

CAYMAN ISLANDS



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**THE MATRIMONIAL CAUSES LAW (1997 Revision)
THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 2001**

CAYMAN ISLANDS

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In exercise of the powers conferred upon the Grand Court by section 4 of the Matrimonial Causes Law (1997 Revision), the following Rules are hereby made –

Citation	1.	These Rules may be cited as the Matrimonial Causes (Amendment) Rules, 2001.
Commencement and transitional provisions	2.	<p>(1) These Rules shall come into operation on the 1st September 2001, referred to in these Rules as the "Commencement Date".</p> <p>(2) These Rules shall apply to every petition presented on or after the Commencement Date.</p> <p>(3) A petition which was presented prior to the Commencement Date may be treated as an undefended petition notwithstanding that an acknowledgement of service form in Form 2 was not served with the petition.</p>
Interpretation	3.	<p>Rule 2 of the Matrimonial Causes Rules, 1987 is amended by adding the following:</p> <p>“undefended petition” means a petition for dissolution of marriage or judicial separation in respect of which –</p> <p>(a) no notice of intention to defend has been given; or</p>

- (b) no answer has been filed; or
- (c) a notice of intention to defend or an answer disputing the petitioner's right to a decree has been withdrawn or struck out; and
- (d) all claims for ancillary relief have either been settled or are to be adjourned to Chambers.

"the Law" means the Matrimonial Causes Law (1997 Revision).

Presenting petition

4. Rule 8 is revoked and replaced with the following:

8.(1) Subject to paragraph (3), every petition shall be presented by

(a) issuing it in accordance with GCR Order 5, Rule 1; and

(b) filing the relevant certificate of marriage.

(2) Every petition for dissolution of marriage or judicial separation shall be verified by an affidavit in Form 6 which shall be sworn by the petitioner personally.

(3) Every verifying affidavit sworn in accordance with paragraph (2) shall be filed when the petition is filed and a copy of it shall be served with the petition and references to "petition" in Rule 10 shall include the verifying affidavit.

Service of petition

5. Rule 10 of the Matrimonial Causes Rules 1987 is hereby revoked and replaced with the following:-

10.(1) Subject to the provisions of this Rule, a copy of every petition, together with a form in Form 2, shall be served personally on every respondent and co-respondent in accordance with GCR Order 65, rule 2 or an order made under rule 4.

(2) Personal service shall not be effected by the

FORM 10

Application for a Decree that a marriage be dissolved (Rule. 19)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

APPLICATION FOR A DECREE THAT THE MARRIAGE BE DISSOLVED

The Petitioner hereby applies to the Clerk of the Court pursuant to Rule 19 for a decree that the marriage be dissolved.

The Petitioner hereby certifies that:

1. On [state date] the Court made an order that the Petition was proved.
2. On [state date] the Court made a final order relating to all claims made by the Petitioner and/or the Respondent for ancillary relief.

Dated the day of 20

[Signature of Petitioner's attorney]

This Application was filed by [name of petitioner or his attorney] whose address for service is [state address within the jurisdiction].

petitioner himself.

(3) Any document other than a petition which is required to be served by these Rules shall be served in accordance with GCR Order 65, rule 5.

Acknowledgement of
service

6.

Rule 11 is hereby revoked and replaced with the following: -

11.(1) An acknowledgement of service shall be in Form 2 and must be signed by the respondent and if the respondent is acting by an attorney, by the attorney specified in the acknowledgement.

(2) An acknowledgement of service must specify –

(a) in the case of a respondent acknowledging service in person, the address of his place of residence and, if his place of residence is not within the jurisdiction or if he has no place of residence, the address of a place within the jurisdiction at or to which documents for him may be delivered or sent; and

(b) in the case of a respondent acknowledging service by an attorney a business address of his attorney within the jurisdiction.

(3) An acknowledgement of service must state an answer to each of the questions contained in it.

(4) Every acknowledgement of service must be filed –

(a) within 14 days after service of the petition in the case of a petition served within the jurisdiction; or

(b) within 28 days after service of the petition in the case of a petition served out of the jurisdiction.

(5) On receiving an acknowledgement of service the Clerk must –

- (a) affix to the acknowledgement an official stamp showing the date on which he received it;
- (b) file the acknowledgement of service on the court file; and
- (c) make a copy of the acknowledgement, having affixed to it an official stamp showing the date on which he received the acknowledgement and send it to the petitioner or, as the case may be, his attorney at the petitioner's address for service.

