

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The Matrimonial Causes (Assisted Persons) Ordinance, 1952 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Recueil d'Ordonnances Tome X, p. 288; as amended by the Income Support (Guernsey) Law, 2017 (No. IV of 2018); the Matrimonial Causes (Poor Persons) (Amendment) Ordinance, 1971 (Recueil d'Ordonnances Tome XVII, p. 74); the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 85); the Matrimonial Causes (Costs and Fees) Ordinance, 2002 (No. III of 2002, Recueil d'Ordonnances Tome XXIX, p. 57). See also the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (No. XIII of 2017); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (Alderney Ordinance No. VIII of 2018); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020 (Sark Ordinance No. II of 2020). This Ordinance is prospectively repealed by the Matrimonial Causes (Bailiwick of Guernsey) Law, 2022 (No. ** of 2022).

**ORDINANCE
OF THE STATES OF DELIBERATION**

ENTITLED

**The Matrimonial Causes (Assisted Persons) Ordinance,
1952**

ARRANGEMENT OF SECTIONS

1. Assisted Persons Regulations.
2. Repeals. Proceedings pending on 1.5.52.
3. Registration in Alderney and Sark.
4. Commencement.
5. Citation.

SCHEDULE Regulations Relating to Assisted Persons.

(Made on the 30th July, 1952.)

The Matrimonial Causes ([Assisted] Persons) Ordinance, 1952

THE STATES, on the representations of the States Advisory Council, under and by virtue of the powers conferred on them by Article 7 of the Matrimonial Causes Law (Guernsey), 1939, hereby order: –

[Assisted] Persons Regulations.

1. The Regulations relating to [Assisted] Persons set out in the Schedule hereto shall regulate proceedings by and against [Assisted] Persons in matrimonial causes and matters.

NOTES

In the title to this Ordinance, and in section 1 and the marginal note thereto, the words in square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

The following case has referred to this Ordinance:

Ferbrache and Co. v. Moed (2000) 29.GLJ.17.

Repeals. Proceedings pending on 1.5.52.

2. (1) Rules 43 to 55 inclusive of the Matrimonial Causes Rules, 1945, are hereby repealed.

(2) This Ordinance, in its application to proceedings by and against [Assisted] Persons pending on the 1st day of May, 1952, shall have effect subject to such directions as the Matrimonial Causes Division of the Royal Court may in any particular case think fit to give.

NOTE

In section 2, the word in square brackets was substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Registration in Alderney and Sark.

3. Copies of this Ordinance shall be transmitted by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the Records of those Islands respectively "par être logé au Greffe".

Commencement.

4. This Ordinance shall come into force on the 1st day of May, 1952.

[Citation.]

5. This Ordinance may be cited as the Matrimonial Causes (Assisted Persons) Ordinance, 1952.]

NOTE

Section 5 was inserted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(c), with effect from 29th July, 1987.

SCHEDULE
REGULATIONS RELATING TO [ASSISTED] PERSONS

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Regulations relating to [Assisted] Persons

Regulation 1.—Interpretation.

(1) The Provisions of Article I (entitled "Definitions and Interpretation") of the Law shall apply in like manner to the words and expressions therein mentioned, when they occur in these Regulations.

(2) In these Regulations, unless the context otherwise requires or it

is otherwise specifically provided, the following words and expressions have the meanings hereby respectively assigned to them, namely –

"affidavit" means a declaration in writing which is deposed to on oath or by affirmation or solemn declaration by the declarant, and which complies with the provisions of Regulation 13,

"Court Fees" includes the fees chargeable by Her Majesty's Greffier and Her Majesty's Sergeant,

"filed" means handed to Her Majesty's Greffier for filing as a document for inclusion in the dossier relating to the suit in question,

"Her Majesty's Greffier" includes any Deputy Greffier,

"matrimonial cause" and **"matrimonial suit"** each include any proceedings in which there is an applicant, petitioner or plaintiff for divorce, judicial separation, restitution of conjugal rights, nullity of marriage or presumption of death and dissolution of marriage thereon, in the Matrimonial Causes Division of the Royal Court of Guernsey,

"the Court" and **"the Court for Matrimonial Causes"** mean the Matrimonial Causes Division of the Royal Court of Guernsey,

"the Law" means the Matrimonial Causes Law (Guernsey) 1939, and any Law amending, supplementing or superseding that Law.

NOTE

In the heading to the Schedule, and in Regulation 1 thereof, the words in square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th

July, 1987.

