

*Le 20 octobre 1945, par devant Victor Gosselin Carey,  
écuyer, Baillif, présents, etc.:*

**Ordonnance\* provisoire prescrivant les Règles et des  
Formes de Procédure pour les Causes  
et Cas Matrimoniaux**

LA COUR, en vertu des dispositions de l'Article 6 de la Loi dite "The Matrimonial Causes Law (Guernsey), 1939," et ouïes les conclusions du Procureur du Roi, a approuvé—

- (1) les Règles, rédigées en anglais, qui se trouvent dans la Cédule annexée à cette présente Ordonnance, et
- (2) les Formes, aussi rédigées en anglais, qui sont comprises dans l'Appendice se rattachant aux dites Règles, eu égard pourtant aux dispositions

\* This Ordinance was made permanent by the Matrimonial Causes Law (Guernsey), 1939, Amendment Law, 1946.

ET a de plus ordonné qu'un exemplaire de cette présente Ordonnance sera transmis par le Greffier du Roi à M. le Juge d'Auregny et à M. le Sénéchal de Serk pour être enregistré sur les Records des dites Iles respectivement.

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## CÉDULE

### THE MATRIMONIAL CAUSES LAW (GUERNSEY), 1939

#### THE MATRIMONIAL CAUSES RULES, 1945

**Rules of Court made by the Royal Court under the Matrimonial Causes Law (Guernsey), 1939, regulating the Practice and Procedure in Matrimonial Causes and Matters**

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THE MATRIMONIAL CAUSES RULES, 1945

Rules of Court made by the Royal Court under the Matrimonial Causes Law (Guernsey), 1939, regulating the Practice and Procedure in Matrimonial Causes and Matters.

PART I.—GENERAL PROVISIONS REGARDING  
COMMENCEMENT OF PROCEEDINGS  
AND FAILURE TO PROCEED.

**Rule 1.—Commencement of Proceedings by Petition**

- (1) Every suit for a decree for
  - (a) Divorce,
  - (b) Judicial Separation,
  - (c) Restitution of Conjugal Rights,
  - (d) Nullity of Marriage, or
  - (e) Presumption of Death and Dissolution of Marriage thereon,

in the Matrimonial Causes Division of the Royal Court of Guernsey (hereinafter referred to as “the Court for Matrimonial Causes” or “the Court”) shall be commenced by filing with His Majesty’s Greffier a petition addressed to the Court for Matrimonial Causes.

(2) An examined copy of the petition, as filed under this Rule, shall be endorsed with a notice to enter appearance, in accordance with Form II. in the Appendix to these Rules and served as required by these Rules.

(3) After service has been effected, as required by these Rules, a copy of the notice mentioned in the last foregoing paragraph, together with either a certificate of service or a copy of the advertisement, when service by means of advertisement has been ordered, shall be filed with His Majesty’s Greffier.

**Rule 2.—Commencement of Proceedings otherwise than  
by Petition**

Except where—

- (a) the provisions of Rule 1 require proceedings to be commenced by petition, or

(b) proceedings may lawfully be taken *ex parte*, every proceeding under these Rules shall be commenced by the issue by the party taking such proceedings or by his advocate of a notice which shall, subject to the requirements of Rule 70 (entitled "General Provision regarding Forms"), be in accordance with Form 22 in the Appendix to these Rules.

**Rule 3.—Dismissal of Petition for Failure to Pursue**

Where a petitioner fails, within the time specified in these Rules or allowed by the Court, to proceed with the suit, the respondent or any other party who has filed an answer may make an application to the Court to have the petition dismissed.

**Rule 4.—Peremption d'Instance (Lapse of Suit)**

Except by leave of the Court, every matrimonial suit shall be brought to trial within a year and a day after the filing of the petition, and, unless the Court otherwise orders, His Majesty's Greffier shall, on the expiration of that period, remove from the Register containing the Roll of Matrimonial Causes any cause therein which has not been brought to trial accordingly.

**PART II.—PETITION AND PROCEEDINGS IN CONNECTION THEREWITH.**

**Rule 5.—Form of Petition**

(1) The petition in a matrimonial suit shall, so far as the case requires, and the information of the petitioner admits, be in the form, appropriate to the suit in which it is presented, as set out in Forms 1 to 8 in the Appendix to these Rules and shall state—

- (a) The full names of the petitioner and respondent (hereinafter in general referred to as "the parties");
- (b) The occupation or status of each of the parties at the date of the institution of the proceedings:

- (c) The place and date of the marriage and the full name and the status of the wife before the marriage;
- (d) The last principal permanent addresses within the jurisdiction at which the parties have cohabited, or, if it be the case, that there has been no place of cohabitation within the jurisdiction;
- (e) Whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children and, if it be the case, that the paternity of any and, if so, which, child of the wife is disputed;
- (f) (i) The residence and domicile of the parties to the marriage at the date of the institution of the proceedings;  
(ii) Where it is material under the provisions of Article 15 (entitled "Conditions of Exercise of Jurisdiction with regard to Divorce") of the Law, the total number of days for which the party whose presence within the Bailiwick is relied upon to give jurisdiction, was actually present within the Bailiwick during the period of three years immediately preceding the presentation of the petition;
- (g) If at the date of the institution of the proceedings by a wife her husband has deserted her or has been deported from the United Kingdom or from any of the Channel Islands, and there is reason to believe that he has changed his domicile since the desertion or deportation, the domicile of the husband immediately before the desertion or deportation and the date when and the circumstances in which the alleged desertion began or the date and place of the deportation order;

