Registration etc. of matrimonial charges

4. In the principal Rules, after Rule 95, there shall be inserted the following Rules—

"*Registration of matrimonial charges and renewal of registration*

95A.—(1) An application for the registration of a matrimonial charge as a burden pursuant to Article 6(1)(*a*) of the 1984 Order shall be in Form 53A and shall be accompanied by—

(*a*) a certificate of the marriage in question;

(*b*) a copy of any release of part of the dwelling house from the rights of occupation;

(*c*) a copy of any document postponing the priority of the charge; and

(*d*) a certified copy of any order of the court under Article 4 of the 1984 Order in relation to the rights of occupation.

(2) Where an application under paragraph (1) is also made in pursuance of Article 9(3)(*b*) of the 1984 Order (application for registration of a charge after an order of the court has been made by virtue of Article 5(4)) the application shall also be accompanied by a certified copy of the order made by virtue of Article 5(4) of the 1984 Order.

(3) The entry to be made on a folio in respect of a matrimonial charge shall be in Form 53B and shall, if appropriate, show that the priority of the charge has been postponed by virtue of a statutory provision other than the 1984 Order.

(4) An application for the renewal of the registration of a matrimonial charge registered under paragraph (1) pursuant to Article 9(3)(*a*) of the 1984 Order (renewal of registration in consequence of an order made by virtue of Article 5(4)) shall be in Form 53C and shall be accompanied by a certified copy of the order made by virtue of Article 5(4) of the 1984 Order.

Cancellation and variation of entries relating to the registration of matrimonial charges and postponement of priority

95B.—(1) The registration of a matrimonial charge as a burden may be cancelled or varied or the postponement of its priority (except in the case of a postponement to which Rule 67 applies) registered by the lodgement in the Registry of an affidavit setting out the relevant facts and accompanied by such of the following evidence, if any, as is in the opinion of the Registrar sufficient to justify such cancellation, variation or postponement—

(*a*) a document releasing or varying the rights of occupation constituting the charge or a document postponing the priority of the charge, as the case may be;

(*b*) the evidence mentioned in paragraphs (2) and (3);

(*c*) such other or additional evidence as the Registrar may require in support of the application.

(2) Subject to paragraph (3) the evidence required by virtue of paragraph (1)(*b*) is—

(*a*) a certificate of the death of either spouse;

(*b*) a certified copy of a decree of divorce or nullity of marriage granted by a court, or entitled to recognition, in Northern Ireland and which is effective to dissolve or annul the marriage in question;

(*c*) a certified copy of any relevant order of the court under Article 4 of the 1984 Order in relation to the rights of occupation constituting the charge;

(*d*) such other or additional evidence as the Registrar may require as to the death of either spouse or to the nullity of or termination otherwise than by death of the marriage in question.

(3) Where the charge was registered, or its registration was renewed, pursuant to Article 9(3) of the 1984 Order (registration or renewal thereof following an order under Article 5(4) of that Order) the evidence required by virtue of paragraph (1)(*b*) is—

(*a*) a certificate of the death of the spouse by whom the application for the registration of the charge was made;

(*b*) a certified copy of any relevant order of the court under Article 4 of the 1984 Order in relation to the rights of occupation constituting the charge;

(*c*) such other or additional evidence as the Registrar may require to show that the order under Article 5(4) of the 1984 Order has ceased to have effect.''.

Minor and consequential amendments of the principal Rules

5.—(1) For Rule 40 of the principal Rules, there shall be substituted the following Rule—

''*Notice of proposed registration to be given*

40.—(1) A registration consequent on an examination of title shall not, save in special circumstances, be completed until—

(*a*) where the registration proposed to be made is not the registration applied for, the applicant, and

(*b*) any other person whom the Registrar considers it proper to notify,

have been notified of the registration proposed to be made.

(2) Without prejudice to any order of a court or to any caution or inhibition, where it is proposed to register a matrimonial charge as a burden pursuant to Article 6(1)(*a*) of the 1984 Order and Rule 95A, nothing in paragraph (1) shall require the Registrar to give notice of the proposed registration to the applicant's spouse or to any other person against whose estate the registration is proposed to be made.''.

(2) In Rule 124 of the principal Rules (production of land certificates and certificates of charge), for paragraph (1)(*h*), there shall be substituted the following—

''(*h*) one which adversely affects the title of the registered owner, but not in the case of an entry relating to—

(i) a matrimonial charge,

(ii) a pending action,

(iii) a caution.

(iv) an inhibition, or

(v) a notice under section 59(1) of the Act.''.

(3) Rule 169 of the principal Rules (official search) shall be amended as follows—

(*a*) in paragraph (2), for the words ''under this rule'' substitute the words ''under paragraph (1)'';

(*b*) after paragraph (2), add the following paragraphs—

''(3) Any person may apply to the Registrar to make an official search and to certify what entries (if any) subsist on the folio in respect of registered matrimonial charges.

(4) The requisition for a search under paragraph (3) shall be in Form 84A and the certificate of the result of the search shall be in Form 84B.''.

(4) The forms contained in the Schedule shall be inserted in the principal Rules as follows—

(*a*) Forms 53A, 53B and 53C after Form 53;

(*b*) Forms 84A and 84B after Form 84.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 11th July 1989.

(L.S.) *J. Kirk*

Assistant Secretary