Regulation 2.—[Assisted] Persons.

(1) Subject to the provisions of paragraph (2) of this Regulation, [an] [assisted] person, within the meaning of these Regulations, is a person –

[(a) whose assets (including any interest in real property but excluding wearing apparel and tools of the trade) do not exceed in value £2,000, and

(b) (i) whose usual weekly income from all sources does not exceed the amount specified as the "normal requirements" of such a person in paragraph 5 of Part II of the First Schedule to the [Income Support (Implementation) Ordinance, 1971], as amended from time to time; or

(ii) who is in receipt of [income support] or parish relief and has been in receipt of such benefit or relief for a period of not less than 8 weeks immediately before his application for an assisted person's certificate under Regulation 3.]

(2) Where the person applying to be admitted to proceed as [an] [assisted] person is a wife, she shall, subject to the provisions of paragraph (3) of this Regulation, be deemed to be [an] [assisted] person only if she and her husband together fulfil the conditions as to assets and income stated in paragraph (1) of this

Regulation, inclusive of taking into account any joint assets and joint income which they have.

(3) For the purpose only of obtaining from her husband security for her costs in a matrimonial cause, or contribution for support pendente lite, a wife shall be deemed to be [an] [assisted] person if she herself, considered apart from her husband's assets and income satisfies the conditions as to assets and income stated in paragraph (1) of this Regulation.

NOTES

In Regulation 2,

the word in square brackets in the heading thereto was substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the words in the first and second pairs of square brackets in paragraph (1) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, respectively section 1(a) and section 1(b), with effect from 29th July, 1987;

paragraph (1)(a) and paragraph (1)(b) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(d), with effect from 29th July, 1987;¹

the words in square brackets within, first, paragraph (1)(b)(i) and, second, paragraph (1)(b)(ii) were substituted by the Income Support (Guernsey) Law, 2017, respectively section 1(2), Schedule 1, paragraph 4 and section 3(a), with effect from 6th July, 2018;

the words in, first, the first and third and, second, the second and fourth pairs of square brackets in paragraph (2) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, respectively section 1(a) and section 1(b), with effect from 29th July, 1987;

the words in the first and second pairs of square brackets in paragraph (3) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, respectively section 1(a) and section 1(b), with effect from 29th July, 1987.

The following case has referred to regulation 2:

Ferbrache and Co. v. Moed (2000) 29.GLJ.17.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020, section 2, Schedule 2, with effect from 23rd April, 2020, section 1(2) and section 2 of, respectively, the Same-Sex Marriage (Guernsey) Law, 2016, the Same-Sex Marriage (Alderney) Law, 2017 and the Same-Sex Marriage (Sark) Law, 2020 do not apply in respect of paragraph (2) and paragraph (3) of this Regulation.

Regulation 3.—[Assisted] Person's Certificates.

(1) Any [assisted] person who desires to be granted legal assistance as [an] [assisted] person in instituting, prosecuting, or defending a matrimonial suit shall apply to the Magistrate for a certificate as provided for in this Regulation.

(2) The Magistrate shall investigate every application made under paragraph (1) of this Regulation and may examine the applicant on oath or may require the applicant to make an affidavit as to any facts alleged in support of the application; and he may also take evidence on oath or by affidavit from any other person whose testimony he regards as material to the application.

(3) If, after the investigation provided for in the last foregoing paragraph, the Magistrate is satisfied that it is proved that the applicant is [an] [assisted] person within the meaning of Regulation 2, and if the Magistrate is satisfied that there is, in such suit, a prima facie case to be laid before the Court for Matrimonial Causes, the Magistrate shall, subject to the provisions of the next ensuing paragraph, certify that the applicant is [an] [assisted] person entitled to legal assistance in accordance with these Regulations.

(4) Where the applicant is a wife, the Magistrate may grant one or more of the following certificates –

- (a) a certificate that she is entitled to proceed as [an] [assisted] person in the matrimonial suit,
- (b) a certificate that she is entitled thus to proceed in so far as may be necessary to enable her to obtain from her husband security for her costs therein,
- (c) a certificate that she is entitled thus to proceed in so far as may be necessary to obtain from her husband contribution for support pendente lite.

(5) Every [assisted] person's certificate granted by the Magistrate under these Regulations shall be in duplicate and each copy shall be signed by him and shall bear the date on which it is granted, and one copy shall be filed for the use of the Court for Matrimonial Causes.