- (h) Whether there have been in the Bailiwick or elsewhere any, and if so what, previous proceedings, with reference to the married relationship of the parties, by or on behalf of either of the parties, the date, effect and purport of any decree or order made in such proceedings, and whether there has been any resumption of cohabitation since the making thereof;
- (i) The matrimonial offences alleged or other grounds upon which relief is sought, set out specifically, in a separate paragraph for every such offence or ground;
- (j) Where it is material in the case of a petition for judicial separation or a petition for restitution of conjugal rights, the place in the Island of Guernsey at which the parties had their matrimonial home at the time when their cohabitation ceased, and when that cohabitation ceased;
- (k) In the case of a petition for restitution of conjugal rights, the date when and the circumstances in which the respondent refused or ceased to render conjugal rights to the petitioner, the desire of the petitioner for a restitution of conjugal rights and the petitioner's willingness to render such rights to the respondent;
- (l) In the case of a petition for the presumption of death and dissolution of the marriage, the last place of cohabitation of the parties, the circumstances in which the petitioner and the other party ceased to cohabit, and the date when and the place where that other party was last seen or heard of; and
- (m) In the case of a petition for divorce or judicial separation, or an application to the Ordinary Court or the Court for Matrimonial Causes for the granting of a judicial separation by consent—

- (i) whether any, and if so, what attempt has been made to reconcile the parties;
- (ii) whether the petitioner is willing that a member of the Panel of Mediators shall, at the request of the Court, endeavour to reconcile the petitioner and respondent, and, if the petitioner is not so willing, the reasons for refusing such mediation.

(2) In a petition for divorce, judicial separation, restitution of conjugal rights or nullity of marriage, a wife petitioner may in her petition ask for an interim order directing her husband to make payments for or towards her support, or with respect to the custody, maintenance or education of, or access to, the children of the marriage, and if she does so the petition shall contain a statement in general terms of her husband's income and property in so far as they are within her knowledge or belief, and also of her own income and property.

(3) The petition shall conclude with a prayer setting out particulars of the relief claimed, including:—

- (a) The amount of any claim for damages and the name of the person from whom they are claimed;
- (b) Any claim for custody of the children of the marriage;
- (c) Any claim for an award of payments to be made, pending suit, by the husband for or towards the support of his wife, or the maintenance or education of the children of the marriage;
- (d) Any claim for an order of the Court under Part VIII. (entitled "Property and Contributions for Support") of the Law;
- (e) Any claim for costs; and
- (f) In appropriate cases a prayer that the Court will exercise its discretion to grant a decree

notwithstanding that the petitioner has committed adultery during the marriage which is the subject of the proceedings.

(4) Subject to the provisions of the next ensuing paragraph, every petition shall be signed—

- (a) by the petitioner; or
- (b) where the petitioner is an infant, by the petitioner and his guardian *ad litem*; or
- (c) where the petitioner is a person of unsound mind, by his guardian *ad litem*.

(5) If, when the petition is ready for signature, and it is desired to file the petition, it is impossible, for a reason other than the petitioner's unsoundness of mind, to obtain his signature thereto, his advocate may, with the permission of the Court, sign the petition on his behalf: provided that, before the trial of the suit, an identical petition signed by the petitioner, and accompanied by his sworn declaration of facts in support thereof, shall be filed.

(6) Except by leave of the Court, every petition, when filed, shall have annexed thereto a certified copy of the marriage certificate of the parties.

#### **Rule 6.—Excusal of Joinder of Co-Respondent**

If a petitioner or respondent desires to be excused, in virtue of the provisions of Article 10 (entitled "Joinder of Co-respondent, etc.") of the Law, from citing any person with whom such petitioner or respondent alleges in his or her petition or cross-petition that the other spouse has committed adultery, application for such excusal shall be made to the Court in accordance with Form 10 in the Appendix to these Rules.

#### **Rule 7.—Sworn Declaration in Support of Petition**

(1) With every petition in a matrimonial suit shall be filed a sworn declaration by the petitioner verifying the facts of which the deponent has personal cognizance

and deposing as to belief in the truth of the other facts alleged in the petition, and, except in the case of a petition for the restitution of conjugal rights or a petition for presumption of death and dissolution of marriage thereon, stating whether the petition is presented or prosecuted in collusion with the respondent or any co-respondent.

(2) The sworn declaration shall also state—

- (a) In the case of every petition for divorce or judicial separation where the ground of the petition is adultery, whether the petitioner has in any manner been accessory to or connived at or condoned the adultery, and, where the ground of the petition is cruelty, whether the petitioner has in any manner condoned the cruelty; and
- (b) In the case of a petition for nullity on any of the grounds mentioned in paragraphs (4), (5), (6) and (7) of Article 34 (entitled “Grounds for Decree of Nullity”) of the Law, whether the petitioner was at the time of the marriage ignorant of the facts alleged and whether marital intercourse with the consent of the petitioner has taken place since the discovery by the petitioner of the existence of the grounds for a decree; and
- (c) In the case of a petition for presumption of death and dissolution of marriage thereon, the steps which have been taken to trace the respondent.

(3) Where a petition alleges adultery against a person who has died before the petition is filed, the sworn declaration shall prove the death of such person by reference to a death certificate exhibited thereto or by reference to such other evidence as is available.

(4) Where the ground of a petition for nullity is that the marriage in respect of which the petition is presented was bigamous on the part of the respondent, the sworn declaration shall tender proof of the prior marriage of

the respondent by reference to a marriage certificate exhibited thereto or other the best evidence available in the matter. The acceptance by the Court of such certificate or evidence shall be without prejudice to any requirement by the Court of good and sufficient evidence of the identity of the respondent as a party to the alleged prior marriage of the respondent and of the subsistence of that marriage at the time when the respondent intermarried with the petitioner.