7. Rule 12 is hereby revoked and replaced with the following –

- 12.(1) A respondent or co-respondent who has filed and served an acknowledgement of service containing a statement of his intention to defend must serve an answer (and any cross petition) within the time limited for acknowledging service of the petition.
- (2) No further pleadings may be served by any party without the leave of the Court.

Adjudication of
undefended petitions

8. Rule 15 is revoked and replaced with the following –

- 15.(1) The petitioner may apply for the adjudication of an undefended petition by submitting an application in Form 7 or Form 9 together with a draft order in Form 8 or Form 5A as the case may be.
- (2) If the Judge is satisfied that –
- (a) the petition has been duly served;
 - (b) the petition is an undefended petition;
 - (c) the verifying affidavit is sufficient to prove the petition in accordance with the requirements of the Law; and
 - (d) ancillary matters (if any) are to be adjourned to Chambers,

Application for a Decree that a marriage be dissolved (Rule. 15)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

APPLICATION FOR A DECREE THAT THE MARRIAGE BE DISSOLVED

The Petitioner hereby applies to the Clerk of the Court pursuant to Rule 15 for a decree that the marriage be dissolved.

The Petitioner hereby certifies that:

- 1. The Petition was served on the Respondent [*and on the Co-Respondent*] as evidenced by the Acknowledgement of Service filed on [*specify filing date*] [*Alternatively, specify the relevant affidavits of service*]; and
- 2. The Respondent has [*not served any notice of intention to defend*] [*served a notice stating that he does not intend to defend*] [*not served any Answer*] as at the date hereof.
- 3. Neither the Petitioner nor the Respondent are seeking any ancillary relief.
- 4. [*Alternatively, all claims for ancillary relief have been settled on terms contained in the draft order signed by or on behalf of the parties and annexed hereto*].
- 5. [*Alternatively all claims for ancillary relief were determined by an order of the court made on (state date)*]

Dated the day of 20

[Signature of Petitioner's attorney]

This Application was filed by [*name of petitioner or his attorney*] whose address for service is [*state address within the jurisdiction*].

he shall make an order in Form 8 that the petition has been proved and that the ancillary matters be so adjourned.

(3) If the Judge is satisfied that the requirements of subparagraphs (2) (a), (b) and (c) of this Rule are met and that there are no applications for ancillary relief or that all ancillary matters have been agreed, he shall make an order in Form 5A.

(4) If the Judge is not so satisfied, he may –

- (a) require the petitioner to file further evidence;
- (b) direct that the petitioner attend and give oral evidence;
- (c) make directions for the trial of the petition in accordance with Rule 16; or
- (d) dismiss the petition.

Directions for trial

9. Rule 16 is hereby revoked and replaced by the following-

16. In the case of every petition other than an undefended petition, the petitioner shall take out a summons for directions upon which the Judge will make all such directions as may be appropriate for the expeditious adjudication of the cause, including –

- (a) an order for security of costs;
- (b) directions as to manner in which the evidence shall be given; and
- (c) orders for the attendance of witnesses.

Decrees and orders

10. Rule 19 is hereby revoked and replaced by the following -

19.(1) In any case where a judge has adjudicated a petition for a decree under Section 3 of the Law, either in accordance with Rule 15 or following a trial, but has deferred the pronouncement of such decree pending

consideration of orders for ancillary relief under Section 22 of the Law, it shall be lawful for him to pronounce such decree.

(2) An application for a decree that a marriage be dissolved shall be made in Form 10.

(3) Any such decree made under the Law shall be pronounced by signing and filing it in accordance with GCR Order 42 Rule 1 and be in Form 5B

11. Rule 20 is hereby revoked.

12. Rule 23 is hereby revoked and replaced by the following –

23. GCR Orders 3 (Time), 38 Part II (Writs of Subpoenas), 39 (Evidence by deposition), 67 (Change of Attorney), 45-51 (Enforcement) and 52 (Committal) shall apply to all proceedings under the Law.

13. The forms prescribed in the First Schedule of the Matrimonial Causes Rules, 1987 are hereby amended by:

- (a) revoking Form 2 and substituting a new Form 2;
- (b) revoking Form 5 and substituting new Forms 5A and 5B;
- (c) adding Forms 6 to 10,

as prescribed in the Schedule to these Rules.

FORM 8

Order that the petition is proved (Rule. 15)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

ORDER THAT THE PETITION IS PROVED

UPON reading the Petitioner’s application dated for an order that the petition is proved.

