



# THE MATRIMONIAL CAUSES RULES

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THE MATRIMONIAL CAUSES RULES

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THE MATRIMONIAL CAUSES LAW

(No. 9 of 1976)

THE MATRIMONIAL CAUSES RULES

In exercise of the powers conferred upon the Grand Court by section 4 of the above Law, the following Rules of Court are hereby made —

1. These Rules may be cited as the Matrimonial Causes Rules.

2. In these Rules, unless the context otherwise requires —

“ancillary relief” means an order made pursuant to section 21;

“Clerk” means the Clerk of the Court and every person lawfully acting in that capacity;

“Law” means the Matrimonial Causes Law;

“Registry” means the Matrimonial Causes Registry established by Rule 3;

“section” means a section of the Law; and section 2 applies.

The Registry.

3. There is hereby established the Matrimonial Causes Registry of the Grand Court under the supervision of the Court and the management of the Clerk which shall be the repository of Matrimonial Causes Records and through which matrimonial proceedings shall be processed and with which the records of the existing Divorce Registry shall be merged.

Applications under the two years rule.

4. An application under the proviso to subsection (4) of section 10 for leave to present a petition for divorce before the expiration of two years from the date of the marriage shall be made by way of an originating application which shall be filed in the Registry together with —

(a) an affidavit by the applicant exhibiting a copy of the proposed petition and stating —

(i) the grounds of the application;

(ii) particulars of the hardship or depravity alleged;

(iii) whether there has been any previous application;

(iv) what, if any, attempts at reconciliation have been made;

(v) the date of birth of each of the parties;

(b) a copy of the application and supporting affidavit for service upon the respondent; and

(c) unless otherwise directed, the certificate of marriage.

The Clerk shall cause the copy of the application to be served upon the

respondent and set down the application for hearing by the Judge in Chambers upon a date not less than eight clear days after service upon the respondent.

**Discontinuance before service.**

5. Before a petition is served on any person, the petitioner may file a notice of discontinuance and the cause shall thereupon stand dismissed.

**The petition.**

6. Every cause other than an application under Rule 4 shall be begun by petition and shall, so far as is appropriate, contain the information required by Form 3 and, where the parties are not shown to be domiciled in the Islands, the circumstances under which it is claimed that the Court has jurisdiction and the following further information —

(a) if nullity of marriage is sought —

- (i) whether any proceedings relevant to the marriage are, to the knowledge of the petitioner, pending in any other jurisdiction and the nature of such proceedings as known to the petitioner;
- (ii) the various residences of the parties from the time of the celebration of the marriage until the time of presentation of the petition; and
- (iii) whether the petitioner was at the time of the marriage ignorant of the facts alleged and whether marital intercourse has, with the consent of the petitioner, taken place since the discovery by the petitioner of the existence of grounds for a decree;

(b) if presumption of death is sought —

- (i) the last place at which the parties to the marriage cohabited, the circumstances in which the parties ceased to cohabit, the date when and the place where the respondent was last seen or heard of and the steps which have been taken to trace him; and
- (ii) the places where the petitioner has resided since last cohabiting with the respondent.

**Signing the petition.**

7. The petition shall be signed by the petitioner or his attorney-at-law.

**Presenting the petition.**

8. A petition shall be presented by filing it in the Registry together with the relevant certificate of marriage and as many copies of the petition as there are persons to be served.

**Parties.**

9. Unless otherwise directed —

- (a) where a petition alleges adultery, the alleged adulterer shall be made a co-respondent in the cause;
- (b) where a petition alleges that the other party to the marriage has been guilty of an improper association other than adultery with a person named, that person shall be made a respondent in the cause.

An application for directions may be made *ex parte* if no notice of intention to defend has been given.

**Service of petition.**

10. (1) Subject to the provisions of this Rule, a copy of every petition shall be served personally on every respondent and co-respondent.

(2) Service may be effected —

- (a) where the party to be served is a person under disability, through the

petitioner; and

- (b) in any other case, through the court or, if the petitioner so requests, through the petitioner.

(3) Personal service shall not be effected by the petitioner himself.

(4) A petition shall be deemed to be duly served if —

- (a) an acknowledgement of service or a copy thereof is signed by the party to be served or his attorney-at-law and returned to the Registry; and

(b) where the acknowledgement purports to be signed by the respondent spouse, such signature is proved at the hearing.

(5) Where a copy of a petition has been sent to a party and no acknowledgement of service has been returned the court, if satisfied by affidavit or otherwise that the party has in fact received the document, shall deem it to have been duly served.