(5) Where the ground of a petition for nullity is that the marriage has been annulled in an extraneous jurisdiction, the sworn declaration shall state—

- (a) by what Court such annulment was made;
- (b) the place in which the party who is the respondent in the proceedings in the Bailiwick was domiciled when the suit for such annulment was instituted in the extraneous jurisdiction;
- (c) the ground on which the said annulment was made; and
- (d) whether or not by reason of such ground of annulment the marriage was, in the extraneous jurisdiction, voidable, or void *ab initio*.

(6) In the case of every petition for divorce where the petitioner, or, if the petitioner is the wife, the husband of the petitioner, though domiciled in the Bailiwick when the suit is instituted, has not been domiciled therein during the whole of the three years immediately preceding the presentation of the petition, the sworn declaration shall give the dates of the days on which, within the said period of three years, the petitioner or respondent was actually present within the Bailiwick and the addresses at which such petitioner or respondent was present at such time.

#### **Rule 8.—Notice to Enter an Appearance**

(1) A petition and every copy thereof for service upon a respondent or co-respondent shall be clearly endorsed with a notice to enter an appearance in accordance with Form II. in the Appendix to these Rules and.

if the petition includes a prayer for interim contributions for support pending suit, the petition and the copy to be served on the respondent husband shall also be endorsed with a notice to enter an appearance and file evidence in accordance with Form 12 in the Appendix.

(2) A notice of an application for any ancillary relief and any copy thereof for service shall, if the respondent to the application has not already entered an appearance to the petition in the matrimonial suit in which the application is made, contain the notice to enter an appearance set out in Form 13 in the Appendix.

(3) A notice of an application for orders for contributions for support, periodic payments, maintenance or education of children, or the giving of security for any of these purposes, and every copy of such notice for service, shall contain a notice to file evidence in accordance with Form 14 in the Appendix.

(4) Unless the Court otherwise directs, and subject to the provisions of—

(a) section (1) of Rule 42 relating to the time allowable for the taking of procedural steps in the case of minors and persons of unsound mind, and

(b) Rule 67 (entitled “Time Allowance in Process, for Absentees”),

appearance shall be entered within fourteen days after service of the process to which appearance is required.

#### **Rule 9.—Service of Process**

(1) In every matrimonial suit or matter, unless the Court otherwise directs:

(a) an examined copy of the petition, endorsed with a notice to enter an appearance, shall be personally served upon the respondent and every co-respondent named therein;

(b) notice of any application or other process shall be personally served upon the respondent thereto.

(2) Personal service shall in no case be effected by the petitioner or intended petitioner.

(3) Where it is desired to effect service by substituted service, application *ex parte* shall be made to the Court for leave to do so and specifying (a) the kind of substituted service desired and (b) the reasons for which the application is made.

(4) Where it is desired to effect substituted service by means of advertisement, there shall be submitted to the Court, at the time of the application, a draft of the advertisement which it is proposed to issue and a list of the newspapers in which it is proposed to insert the advertisement. The advertisement shall be issued in the form, and in the newspapers, approved by the Court.

#### **Rule 10.—Addresses for Service**

(1) Every party to a matrimonial suit, and every person seeking to become a party to any such suit, shall furnish to His Majesty's Greffier and to every opposite party an address within the Bailiwick which he elects as his address for the service by or on behalf of any opposite party of process relating to the suit or arising thereout. The address so furnished shall be the address for service of the party furnishing it until the expiration of the twelve calendar months next following—

(a) in the case of a decree of divorce or a decree of nullity of marriage, the making of a Final Order, or, as the case may be, the issue of an Order of His Majesty in Council such as is referred to in sub-paragraph (b) of paragraph (1) of Article 12 (entitled "Decrees and Final Orders") of the Law; and

(b) in the case of any other decree, the making of the decree;

unless, during such period, that party furnishes some other address within the Bailiwick, and if he does so, the address for service thus last furnished shall be the address for service during the remainder of the period appropriate

to the case under this Rule or such other period as the Court allows.

(2) Unless and until a party who has initiated process under these Rules, or who is proved to have been served with such process, furnishes an address for service conformably to the provisions of section (1) of this Rule, his address for subsequent service shall be the office of His Majesty's Sergeant in Guernsey.

**Rule 11.—Service out of the Jurisdiction**

(1) A petition, notice, or other document appertaining to the process of the Court, may be personally served out of the Bailiwick without leave of the Court by any person, subject to the provisions of the ensuing paragraphs of this Rule.

(2) Subject to the provisions of any relevant Convention between His Majesty and the Government of a Foreign Country, the undermentioned procedure shall apply to service where the person to be served is not a British subject and is not within British Dominions:

- (a) Request for service abroad shall be made to the Court, in accordance with Form 15 in the Appendix to these Rules.
- (b) On the granting of the request, the document to be served shall be sealed with the seal of the Royal Court and transmitted by the Bailiff to His Excellency the Lieutenant-Governor, together with a copy thereof translated into an official language of the country in which service is to be effected, if such language is not the language in which the document is expressed, and with a request, in accordance with Form 16 in the Appendix, for the further transmission of the same, through His Majesty's Principal Secretary of State for Foreign Affairs, to the Government of the foreign country in which it is proposed to serve the document. The said

request shall be in accordance with Form 16 in the Appendix to these Rules.

- (c) An official certificate, or declaration on oath or otherwise, transmitted through the diplomatic channel and the Lieutenant-Governor by the Government of the foreign country to the Bailiff, if it certifies or declares the document to have been personally served, or to have been duly served in accordance with the law of the foreign country, or words to that effect, shall be deemed sufficient proof of such service.
- (d) Where an official certificate or declaration, transmitted to the Bailiff in the aforesaid manner, certifies or declares that endeavours to serve a document have been unsuccessful, or where it otherwise appears that personal service probably cannot be effected, the Court may, upon the ex-parte application of the petitioner, order that the petitioner may, through the Bailiff, in the aforesaid manner, bespeak a request for substituted service of such document. The said order and request shall be respectively in accordance with Forms 17 and 18 in the Appendix to these Rules.

