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STATUTORY INSTRUMENTS

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**1991 No. 1247**

**The Family Proceedings Rules 1991**

**PART III**

**OTHER MATRIMONIAL ETC PROCEEDINGS**

**Application for alteration of maintenance agreement after death of one party**

**3.3.**—(1) An application under section 36 of the Act of 1973<sup>(1)</sup> for the alteration of a maintenance agreement after the death of one of the parties shall be made—

- (a) in the High Court, by originating summons out of the principal registry or any district registry, or
- (b) in a county court, by originating application,

in Form M22.

(2) There shall be filed in support of the application an affidavit by the applicant exhibiting a copy of the agreement and an official copy of the grant of representation to the deceased's estate and of every testamentary document admitted to proof and stating—

- (a) whether the deceased died domiciled in England and Wales;
- (b) the place and date of the marriage between the parties to the agreement and the name and status of the wife before the marriage;
- (c) the name of every child of the family and of any other child for whom the agreement makes financial arrangements, and—
  - (i) the date of birth of each such child who is still living (or, if it be the case, that he has attained 18) and the place where and the person with whom any such minor child is residing,
  - (ii) the date of death of any such child who has died since the agreement was made;
- (d) whether there have been in any court any, and if so what, previous proceedings with reference to the agreement or to the marriage or to the children of the family or any other children for whom the agreement makes financial arrangements, and the date and effect of any order or decree made in such proceedings;
- (e) whether there have been in any court any proceedings by the applicant against the deceased's estate under the Inheritance (Provision for Family and Dependents) Act 1975<sup>(2)</sup> or any Act repealed by that Act and the date and effect of any order made in such proceedings;
- (f) in the case of an application by the surviving party, the applicant's means;

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<sup>(1)</sup> Section 36 was amended by section 26(1) of the Inheritance (Provision for Family and Dependents) Act 1975 (c. 63) and S.I.1981/1636.

<sup>(2)</sup> 1975 c. 63.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (g) in the case of an application by the personal representatives of the deceased, the surviving party's means, so far as they are known to the applicant, and the information mentioned in sub-paragraphs (a), (b) and (c) of rule 3.4(4);
  - (h) the facts alleged by the applicant as justifying an alteration in the agreement and the nature of the alteration sought;
  - (i) if the application is made after the end of the period of six months from the date on which representation in regard to the deceased's estate was first taken out, the grounds on which the court's permission to entertain the application is sought.
- (3) CCR Order 48, rules 3(1), 7 and 9 shall apply to an originating application under the said section 36 as they apply to an application under section 1 of the Inheritance (Provision for Family and Dependents) Act 1975.
- (4) In this rule and the next following rule "the deceased" means the deceased party to the agreement to which the application relates.