(6) Where a copy of a petition has been served on a party personally and no acknowledgement thereof has been returned to the Registry, service may be proved by filing an affidavit of service showing the server's means of knowledge of the identity of the party served.

(7) Where an acknowledgement of service is returned to the Registry, the Clerk shall send a copy thereof to the petitioner.

(8) Application for leave to substitute other modes of service, or to substitute such service by advertisement or otherwise shall be made *ex parte* by application in the Registry together with lodgment of an affidavit in support setting out the grounds thereof, and the mode of service or substituted service shall be settled by the court.

(9) The Court may for sufficient cause dispense with service upon any spouse or other person.

**Notice of intention to defend.**

11. Notice of intention to defend may be given —

- (a) by an endorsement on the acknowledgement of service; or
- (b) by notice of such intention lodged in the Registry within fourteen days of the service of the petition; or
- (c) at any time by leave of the court prior to the date fixed for trial.

**Pleadings subsequent to the petition.**

12. A respondent or co-respondent may, whether or not a notice of intention to defend has been filed, file an answer to a petition within fourteen days of the service thereof and the petitioner may, within twenty-one days of the filing of an answer, file a reply. Leave of the court is required for the filing of any further pleadings after a reply. The same rules as to copies and service as apply to petitions shall apply to all pleadings subsequent to the petition.

**Contents of answer etc.**

13. Pleadings subsequent to a petition which do more than deny allegations made shall set out with sufficient particularity the facts relied on, but not the evidence thereof, and, where relief is asked for, shall, so far as is appropriate, be drawn in the same manner as the petition.

**Amendments etc.**

14. Supplements to petitions and amendments to pleadings generally may be made at any time by leave of the court and applications therefor shall be sup-

ported by affidavit unless the court otherwise orders.

Directions for trial. 15. The court shall, on the application of any party, give directions for the trial of the cause if satisfied —

(a) that the petition and all subsequent pleadings of which the court has notice have been duly filed and served or are deemed to be served; or

(b) that twenty-one days have elapsed since the filing of the last pleading; and

(c) that all applications required to be dealt with prior to the issue of directions have been dealt with by the court.

Security for costs. 16. After directions for trial have been given or, at an earlier stage with leave of the court, either spouse may apply for security for costs up to the trial and of and incidental to the trial, or for any part of such costs and the court, after due enquiry, may make such order as appears just or for a bond to be given to the Clerk to secure such costs.

Ancillary questions. 17. Whether or not he has filed an answer to a petition, a spouse may be heard —

(a) on any question affecting the welfare of a child of the marriage; and

(b) on any question of ancillary relief; a co-respondent or respondent may be heard on any question of damages; and any party may be heard on any question of costs.

Arrangements for children. 18. Where in any proceedings it appears there is a child of the marriage under the age of 16, the record shall show specifically that the question of provision for such child has been considered and dealt with by the court.

Decrees and orders. 19. Every decree and order shall be drawn by the Clerk and approved by the court and every decree shall be pronounced in open court and orders shall be pronounced in open court or in chambers at the discretion of the court.

Service of decrees and orders. 20. Where a decree or order requires a person to do or abstain from doing any act the Clerk shall cause a certified copy of such decree or order to be served upon such person or upon his attorney-at-law as soon as practicable in a manner approved by the court.

Certificate of decree. 21. Upon the pronouncement of a decree for nullity of marriage, presumption of death of a spouse or of dissolution of marriage the Clerk shall cause to be sent to the petitioner and, if appropriate, the respondent spouse, a certificate in the prescribed form and shall file a copy thereof in the Registry and copies of such certificates shall be issued to any member of the public making application therefor and paying the prescribed fee.

Application by guardian etc. in respect of a child of the marriage. Law 16 of 1975. 22. In considering the question of provision for any child of a marriage the court shall hear, on application, an intervenor who, under the Juveniles Law, 1975, would be entitled to make such application under that Law.

Enforcements of orders. 23. Orders of the court for the payment of money, etc. are enforceable in like manner as such orders are enforceable by the court in its general jurisdiction.

Mode of making applications. 24. Unless these Rules otherwise provide, applications in matrimonial proceedings shall be made to the judge in chambers by originating summons

filed in the Registry.

Forms. 25. Forms for use in connection with these Rules are prescribed in the First Schedule.

Fees. 26. Fees in matrimonial causes are prescribed in the Second Schedule.