#### **Rule 12.—Proof of Service**

(1) A petition shall not be listed for trial unless the respondent and every co-respondent thereto has entered an appearance, or unless, in the absence of appearance by any such person, the appropriate proof of service under this rule that such person has been duly served with the petition has been filed.

(2) An application, other than an ex-parte application, shall not proceed to hearing unless it has been shewn by the appropriate proof of service under this Rule that every respondent thereto has been duly served with notice of the application.

(3) The appropriate proof of service within the meaning of this Rule shall be, as the case requires—

- (a) (i) of service in the Island of Guernsey, a certificate of service by His Majesty's Sergeant of that Island, which certificate shall (subject, however, to the provisions of Rule 70), be in accordance with Form 19 in the Appendix;
- (ii) of service in the Island of Alderney, a certificate of service by His Majesty's Sergeant of that Island;
- (iii) of service in the Island of Sark, a certificate of service by the Prévôt of that Island;
- (b) of service elsewhere, a sworn declaration of service by the person effecting the same;
- (c) of substituted service by advertisement in a newspaper, a copy of the issue of such newspaper containing the said advertisement.

#### **Rule 13.—Entry of Appearance**

(1) Appearance shall be entered by delivering at the Greffe, either by hand or by prepaid post, a memorandum in writing in accordance with Form 20 in the Appendix to these Rules, and containing the name of the advocate of the person entering an appearance, or stating that that person appears in person, and in either case containing an address for service within the Bailiwick. The person entering the appearance shall at the same time deliver at the Greffe a duplicate of the memorandum, and His Majesty's Greffier shall date such duplicate with the date of appearance and shall issue such duplicate as an examined copy of the memorandum and return it to the person entering the appearance. The duplicate memorandum so issued shall be a certificate that the appearance was entered as stated therein.

(2) Upon receipt of the memorandum of appearance, His Majesty's Greffier shall forthwith record the appearance under the date on which the same was entered

in a Register of Appearances in Matrimonial Causes provided for the purpose.

(3) Notice of such appearance, in accordance with Form 21 in the Appendix, shall be given to every opposite party.

**Rule 14.—Application for Appointment of Mediators**

(1) Where any person has presented a petition to the Court for Matrimonial Causes for a decree of Divorce or judicial separation such person or the respondent to the petition may at any time before the suit is listed for trial, make application to the Court for the appointment of one or more mediators to act between the parties.

(2) The Court on making such appointment may give such directions as to the listing of the suit for trial as it sees fit.

**Rule 15.—Proceedings Preparatory to Hearing of Application**

(1) Before any application in virtue of the Law or of these Rules is made to the Court the person intending to make the application, or his advocate—

- (a) shall file with His Majesty's Greffier a detailed statement, in writing, of the nature of the application;
- (b) shall thereupon, or in due course, ascertain from His Majesty's Greffier the date which is assigned for the hearing of the application; and
- (c) upon ascertaining such date, shall cause to be served upon every opposite party concerned not less than fourteen days' notice of the hearing in accordance with Form 22 in the Appendix to these Rules.

(2) The provisions of sub-section (c) of section (1) of this Rule shall not apply to applications which may be made ex parte.

(1) Appearance may be entered under protest, and may be either general or limited to any claim made in the petition for an interim order for contributions for or towards the support of the petitioner, or for other ancillary relief.

(2) Notwithstanding that the respondent has not entered an appearance within the time limited for so doing, he may thereafter, by leave of the Court, but not otherwise, do so; and, in the case of an application for ancillary relief, the fact that the respondent thereto has not entered an appearance to the petition following upon which the application arises shall not disentitle him from contesting the application.

(3) Any appearance under protest shall state concisely the grounds of protest, and the party thus protesting shall, before the expiration of the time allowed for filing an answer to the petition, make application to the Court for directions as to the determination of any question arising by reason of such appearance under protest, and, in default of making such application, shall be deemed to have entered an unconditional appearance. Any such directions may provide for the trial of a preliminary issue with or without a stay of proceedings, or for determination of the matters in question at the hearing of the suit, and for any interlocutory matters incidental thereto; and if such protest as aforesaid is in terms, or is held by the Court to be, a plea to the jurisdiction, or if it is a plea of *litispendance*, such directions shall provide for the hearing and determination of the issue raised thereby before the hearing of the suit on the merits or dealing with any other issue therein.

The provisions of Rule 15 shall apply in the case of an application under this section, except that the person entering an appearance under protest, in accordance with the provisions of this section, shall be deemed thereby to have filed the detailed statement required under section (1) of that Rule.

**Rule 17.—Supplemental and Amended Petitions**

(1) No supplemental petition shall be filed and no petition shall be amended without the leave of the Court.

(2) Notice of an application for such leave shall, unless the Court otherwise directs, be served on every opposite party who has entered an appearance, and the application shall be supported by a sworn declaration verifying the new facts alleged, on which the application is founded, and deposing, in so far as those new facts are concerned, to the existence or otherwise of collusion, connivance and condonation, in the manner required by Rule 7 for the original petition. Where no appearance has been entered, the application may be made *ex-parte* upon proof that appearance has not been entered by the party in question, and upon production of the said sworn declaration.

(3) An order made under this Rule shall—

- (a) in cases where appearance has been entered in the original proceedings, fix the time within which the answer must be filed or amended;
- (b) if made after the suit has been listed for hearing, provide for a stay of the hearing until the suit is again ready for trial in accordance with these Rules.