(6) ...

NOTES

In Regulation 3,

the words in, first, the square brackets in the heading thereto, second, the first and third pairs of square brackets in paragraph (1) and, third, the square brackets in paragraph (5) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the word in the second pair of square brackets in paragraph (1) was substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in, first, the first and third and, second, the second and fourth pairs of square brackets in paragraph (3) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, respectively section 1(a) and section 1(b), with effect from 29th July, 1987;

the words in the first and second pairs of square brackets in paragraph (4)(a) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, respectively section 1(a) and section 1(b), with effect from 29th July, 1987;

paragraph (6) was repealed by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(e), with effect from 29th July, 1987.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this Regulation to the "Magistrate" shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020, section 2, Schedule 2, with effect from 23rd April, 2020, section 1(2) and section 2 of, respectively, the Same-Sex Marriage (Guernsey) Law, 2016, the Same-Sex Marriage (Alderney) Law, 2017 and the Same-Sex Marriage (Sark) Law, 2020 do not apply in respect of paragraph (4) of this Regulation.

[Regulation 3A.—Divorces by Consent.

(1) An assisted person's certificate granted by the Magistrate under Regulation 3 shall not entitle a person to legal assistance under these Regulations in respect of any proceedings for a decree of divorce where, of the facts referred to in Article 16A(1) of the Law, the petitioner in the proceedings relies only on the fact that the parties to the marriage have lived apart for a continuous period of at least 2 years immediately preceding the presentation of the petition and the respondent consents to a decree being granted, unless the Magistrate endorses the certificate, on

an application by the person to whom the certificate is granted, to the effect that he is satisfied that the other party to the proceedings is also an assisted person within the meaning of Regulation 2.

(2) In determining, for the purposes of paragraph (1) of this Regulation, whether the other party to the proceedings is also an assisted person within the meaning of Regulation 2, the reference in Regulation 2(1)(b)(ii) to a period of not less than 8 weeks shall be construed as a reference to a period of not less than 8 weeks immediately before the application for the endorsement of the certificate.]

NOTES

Regulation 3A was inserted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(f), with effect from 29th July, 1987.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this Regulation to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Regulation 4.—Proceedings by and against [Assisted] Persons.

Any [assisted] person who has obtained [an] [assisted] person's certificate may apply to the Court for the assignment of an advocate to act for him in instituting and prosecuting or in defending, proceedings, as [an] [assisted] person, in a matrimonial suit in which such person is concerned; and the Court, in so assigning an advocate, may prescribe the fees to be payable to him by the [assisted] person, not exceeding the following –

- (a) where the [assisted] person is a petitioner, and whether or not the petition is defended, the sum of [£50], together with the amount of any disbursements incurred by the advocate on the petitioner's behalf,

- (b) where the [assisted] person is a party other than a petitioner –
 - (i) the sum of [£25], together with the amount of any disbursements incurred by the advocate in relation to any answer or other pleading, and
 - (ii) a further sum of [£25] in respect of representing the party before the Court.

NOTES

In Regulation 4,

the words in, first, the first, third, fifth and sixth pairs of square brackets and, second, the square brackets in the heading thereto were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the words in the second and fourth pair of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in the first pairs of square brackets in paragraph (a) and paragraph (b) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the figures and symbol in the second pair of square brackets in paragraph (a) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(g), with effect from 29th July, 1987;²

the figures and symbols in the second and third pairs of square brackets in paragraph (b) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(h), with effect from 29th July, 1987.³

Regulation 5.—Non-Liability for Court Fees and Costs.

The [assisted] person named in the [assisted] person's certificate shall not be liable for any Court Fees in the suit to which the certificate relates, and unless the Court otherwise orders, in the exercise of its powers under Article 68 (entitled "Power of Court to award costs", etc.) of the Law [or under an Ordinance made under Article 69 (entitled "Costs and Court fees chargeable") of the Law], the [assisted] person shall not be liable to pay costs to any other party.

NOTES

In Regulation 5,

the words in the first, second and fourth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the words in the third pair of square brackets were inserted by the Matrimonial Causes (Costs and Fees) Ordinance, 2002, section 15, with effect from 1st February, 2002.

Regulation 6.—Allowable and Prohibited Payments to [Assisted] Person's Advocate.

(1) The Court may, from time to time, allow such payments as it thinks just to be made by [an] [assisted] person to his advocate acting in the matrimonial suit in respect of out-of-pocket expenses, which shall not include office expenses.

