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MATRIMONIAL CAUSES AND PERSONAL STATUS CODE, 1948.

Crown Law Department,
Perth, 16th December, 1958.

THE following amendments of the Matrimonial Causes and Personal Status Rules, 1949, are published for general information.

R. C. GREEN,
Under Secretary for Law.

AMENDMENT OF THE MATRIMONIAL CAUSES AND PERSONAL STATUS RULES, 1949.

WE, the Honourable Sir John Patrick Dwyer, K.C.M.G., Chief Justice, the Honourable Albert Asher Wolff, Senior Puisne Judge, and the Honourable Lawrence Walter Jackson, the Honourable John Evenden Virtue, and the Honourable Roy Vivian Nevile, Puisne Judges of the Supreme Court of Western Australia, acting in pursuance of the powers contained in the Matrimonial Causes and Personal Status Code, 1948-1957, and the Commonwealth Matrimonial Causes Act, 1945-1955, and of every other power enabling us in this behalf, do by these Rules amend the Matrimonial Causes and Personal Status Rules, 1949, in the manner hereinafter mentioned:—

1. A new rule is inserted after Rule 20 as follows:—

20A. (1) Where it appears that the adultery of the defendant amounted to rape, or incest with a minor, the person with whom the adultery is alleged to have been committed shall not, in the first instance, be joined as a co-defendant.

(2) In every such case, the plaintiff before service of the writ of summons, shall apply to a Judge for directions, and the Judge shall thereupon determine whether the person with whom the adultery is alleged to have been committed, shall be joined as a co-defendant, and shall give directions accordingly.

(3) An order under this rule excusing the joining as a co-defendant of the person with whom adultery is alleged to have been committed, may provide for notice of the proceedings to be given to, and (if thought proper) representation of such person, and such person shall be entitled to be heard in respect of the allegation, on filing a Statement of Defence within the time fixed in the order, or within such extended time as may be allowed by a Judge.

(4) This rule shall apply with the necessary modifications where the allegation of adultery is made in a Statement of Defence, or a Counterclaim.