(4) Unless the Court otherwise directs, a copy of its order made under this Rule, together with an examined copy of the supplemental or amended petition, shall be served upon the respondent or co-respondent, together with a notice to enter appearance, in accordance with Form 11, or with a notice in accordance with Form 23, in the Appendix to these Rules, as the case may require; and the provisions of Rules 9 to 12 shall apply to supplemental and amended petitions as they apply to original petitions.

**Rule 18.—Pleadings**

(1) (a) Unless the Court otherwise directs, the pleadings in every proceeding which by these Rules begins with a petition shall be as follows—

- (i) The petition;
- (ii) Any answer to the petition, by any party adverse to the petitioner;
- (iii) Any reply by the petitioner to the answer;
- (iv) Corresponding pleadings arising out of any cross-petition.

(b) A respondent or other opposite party who has entered an appearance may, within fourteen days after the expiration of the time allowed for the entry of such appearance, file an answer to the petition.

(c) No reply shall be filed without leave of the Court, except where relief is claimed in the answer, in which case a reply may be filed within fourteen days from the delivery of the answer.

(d) Replications or other further pleadings for which leave is given by the Court under this Rule may be filed within such time as the Court allows.

(e) The Court, if satisfied that any further or other pleading by any party is necessary to ensure a fair trial, may, on the application of a party in the suit, allow other replications or pleadings, but no such replication or pleading shall be made except by leave of the Court.

(2) A party or his advocate who files any pleading subsequent to a petition shall, within twenty-four hours thereafter, deliver an examined copy thereof to every opposite party.

(3) The petition and every other pleading in a matrimonial suit shall be in writing and the text thereof shall, except in so far as it raises points of law, consist solely, as may be appropriate, of allegations of fact and of admissions or denials of such allegations by an opposite party; and shall not set out the evidence by which the facts alleged are to be proved. As far as possible, every pleading shall be divided into paragraphs, numbered consecutively.

For the purposes of this Rule, the term "writing" includes typewriting and printing.

(4) Every allegation of fact in any pleading, if not denied specifically, or by necessary implication, or stated to be not admitted, in the pleading of the opposite party, shall be taken to be admitted, except as against an infant or a person of unsound mind.

(5) (a) Any party may by letter require any other party to furnish particulars of any allegation or other matter pleaded by that other party.

(b) If any party who has been requested to furnish particulars fails to furnish them, the Court may, on application by a party, or of its own motion, order them to be furnished.

(6) Delay by a party in delivering any pleading, document, particulars, or other material required to be produced may be taken into consideration by the Court in determining the amount and award of costs.

**Rule 19.—Evidence in Support of and Service of Answer**

(1) With every answer which contains matter other than a simple denial of the facts stated in the petition, there shall be filed a sworn declaration made by the person who files the answer, verifying such other matter so far as he has personal cognizance thereof and deposing to his belief in the truth of the rest of such other matter and, where that person is the husband or wife of the petitioner, deposing, in so far as such other matter is concerned, to the existence or otherwise of collusion, connivance, and condonation in the manner required by Rule 7 in the case of a petition.

(2) Where the answer of a spouse alleges adultery and prays by cross-petition for relief, the alleged third party adulterer shall be added to the title of the suit as "A.B. cited," and shall be served with an examined copy of the answer, together with a notice to enter an appearance, as if the answer were a petition.

(3) Where the answer of a spouse alleges adultery, but does not pray for relief, a notice, together with a copy of the answer, shall be served on the alleged third

party adulterer, and such notice shall be in accordance with Form 23 in the Appendix to these Rules, informing him that he is entitled to apply to the Court for leave to intervene in the suit.

**Rule 20.—Discretion Statement**

(1) Every party to a matrimonial suit praying that the Court shall exercise its discretion to grant a decree notwithstanding that party's adultery, shall, when filing the petition, lodge with His Majesty's Greffier, for the information of the Court, a statement (in these Rules called a "discretion statement") signed by him or his advocate stating that the Court will be asked to exercise its discretion on his behalf, notwithstanding his adultery, and giving particulars of the acts of adultery committed and of the facts which it is material for the Court to know in deciding upon the exercise of its discretion.

(2) A discretion statement shall be open to the inspection of the Investigating Officer but, except by direction of the Court, shall not be open to inspection by any other person.

(3) Where a discretion statement contains an allegation of adultery or other matrimonial offence on the part of the other spouse which is not referable to any specific allegation in the pleadings, notice of such allegation contained in the discretion statement shall be given forthwith to the said spouse by the party making that statement:

Provided that if the Court, at the hearing, is satisfied that omission to give such notice is justified it may be dispensed with.

(4) Neither the fact that a discretion statement has been lodged, nor the fact that the said notice has been given, nor the contents of the discretion statement or notice, shall be given as evidence against the party lodging or giving the same in any matrimonial suit, except when that party has put in evidence in open Court the discretion statement or the said notice or the contents thereof.

**Rule 21.—Keeping of Records and Listing of Causes**

(1) His Majesty's Greffier shall keep the Rolls of Matrimonial Causes and any other Records and books ordered or approved by the Court, and such Rolls, Records and Books shall deal exclusively with matrimonial causes and any other matters within the jurisdiction of the Court or on appeal from the Court.

(2) His Majesty's Greffier shall, in due course, post up from time to time in the vestibule of the Royal Court the Roll of Matrimonial Causes which are due to come before the Court, or before the Appeal Court, in pursuance or in virtue of the Law.

