

Supplement No. 4 published with Gazette No. 15 of 28th July, 2003.

**MATRIMONIAL CAUSES LAW
(1997 Revision)**

**MATRIMONIAL CAUSES RULES
(2003 Revision)**

Revised under the authority of the Law Revision Law (1999 Revision).

The Matrimonial Causes Rules, 1986 (sic) made the 30th January, 1987

Consolidated with the-
Matrimonial Causes (Amendment) Rules, 1988 made the 18th May, 1988.
Grand Court (Matrimonial Causes) Fees Rules, 1995 (part) made the 1st May,
1995.
Matrimonial Causes (Amendment) Rules, 2001 made the August, 2001.(sic)

Consolidated and revised this 10th day of June, 2003.

Note (not forming part of the Rules): This revision replaces the 2001 Revision which should now be discarded.

MATRIMONIAL CAUSES RULES

(2003 Revision)

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MATRIMONIAL CAUSES RULES
(2003 Revision)

1. These rules may be cited as the Matrimonial Causes Rules (2003 Revision). Citation

2. In these rules- Definitions
 - “ancillary relief” means an order made under section 22;
 - “Clerk” means the Clerk of the Court;
 - “Registry” means the Matrimonial Causes Registry of the Court; and
 - “undefended petition” means a petition for dissolution of marriage or judicial separation in respect of which –
 - (a) no notice of intention to defend has been given; or
 - (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 - (c) a notice of intention to defend or an answer disputing the petitioner’s right to a decree has been withdrawn or struck out; and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.

3. The Registry is established under the supervision of the Court and the management of the Clerk, and shall continue to be the repository of Matrimonial Causes Records and through which matrimonial proceedings shall continue to be processed. Registry

4. (1) An application under the proviso to section 10(4) 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 - Applications under two year rule
 - (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 exceptional hardship alleged;
 - (iii) whether there has been any previous application;
 - (iv) what, if any, attempts at reconciliation have been made; and
 - (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.

(2) The Clerk shall cause the copy of the application to be served upon the respondent and shall set down the application for hearing by a Judge of the Court 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 the grounds for a decree; or
- (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 petition

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

Presenting petition

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 7 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.

9. (1) Unless otherwise directed -

Parties

- (a) where a petition alleges adultery, the alleged adulterer shall be made a co-respondent in the cause; and
- (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, the person shall be made a respondent in the cause.

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

10. (1) Subject to 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.

Service of petition

(2) Personal service shall not be effected by the 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.

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

Acknowledgement of service

(2) An acknowledgement of service shall 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 shall be filed –

- (a) within fourteen days after service of the petition in the case of a petition served within the jurisdiction; or
 - (b) within twenty-eight 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 shall –
- (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.
- Pleadings subsequent to petition
12. (1) A respondent or co-respondent who has filed and served an acknowledgement of service containing a statement of his intention to defend shall 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.
- 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 supported by affidavit unless the Court otherwise orders.
- Adjudication of undefended petitions
15. (1) The petitioner may apply for the adjudication of an undefended petition by submitting an application in Form 8 or 10 together with a draft order in Form 9 or 5 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,
- he shall make an order in Form 9 that the petition has been proved and that the ancillary matters be so adjourned.

(3) If the Judge is satisfied that the requirements of sub-paragraphs (2) (a), (b) and (c) 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 5.

(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.

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 - Directions for trial

- (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.

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

- (a) on any question affecting the welfare of a child of the marriage; and
- (b) on any question of ancillary relief,

and a co-respondent or respondent may be heard on any question of damages, and any party may be heard on any question of costs.

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

19. (1) In any case where a judge has adjudicated a petition for a decree under section 3, 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, it shall be lawful for him to pronounce such decree. Decrees and order

(2) An application for a decree that a marriage be dissolved shall be made in Form 11.

(3) Any such decree made shall be pronounced by signing and filing it in accordance with GCR Order 42 Rule 1 and be in Form 6.

20. 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 Certificate of decree

Matrimonial Causes Rules (2003 Revision)

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 child

Law 16 of 1975

21. In considering the question of provision for any child of a marriage, the court shall hear, on application, an intervener who, under the Juveniles Law, 1975, since repealed, would have been entitled to make such application under that law.

Application of GCRs

22. 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.

Mode of making
applications

23. Unless these rules otherwise provide, applications in matrimonial proceedings shall be made to a Judge of the Court in Chambers by summons filed in the Registry.

Forms

24. Forms for use with these rules are prescribed in the Schedule.

SCHEDULE

Rule 24

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 a Judge in Chambers at _____ hours on the _____ day of _____, 20____ next and if you do not attend thereat the Judge will make such orders 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 _____, 20____ next.

Dated this _____ day of _____, 20____.

Clerk of the Grand Court.

TO:

(Respondent)

Acknowledgement of Service

**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 495 GT, 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

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 to 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

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 3

Matrimonial Causes Registry

CAUSE NO. OF 20 .

PETITION

BETWEEN

and

THE PETITION of

SHOWS

1. That on the day of , 19 /20 , 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 –

Form 5

Decree of dissolution of marriage

rule. 19

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO. OF 20 .

[*TITLE OF PROCEEDING*]

DECREE OF DISSOLUTION OF MARRIAGE

UPON reading the Petitioner's application dated , 20 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*].

Form 6

Decree of dissolution of marriage

rule. 19

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO. OF 20 .

[*TITLE OF PROCEEDING*]

DECREE OF DISSOLUTION OF MARRIAGE

UPON reading the Petitioner's application dated , 20 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*]

Form 7

Petitioner's Verifying Affidavit

rule. 8

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO: OF 20 .

[*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 for any other reason.*]

[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 willfully 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:

Name	Date of Birth
------	---------------

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].

Form 8

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 20 .

[*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 9

Order that the petition is proved

rule. 15

IN THE GRAND COURT OF THE CAYMAN ISLANDS

MATRIMONIAL CAUSES REGISTRY

CAUSE NO. OF 20 .

[*TITLE OF PROCEEDING*]

ORDER THAT THE PETITION IS PROVED

UPON reading the Petitioner's application dated , 20 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*].

Form 10

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 20 .

[*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*].

Form 11

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 20 .

[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].

Publication in consolidated and revised form authorised by the Governor in Council this 10th day of June, 2003.

Carmena Watler
Clerk of Executive Council

(Price \$ 5.60)