(2) The Court may require [an] [assisted] person to deposit in Court, or as it directs, a sum of money, in order to cover the disbursements of his advocate under Regulation 4 (entitled "Proceedings by and against [Assisted] Persons") and, if such deposit is found to be insufficient in relation to the proceedings, may direct a further sum or further sums to be deposited. Any sum so deposited shall be used only for the payment to the advocate of any out-of-pocket expenses (not including office expenses) properly incurred in the course of the

proceedings; and any surplus shall be repaid to the [assisted] person.

(3) Except as provided by these Regulations no advocate shall take, or agree to take, or seek to obtain, any payment, fee, profit or reward for the conduct of the proceedings or for out-of-pocket or other expenses. If any such payment, fee, profit or reward is made, given or promised, the Court may order the suspension of the operation of any certificate given by the Magistrate under these Regulations and thereafter the [assisted] person shall not be admitted in the same proceedings as [an] [assisted] person unless the Court otherwise directs.

NOTES

In Regulation 6,

the words in, first, the square brackets in the heading thereto, second, the second pair of square brackets in paragraph (1), third, the second, third and fourth pairs of square brackets in paragraph (2) and, fourth, the first and third pairs of square brackets in paragraph (3) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the words in, first, the first pairs of square brackets in paragraph (1) and paragraph (2) and, second, the second pair of square brackets in paragraph (3) were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this Regulation to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Regulation 7.—Discontinuance of Proceedings.

After the date on which [an] [assisted] person's certificate is granted, neither the [assisted] person nor his advocate shall enter into any settlement or compromise, whether before or after the commencement of the proceedings, nor discontinue the proceedings, without leave of the Court.

NOTES

In Regulation 7,

the word in the first pair of square brackets was substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in the second and third pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Regulation 8.—Termination of Retainer.

(1) No [assisted] person shall, without leave of the Court, terminate the retainer of any advocate acting for him.

(2) No advocate shall be at liberty to discontinue his assistance to the [assisted] person before the making of a Final Order in the cause, unless he satisfies the Court that he has reasonable ground for discontinuing his assistance.

NOTE

In Regulation 8, the words in square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Regulation 9.—Acquisition of Means after the Grant of [Assisted] Person's Certificate.

If and whenever the [assisted] person, or, where the wife is the [assisted] person, if and whenever she or her husband becomes possessed of means beyond

those stated in the [assisted] person's certificate, the [assisted] person shall forthwith, and from time to time, report accordingly to his advocate, who shall thereupon make a report in writing to the Court, and, if the Court finds cause for so doing, the Court may thereupon discharge any certificate which the Magistrate has given under these Regulations.

NOTES

In Regulation 9, and the heading thereto, the words in square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this Regulation to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020, section 2, Schedule 2, with effect from 23rd April, 2020, section 1(2) and section 2 of, respectively, the Same-Sex Marriage (Guernsey) Law, 2016, the Same-Sex Marriage (Alderney) Law, 2017 and the Same-Sex Marriage (Sark) Law, 2020 do not apply in respect of the words "or, where the wife is the assisted person, if and whenever she or her husband" in this Regulation.

Regulation 10.—Costs in favour of [Assisted] Person.

- (1) (a) Subject to the provisions of Regulation 5 the Court may order an opposite party to pay the expenses of [an] [assisted] person. Where such an order is made it shall be deemed to include all out-of-pocket expenses properly incurred in the course of the proceedings, and

advocate's fees paid or payable by that [assisted] person under these Regulations, but not office expenses or Court Fees.

- (b) Where it appears to the Court that the proceedings are of such length or difficulty as to place an unusual burden on the advocate, the Court may order the opposite party to pay, in addition to the expenses referred to in the foregoing sub-paragraph, such sums as the Court thinks fit in respect of such unusual burden.
- (c) Notwithstanding anything in these Regulations to the contrary, in a case where a decree of divorce or judicial separation is granted to a petitioner who is [an] [assisted] person, the Court may, where it appears just so to do, order an opposite party to pay the costs which the petitioner would have been liable to pay had he not proceeded as [an] [assisted] person.

(2) Where it appears to the Court that any opposite party has acted unreasonably in bringing or defending the proceedings or in his conduct of them, or that the special circumstances of the case require it, the Court may order the opposite party to pay the costs of the [assisted] person, which costs may in that event, if the Court so orders, include profit costs, or a proportion of profit costs, or a specified sum in respect thereof, in addition to out-of-pocket expenses properly incurred in the course of the proceedings, but not Court Fees.