**Rule 22.—Listing Suit for Trial**

(1) Subject to the provisions of these Rules and to compliance with any directions in the suit given by the Court, it shall be the duty of the petitioner—

- (a) to procure the suit to be listed for trial;
- (b) thereupon, or in due course, to ascertain from His Majesty's Greffier the date which is assigned for the trial;
- (c) upon ascertaining such date, to cause to be served upon every opposite party concerned not less than fourteen days' notice of the trial, which notice shall include mention of that date, and to file, before the date of the trial, a certificate of His Majesty's Sergeant that the said service has been effected.

(2) If, within twenty-one days after the earliest date on which the petitioner could have complied with the provisions of the foregoing section, he has not done so, thereafter the respondent, or any party defending the suit, may perform any part of the duty which the petitioner has not performed thereunder.

(3) The date assigned for the trial of a suit for divorce or nullity of marriage or decree of presumption of death and dissolution of marriage thereon shall not, except with the assent of a Law Officer of the Crown, be

a date earlier than sixty days after the filing of a petition in that suit. If in the suit there is a cross-petition, whether separate or contained in some other pleading, the said period of sixty days shall be computed from the filing of such cross-petition.

### PART III.—INTERLOCUTORY PROCEEDINGS AND PROCEEDINGS FOR ANCILLARY RELIEF

#### Rule 23.—Interveners

(1) Application to the Court for leave to intervene in any suit shall be supported by a sworn declaration, which shall be filed. The applicant shall, when filing the detailed statement required by Rule 14, give to His Majesty's Greffier an address for service within the Bailiwick.

Subject to compliance with the provisions of this Rule, leave to intervene may be given with such directions as to procedure as the Court thinks fit.

(2) A person seeking to intervene in a suit may make application for leave to intervene as aforesaid within such time as, under these Rules, would have been available to him for entering an appearance if he had been a respondent in such suit.

(3) Unless the Court otherwise directs, a party intervening shall join in the proceedings at the stage which those proceedings have reached at the time when leave to intervene is given, and, except in the case of the Investigating Officer, the name of that party shall thenceforth appear in the title to the suit.

The intervention of the Investigating Officer in a suit shall be signified in the title to the suit by the addition thereto of the expression, "The Investigating Officer intervening."

#### Rule 24.—Amendment of Pleadings and Other Documents

Any application, pleading or other document may be amended by leave of the Court, subject to any directions given by the Court as to consequential amendment of other pleadings and as to re-service.

**Rule 25.—Pleadings and Other Procedural Steps  
out of Time**

(1) The Court may, on application, with regard to any pleading or other procedural step, direct such delimitation of time as it thinks fit.

(2) Except in virtue of a direction given by the Court under section (1) of this Rule, no pleading shall be filed out of time as delimited by these Rules.

**Rule 26.—Interrogatories and Requisitioning Production  
of Documents**

(1) Any party to a matrimonial suit who has delivered a pleading or entered an appearance conformably to these Rules may—

- (a) deliver interrogatories in writing to any opposite party, to be answered by that party;
- (b) require by notice in writing any opposite party
  - (i) to produce for his inspection any document which is in the possession of that party and which is relevant to any question at issue between the said parties in that suit; and
  - (ii) to allow a copy of such document to be taken for the use of the party making the requisition.

(2) The answer of the opposite party to any such interrogatories shall be by sworn declaration.

(3) Except by leave of the Court, no interrogatories or requisition under this Rule shall be delivered later than the end of the second day after the date of service of the notice of trial.

- (4) Unless the Court otherwise directs,
  - (a) every reply to interrogatories in a suit shall be delivered within seven days after service of the interrogatories; and
  - (b) documents the production of which has been requisitioned under this Rule shall be produced within seven days after service of the notice

provided for in sub-section (b) of section (1) of this Rule.

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(5) Interrogatories shall not be lawful under this Rule if they

- (a) seek to elicit from the opposite party matters which it is not incumbent on the applicant to prove in the suit; or
- (b) are directed to ascertaining the evidence to be adduced by the opposite party; or
- (c) are prolix; or
- (d) relate solely to a question of expert opinion; or
- (e) are directed solely to proving that the opposite party has committed adultery.

(6) If a party does not answer or does not adequately answer, interrogatories administered in virtue of this Rule, or does not comply, or does not adequately comply, with a requisition made under this Rule for the production of documents, the Court may deal with such omission in the award of costs.

(7) Any party making any sworn declaration under this Rule shall be reimbursed the disbursements incidental thereto by the party making the interrogatories.

(8) Unless the party making a requisition under this Rule expresses the contrary intention, the requisition shall have effect also as a notice to produce at the trial every document the production of which is required by the requisition.

(9) Any right of a party to call for the production of a document at a trial shall not be prejudiced by anything contained in this Rule.

#### **Rule 27.—Staying Proceedings for Restitution**

At any time after the commencement of proceedings for restitution of conjugal rights the respondent may apply to the Court for an order to stay the proceedings in the cause on the grounds that he or she is willing to resume cohabitation with the petitioner.

**Rule 28.—Separate Trial of Issues**

The Court may of its own motion give directions, and a petitioner and any party who has entered an appearance in a matrimonial suit may make application to the Court for directions for the separate trial of any issue therein.

**Rule 29.—Right of Respondent or Co-Respondent to be heard on Question of Costs, Custody, Access and Damages**

(1) After entering an appearance, a respondent or co-respondent may, whether or not he has filed an answer, be heard in respect of any question as to costs, and a respondent spouse may, whether or not he has filed an answer, be heard as to any question of the custody of or access to any children of the marriage.

(2) A co-respondent shall not be heard on any question as to damages until he has filed an answer in the suit.

**Rule 30.—Contribution for Support pending suit**

A respondent wife may make an application for contributions for support pending suit at any time after entering appearance to the petition.