AND UPON reading the Acknowledgement of Service [*or the Affidavit of Service of (state the deponent’s name)*] filed on [*state date*]

AND UPON reading the Petitioner’s verifying affidavit filed on [*state date*].

AND no notice of intention to defend having been filed [*or no answer having been filed*] by the Respondent prior to the date of the Petitioner’s said application

IT IS HEREBY ORDERED that the facts and matters stated in the petition are proved and that the ancillary matters be adjourned to Chambers.

Dated the day of 20

Filed the day of 20

JUDGE OF THE GRAND COURT

This Order that the Petition is proved was filed by [*name of petitioner or his attorney*] whose address for service is [*state address within the jurisdiction*].

Application of GCRs

Forms

Made by the Grand Court this ____ of August, 2001

The Honourable Anthony Smellie QC, Chief Justice

The Honourable Henry Graham, Judge

The Honourable Dale Sanderson QC, Judge

FORM 7

Application for an order that the petition is proved (Rule. 15)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

APPLICATION FOR AN ORDER THAT THE PETITION IS PROVED

The Petitioner hereby applies to the Clerk of the Court pursuant to Rule 15 for an order that the petition is proved.

The Petitioner hereby certifies that:

- 1. The Petition was served on the Respondent [*and on the Co-Respondent*] as evidenced by the Acknowledgement of Service filed on [*specify filing date*] [*Alternatively, specify the relevant affidavits of service*]; and
- 2. The Respondent has [*not served any notice of intention to defend*] [*served a notice stating that he does not intend to defend*] [*not served any Answer*] as at the date hereof.
- 3. There are outstanding ancillary matters which have not been settled and are to be adjourned to Chambers.

Dated the day of 20

[Signature of Petitioner’s attorney]

This Application for an order that the Petition is proved was filed by [*name of petitioner or his attorney*] whose address for service is [*state address within the jurisdiction*].

FORM 2

Acknowledgement of Service (Rule. 11)

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF DIVORCE PETITION

IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU GIVE HIM THIS FORM IMMEDIATELY

1. The accompanying form of Acknowledgement of Service should be completed by an attorney acting on behalf of the Respondent or by the Respondent if acting in person.
2. After completion it must be signed by the Respondent and his attorney (if any) and must be delivered or sent by post to the Law Courts, P.O. Box 495GT, George Town, Grand Cayman.
3. The Acknowledgement of Service must be filed at court and served on the attorney for the Petitioner (or on the Petitioner if acting in person) within fourteen days after service of the Petition.
4. A Respondent who states in his Acknowledgement of Service that he intends to contest the proceedings must also serve an Answer on the attorney for the Petitioner (or on the Petitioner if acting in person) within fourteen days after service of the Petition.
5. The Petition will be treated as an "undefended petition" in respect of which a decree of divorce may be pronounced without the need for any hearing in open court unless an acknowledgement of service form in which you have stated an intention to defend has been filed at the Court office within fourteen days of service of the Petition.
6. In the case of Petitions served outside the Cayman Islands the periods within which the Respondent must file an Acknowledgement of Service and any Answer are extended by fourteen days.

Please complete overleaf

[In the case of a petition based upon two years'] I have lived separate and apart from the Respondent for at least two years preceding the commencement of this proceeding. We separated on [state date] and have not lived together since that time. The Respondent consents to a decree of divorce being granted. [set out the evidence to prove the Respondent's consent].

[In the case of a Petition based on five years] I have lived separate and apart from the Respondent for at least five years preceding the commencement of this proceeding. We separated on [state date] and have not lived together since that time.

4. I have not attempted to wilfully deceive the court in any matter or particular material to this Petition and there has been no collusion between the Respondent and me.
5. [There are no children of the marriage as defined in the Law].

[The following are the children of the marriage as defined in the Law]:

<u>Name</u>	<u>Date of Birth</u>
.....
.....
.....

6. I propose the following arrangement for the custody, care and control, access, maintenance and education of the children. [set out full particulars of the proposed arrangements].

SWORN to at George Town
Grand Cayman this _____
day of _____, 20____
before me:

[Name of Petitioner]

Notary Public

This Affidavit is filed by [name of petitioner or his attorney] whose address for service is [state address within the jurisdiction].