(3) Where an order is made for the payment of costs, under paragraph (1) or paragraph (2) of this Regulation, the order shall not be enforced without leave of the Court, and the Court may refuse leave if satisfied by the party

ordered to pay costs that he has not the means to pay them.

NOTES

In Regulation 10,

the word in square brackets in the heading thereto was substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987;

the words in the first, fourth and sixth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in the second, third, fifth, seventh and eighth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Regulation 11.—Fraud and Misrepresentation.

Where it appears to the Court that [an] [assisted] person's certificate was obtained by fraud or misrepresentation, the Court may order the [assisted] person to pay the costs of the opposite party, and, where such an order is made, such costs shall be assessed as if the [assisted] person ordered to pay them were not [an] [assisted] person.

NOTES

In Regulation 11,

the words in the first and fifth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in the second, third, fourth and sixth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Regulation 12.—Payment out of Money Recovered and Property or Interest Awarded.

(1) Having regard to any property or interest awarded by the Court to [an] [assisted] person, or any money recovered by the [assisted] person in a matrimonial suit, the Court may direct that the [assisted] person's advocate shall be entitled to –

- (a) such sum in respect of costs as would have been ordinarily chargeable by the advocate, if the said party had not been [an] [assisted] person, or
- (b) such other sum in respect of costs as the Court thinks fit,

and any sum to which the advocate is thus entitled by direction of the Court (less such amount as may be recovered by the advocate from any other party), may be recovered by the advocate out of the money recovered by the [assisted] person as aforesaid or out of such property or interest awarded to the [assisted] person as aforesaid:

PROVIDED that the total amount so to be paid out or charged for profit costs, shall not in either case exceed one-fourth of the amount or value recovered and remaining after the deduction therefrom of all proper disbursements made by the said advocate.

(2) In this Regulation, money or property recovered includes money or property recovered by virtue of a settlement or compromise.

NOTES

In Regulation 12,

the words in the first and fifth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(a), with effect from 29th July, 1987;

the words in the second, third, fourth, sixth, seventh and eighth pairs of square brackets were substituted by the Matrimonial Causes (Assisted Persons) (Amendment) Ordinance, 1987, section 1(b), with effect from 29th July, 1987.

Regulation 13.—Affidavits.

- (1) An affidavit for the purposes of these Regulations shall –
 - (a) if made in the Island of Guernsey, be made before the Bailiff, or Lieutenant-Bailiff, and any two Jurats, or before a Notary Public,
 - (b) if made in the Island of Alderney, be made before any two Jurats,
 - (c) if made in the Island of Sark, be made before the Seneschal,
 - (d) if made in the Island of Jersey, or in Great Britain, Northern Ireland, or the Isle of Man, be made before any person authorised by law in the place in which it is made to take sworn declarations or administer oaths,
 - (e) if made elsewhere, be made before –
 - (i) a Consular Officer of Her Majesty, or

- (ii) any person authorised by law in the place in which it is made to take sworn declarations or administer oaths.

(2) To every affidavit made under the provisions of sub-paragraph (e) of paragraph (1) of this Regulation, other than an affidavit made before a Consular Officer of Her Majesty, shall be annexed a certificate that the person before whom it was sworn was, when it was sworn, a person duly authorised to administer oaths in the jurisdiction in which the affidavit was made, and such certificate shall be –

- (a) sealed with the seal of the High Court or of any Court of Record of such jurisdiction, or
- (b) signed by a member of the judiciary of such jurisdiction, or by the Registrar or similar officer of a Court of Justice in such jurisdiction, or by a Consular Officer of Her Majesty holding office in such jurisdiction.

(3) In this Regulation, the expression "**Consular Officer**" has the meaning assigned to that expression in the Interpretation Act, 1889, registered on the Records of this Island on the 20th March, 1926.

¹ Paragraph (1)(b) was previously amended by the Matrimonial Causes (Poor Persons) (Amendment) Ordinance, 1971, section 1(a), with effect from 26th May, 1971.

2 These figures and symbol were previously substituted by the Matrimonial Causes (Poor Persons) (Amendment) Ordinance, 1971, section 1(b), with effect from 26th May, 1971.

3 These figures and symbols were previously substituted by the Matrimonial Causes (Poor Persons) (Amendment) Ordinance, 1971, section 1(c), with effect from 26th May, 1971.