**Rule 31.—Public Notices of Suits and Duty to give Information to Investigating Officer in Certain Cases**

His Majesty's Greffier shall, after the filing of any petition, give notice in La Gazette Officielle of the following particulars as given in the petition and of the following requirement, namely:—

- (a) in the case of every suit for divorce or nullity of marriage, the full name and address of the petitioner and of the respondent;
- (b) in the case of every suit for presumption of death and dissolution of marriage thereon, the full name and address of the petitioner and the full name and last known address of the other spouse;

- (c) in the case of every suit for divorce or nullity of marriage or presumption of death and dissolution of marriage thereon —
- (i) the nature of the decree prayed for in the petition and
  - (ii) requiring every person who can shew cause why the decree prayed for should not be granted to inform the Investigating Officer of such cause, within twenty-one days of the first publication of the said notice.

**Rule 32.—Delivery of Documents in Suit to Investigating Officer**

Whenever the powers, rights and duties of Investigating Officer are vested in His Majesty's Procureur and His Majesty's Comptroller, either of them may from time to time, and for such time or times as he requires, require His Majesty's Greffier to deliver to him any papers filed in any suit of the kinds mentioned in Rule 31.

**Rule 33.—Intervention by Investigating Officer**

(1) (a) When the Investigating Officer wishes to intervene in any proceedings, he shall file a statement notifying his intention to intervene and setting forth the grounds of his intervention and shall as soon as reasonably practicable thereafter serve on each of the parties to the suit an examined copy of such statement. endorsed with a notice that such party is entitled to file an answer to that statement.

The Court, if it thinks fit, may suspend the proceedings in a suit, at any stage, to enable the Investigating Officer to comply with, or to act in pursuance of, any of the provisions of Article 8 (entitled "Investigating Officer") of the Law or any order made thereunder.

(b) Where the Investigating Officer alleges a petitioner's adultery with any person, he shall, unless

otherwise directed by the Court, cause every such person to be personally served with a copy of the statement mentioned in the last foregoing sub-section, omitting any part thereof which contains any allegation in which the person so served is not named. Such copy shall be endorsed with a notice in accordance with Form 21 in the Appendix to these Rules, so far as the same is applicable.

(c) These Rules shall apply to all subsequent pleadings and proceedings in respect of the Investigating Officer's statement as if such statement were an original petition.

(2) In any suit to which this Rule applies and in which the provisions of section (1) of this Rule have been fulfilled, no hearing by the Court shall, as the case may be, begin or be proceeded with, until it is shewn to the Court that the Investigating Officer has had due notice thereof.

**Rule 34.—When Entry of Appearance Unnecessary to Pleading of Investigating Officer**

(1) In a suit in which the Investigating Officer intervenes, neither the petitioner nor any person who has entered an appearance in such suit, nor any person who obtains leave to intervene in the suit, shall be required to enter an appearance to the pleading filed by the Investigating Officer under the provisions of Rule 30; and the petitioner or such person may file an answer to such pleading within fourteen days after service upon him under Rule 33.

(2) A person who subsequently obtains leave to intervene may, within fourteen days thereafter, file an answer.

**Rule 35.—Care of Children**

(1) (a) A petitioner, at any time after service of a petition in which the custody of any children of the marriage is claimed;

- (b) the respondent to any such petition, after entering an appearance to the petition;
- (c) any person who has the custody or control of such children; and
- (d) any person to whom the Court gives leave for the purpose;

may apply to the Court for an order under Part VII. of the Law.

(2) The Court, on the making of an application under this Rule by a person other than a person having the de facto custody or control of such children, shall hear such last-mentioned person if he or she so desires, and the Court may refuse to make an order until it is satisfied that that person has received such notice, through the post or otherwise, as would be sufficient to enable such person to make representations to the Court in the matter.

(3) An order made by the Court under this Rule may include the appointment of any person or persons approved by the Court to safeguard the interests of the children in the execution of such order.

#### **Rule 36.—Applications under Part VIII. of the Law**

(1) Except by leave of the Court, no respondent may make an application under Part VIII. (entitled “Property and Contributions for Support”) of the Law, later than six calendar months next after the making of the decree in the suit out of which the application arises.

In this sub-section, the expression “the making of the decree” means, in the case of a decree which is provisional, the making of a Final Order in relation to that decree.

(2) If the relevant decree is provisional, no such order of the Court under Part VIII. of the Law, other than an interim order under Article 47 (entitled “Contributions for Support”), shall take effect, save in so far as it relates to the preparation, execution or approval of a deed or other instrument, and no settlement made in

pursuance of any such order shall take effect, unless and until a Final Order is made in relation to that decree.

(3) Upon an application under Part VIII. of the Law for the variation of marriage settlements or any other proceeding provided for in Article 45 (entitled "Power of Court to Vary Settlements, etc.") of the Law, the vesting or division of property, the securing of payments for or towards support, or the settlement of a wife's property in favour of husband or children, the Court, unless it is satisfied that the proposed variation or other proceeding would not adversely affect the rights or interests of any children of the marriage or, as the case may be, that the said vesting or division of property, securing of payments or settlement would make adequate provision for any children of the marriage, may direct that the children be separately represented by counsel and may also assign a guardian ad litem in the matter for any minor children and administer the appropriate oath to such guardian.

**Rule 37.—Evidence on Application for Contributions for Support, Etc.**

(1) Where a husband is served with a petition in which an interim order directing him to make payments to his wife, for or towards her support, is claimed, he shall, within fourteen days, or such further period as the Court directs, file a sworn declaration setting out full particulars of his property and income and thereupon furnish an examined copy thereof to his wife.

