state of those proceedings,
  - (ii) the court, tribunal or authority before which they were begun,
  - (iii) the date when they were begun,
  - (iv) the names of the parties to them,
  - (v) the date or expected date of the trial,
  - (vi) any other facts relevant to the question whether the petition should be stayed under Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973(1);

and such proceedings shall include any which are instituted otherwise than in a court of law in any country outside England and Wales, 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 begun and have not been finally disposed of;

- (e) where it is alleged that the court has jurisdiction based on domicile, which of the parties to the marriage to which the application relates is domiciled in England and Wales on the date of the presentation of the petition, or died before that date and was at death domiciled in England and Wales;
- (f) where it is alleged that the court has jurisdiction based on habitual residence, which of the parties to the marriage to which the application relates has been habitually resident in England and Wales, or died before that date and had been habitually resident in England and Wales throughout the period of one year ending with the date of death;

- (g) where the petitioner was not a party to the marriage to which the application relates, particulars of his interest in the determination of the application.
- (2) Where the proceedings are for a declaration that the validity of a divorce, annulment or legal separation obtained in any country outside England and Wales in respect of the marriage either is or is not entitled to recognition in England and Wales, the petition shall in addition state the date and place of the divorce, annulment or legal separation.
- (3) There shall be annexed to the petition a copy of the certificate of any marriage to which the application relates, or, as the case may be, a certified copy of any decree of divorce, annulment or order for legal separation to which the application relates.
- (4) Where a document produced by virtue of paragraph (3) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.
- (5) The parties to the marriage in respect of which a declaration is sought shall be petitioner and respondent respectively to the application, unless a third party is applying for a declaration, in which case he shall be the petitioner and the parties to the marriage shall be respondents to the application.”.