MATRIMONIAL CAUSES REGISTRY

BETWEEN:

AND:

ACKNOWLEDGMENT OF SERVICE

1) Have you received the Petition for divorce (and copy of supporting affidavit) delivered
with this form ? ☐ yes ☐ no

2) On what date did you receive it ? _____

3) Are you the person named as the Respondent in the Petition?
☐ Yes ☐ No

4) Do you intend to defend the case?
☐ Yes ☐ No

5) *(In the case of a Petition alleging two years separation coupled with the Respondent's consent to a decree being granted)* Do you consent to a decree being granted?

☐ Yes ☐ No

6) *(In the event that the Petition being proved on the basis of two (2) years separation coupled with Respondent's consent or five (5) years separation).*
Do you intend to apply to the court for it to consider your financial position as it will be after the divorce?

☐ Yes ☐ No

FORM 6

Petitioner’s Verifying Affidavit (Rule. 8)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

PETITIONER’S VERIFYING AFFIDAVIT

I *[state Petitioner’s name]* of *[state Petitioner’s address]* make oath and say as follows:

- 1. There is no possibility of reconciliation between the Respondent and me.
- 2. The certificate of marriage *[a certified copy of the certificate of marriage]* filed in this proceeding fully and correctly describes true particulars of my marriage.

[Alternatively, state why it is impossible to obtain a certificate of marriage or a certified copy of the marriage certificate].

- 3. *[In the case of a petition on grounds of adultery state the evidence relied upon to prove the allegation of adultery and the circumstances in which the respondent’s adultery became known to the petitioner].*

I have not condoned the conduct of the Respondent in that I have not forgiven the Respondent for his conduct, nor have I encouraged or acquiesced in that conduct.

[In the case of a petition on grounds of the Respondent’s unreasonable behaviour set out the evidence relied upon to prove the particulars pleaded in the petition]. I cannot tolerate living with the Respondent any longer.

[In the case of the petition on grounds of desertion, set out the evidence relied upon to prove that the Respondent deserted the Petitioner and that they have not lived separately apart of any other reason].

7) *(In any case in which there are children of the family)* Even if you do not intend to defend the suit, do you object to the Petitioner's claim for custody and seek to make your own application for custody of the children?

☐ Yes ☐ No ☐ Not applicable

Even if you do not object the Petitioner's claim for custody, do you intend to make an application for access to the children?

☐ Yes ☐ No ☐ Not applicable

Service of the Petition is acknowledged accordingly

Dated: _____

Respondent

Respondent's Attorney

FORM 5B

Decree of dissolution of marriage (Rule. 19)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
MATRIMONAL CAUSES REGISTRY

CAUSE NO: OF

[*TITLE OF PROCEEDING*]

DECREE OF DISSOLUTION OF MARRIAGE

UPON reading the Petitioner’s application dated for an order that a Decree of
Dissolution of marriage be made.

AND the Court having made an order on [*state date*] that the Petition was proved.

AND the Court having made an order on [*state date*] relating to all claims made by the
Petitioner and Respondent for ancillary relief.

IT IS HEREBY ORDERED that the marriage solemnised on the [*date*] between [*state
name*] and [*state name*] is hereby dissolved.

Dated the day of 20

Filed the day of 20

JUDGE OF THE GRAND COURT

This Decree was filed by [*name of petitioner or his attorney*] whose address for service is
[*state address within the jurisdiction*].

Notes on address for service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent.

Indorsement by Petitioner’s attorney (or by the Petitioner if suing in person) of his name and address in the box below.

Indorsement by Respondent’s attorney (or by the Respondent if acting in person) of his name and address in the box below.

FORM 5A

Decree of dissolution of marriage (Rule. 15)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF

[TITLE OF PROCEEDING]

DECREE OF DISSOLUTION OF MARRIAGE

UPON reading the Petitioner’s application dated for an order that a Decree of
Dissolution of marriage be made.

AND UPON reading the Acknowledgement of Service [*or the Affidavit of Service of (state
the deponent’s name)*] filed on [*state date*]

AND UPON reading the Petitioner’s verifying affidavit filed on [*state date*].

AND no notice of intention to defend having been filed [*or no answer having been filed*]
by the Respondent prior to the date of the Petitioner’s said application.

AND UPON being satisfied that there are no outstanding applications for ancillary relief.

IT IS HEREBY ORDERED that the marriage solemnised on the [*date*] between [*state
name*] and [*state name*] is hereby dissolved.

Dated the day of 20 .

Filed the day of 20

JUDGE OF THE GRAND COURT

This Decree was filed by [*name of petitioner or his attorney*] whose address for service is
[*state address within the jurisdiction*].