## FIRST SCHEDULE

### FORMS

#### Form 1.

#### Matrimonial Causes Registry

#### NOTICE OF APPLICATION UNDER RULE 4

IN THE GRAND COURT

In the matter of a proposed petition for dissolution of marriage

BETWEEN

Applicant

and

Respondent

TAKE NOTICE that an application has been made for leave to present the proposed petition before the expiration of the period of two years from the date of marriage. The application will be heard by the Judge in chambers at the day of next and if you do not attend thereat the Judge will make such order as may appear just.

A copy of the application and of the affidavit in support thereof is delivered with this notice.

You are required to complete the enclosed acknowledgement of service and, if you wish to oppose the application, to endorse the same accordingly and return it to the Registry on or before the day of next.

Dated this

day of

19

Clerk of the Grand Court

TO: (Respondent)

Matrimonial Causes Registry

Cause No. ....

ACKNOWLEDGEMENT OF SERVICE

IN THE GRAND COURT

BETWEEN

and

I, \_\_\_\_\_, being the \_\_\_\_\_ in the above matter have  
received the \_\_\_\_\_ dated on the \_\_\_\_\_ day  
of \_\_\_\_\_ at \_\_\_\_\_ and I confirm that I am  
named in the above \_\_\_\_\_ and that \*

Dated this

day of

19

Signed

TO the Clerk of the Grand Court.

\* Here state the nature of the proceedings and whether the recipient intends to oppose, defend or otherwise deal with the same.

My address for service of future process is #

# Here state the future address for service if different from that at which the relevant process was received and, if appropriate, the name of the recipient's attorney-at-law.

Matrimonial Causes Registry

Cause No. ....

PETITION

BETWEEN

and

THE PETITION of \_\_\_\_\_ SHOWS

1. That on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
at \_\_\_\_\_ the above petitioner was lawfully married to the above  
respondent and at the time of the said marriage the marital status of the parties was as  
follows —

2. That following the celebration of the said marriage the parties have lived and  
cohabited at the following places —

3. That the court has jurisdiction in the above cause by reason that —

4. That since the celebration of the said marriage — (here give the grounds for the  
relief claimed with particulars thereof)

5. That the petitioner desires the court to take into consideration the following  
arrangement made in connection with these proceedings —  
(here give details of any such matter, if any)

6. That there are no children of the marriage except as follows —

7. That the petitioner's proposals for the upbringing of the children of the marriage are  
as follows —

That the petitioner therefore prays —

The following persons are to be served with this petition —

The petitioner's address for service is —

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Signed: \_\_\_\_\_

Matrimonial Causes Registry

Cause No. ....

CERTIFICATE OF DECREE OF NULLITY

IN THE GRAND COURT

By decree made in the above cause on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it was ordered that the marriage solemnised on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_, petitioner, and \_\_\_\_\_, respondent, be pronounced to be void in law and it is hereby certified accordingly.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of the Grand Court

Matrimonial Causes Registry

Cause No. ....

CERTIFICATE OF DISSOLUTION OF MARRIAGE

IN THE GRAND COURT

By decree made in the above cause on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, it was ordered that the marriage solemnised on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_, petitioner, and \_\_\_\_\_, respondent be dissolved and it is hereby certified accordingly.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of the Grand Court

SECOND SCHEDULE

COURT FEES

- |                                                                                                   |                          |
|---------------------------------------------------------------------------------------------------|--------------------------|
| 1. Filing application under Rule 4                                                                | \$ 20                    |
| 2. Filing petition                                                                                | 40                       |
| 3. Filing answer                                                                                  | 20                       |
| 4. Filing subsequent pleading                                                                     | 20                       |
| 5. Filing other process                                                                           | 10                       |
| 6. Hearing fee for second and subsequent days of trial (per day or part of a day)                 | 30                       |
| 7. Pronouncement of decree                                                                        | 20                       |
| 8. Issue of certificate of decree                                                                 | 10                       |
| 9. Service of process (exclusive of travelling expenses)                                          | 2                        |
| 10. Searches                                                                                      | 5                        |
| 11. Supplying copies of documents                                                                 | 2 per folio of 72 words. |
| 12. Other matters as in the Schedule to the Judicature Law as appropriate <i>mutatis mutandis</i> |                          |

Made by the Rules Committee at Grand Cayman this first day of March, 1977.

L.T. MOODY  
Judge

G.E. WADDINGTON  
Attorney-General

JOHN STAFFORD  
Legal Practitioner