(2) Where a spouse has been served with a notice of an application by the other spouse for an order of a kind for which provision is not made in paragraph (1) of this Rule, for contributions for support, or for the maintenance or education of the children of the marriage, the spouse so served with notice shall, within the time provided for in the foregoing section, file a sworn declaration setting out full particulars of his or her property and income and thereupon furnish an examined copy thereof to the other spouse.

(3) If, when furnishing a sworn declaration made in pursuance of the foregoing provisions of this Rule, a spouse alleges that the other spouse has property or income, that other spouse may, within fourteen days after the said sworn declaration has been furnished to him or her, file a sworn declaration in reply to that allegation, and thereupon furnish an examined copy thereof to the other spouse; but no further evidence in the matter shall be filed by any party without leave of the Court.

**Rule 38.—Evidence in Support of Application for Variation of Settlement, Etc.**

(1) An application under Article 45 (entitled “Power of Court to vary Settlements, etc.”) or Article 50 (entitled “Power of Court to order settlement of wife’s property,” etc.) of the Law, shall state the nature of the variation or other proceeding or settlement proposed and shall, unless otherwise directed, be supported by a sworn declaration by the petitioner stating the facts relied on, and such sworn declaration shall set forth full particulars of the marriage and any children of the marriage, and short particulars of any marriage contract, marriage settlement, post-nuptial settlement, funds brought into settlement by the parties to the marriage and any terms of separation subsisting between them and, in the case of an application for settlement of the wife’s property, full particulars, so far as they are within the declarant’s knowledge or possession, of the property to which she is entitled either in possession or reversion.

(2) On the filing of the application, the Court shall direct within what limit of time the opposite party may, as a condition of being allowed to contest the application, submit to the Court a sworn declaration in answer thereto, and the said party may make such sworn declaration accordingly. The Court may, at the hearing, make such order as it deems just on the merits, or may adjourn the hearing for further evidence or argument and thereafter make such order as aforesaid.

**Rule 39.—Security for Wife's Costs**

(1) A wife who is a petitioner or who has entered an appearance may apply to the Court for an Order that her husband shall pay into Court or give security for her costs of and incidental to —

- (a) the taking of evidence outside the jurisdiction of the Court,
- (b) other matters preparatory to presenting her case to the Court,
- (c) the trial or other hearing in the suit.

(2) Unless the husband proves that the wife has sufficient separate estate or shews other good cause, the Court may make an order accordingly in respect of such sum or sums as it is satisfied have been or are likely to be properly incurred by the wife for any one or more of the purposes mentioned in sub-sections (a), (b) and (c) of section (1) of this Rule.

**PART IV.—DECREES AND ORDERS****Rule 40.—Form of Decrees and Orders**

(1) His Majesty's Greffier shall draft, and submit for the approval of the Court, every decree and order of the Court.

(2) Where in any case there has been a finding of adultery against one of the parties to the suit, but the Court has refused to exercise its discretion under paragraph (2) of Article 18 (entitled "Duty of Court on Presentation of Petition for Divorce") of the Law, such finding and refusal shall be set out in the decree; and where in such case the Court exercises its discretion the decree shall state that it is made in the exercise of the discretion conferred on the Court by the said Article.

**Rule 41.—Application out of Time for Final Order**

If an application for a Final Order under Article 12 (entitled "Decrees and Final Orders") of the Law is made after the expiration of twelve calendar months

from the date on which it might first have been made, there shall be filed with the statement filed under Rule 15 a sworn declaration by the applicant accounting for the delay; and the application shall not proceed without the leave of the Court.

## PART V.—SPECIAL PROVISIONS RELATING TO MINORS AND PERSONS OF UNSOUND MIND

### **Rule 42.—Minors and Persons of Unsound Mind as Parties**

(1) A minor or person of unsound mind commencing, prosecuting, defending or intervening in any suit to which these Rules relate, shall do so by a guardian appointed to him, and sworn for the purpose, by the Court.

Before appointing such a guardian to a minor who is not of unsound mind, for the purpose of the presentation and prosecution of a petition, the Court shall satisfy itself that the minor consents to the proposed proceedings in the matrimonial suit.

The time limited or provided by these Rules for the taking of any procedural step, after the service of any document, shall, where the litigant affected by the relevant Rule is a minor or person of unsound mind, commence to run from the date of the appointment of a guardian under this section.

(2) When in any such suit any document is required to be personally served, and the person on whom service is to be effected is a minor who is not of unsound mind, then, unless the Court otherwise directs, such document shall be served on the said minor, and an examined copy of that document shall be served

(a) on the guardian, if any, already appointed under the foregoing section, or, if no such appointment has been made, on one of the Law Officers of the Crown, who shall, as soon as practicable, take steps to procure the appointment of such a guardian, and

(b) on any such guardian thereupon or thereafter appointed.

(3) When in any such suit any document is required to be personally served, and the person on whom service is to be effected is of unsound mind, then, unless the Court otherwise directs, such document shall be served on the person with whom the person of unsound mind resides or under whose care he is, and service so effected shall be deemed good service on the person of unsound mind; and an examined copy of that document shall be served

(a) on the guardian, if any, already appointed under section (1) of this Rule, or, if no such appointment has been made, on one of the Law Officers of the Crown, who shall, as soon as practicable, take steps to procure the appointment of such a guardian, and

(b) on any such guardian thereupon or thereafter appointed.

(4) Any document served in accordance with the last foregoing section shall be endorsed with a notice that the contents or purport of the document shall be communicated to the person of unsound mind to whom it relates, unless the person on whom the document was served is satisfied —

(a) if he is the medical attendant of the person of unsound mind or the medical officer of the institution in which the person of unsound mind is, or

(b) if he is not such medical attendant or officer, then after consultation with that medical attendant or officer,

that such communication would be detrimental to the mental condition of the person of unsound mind, or be without proper significance for that person.

(5) (a) After service of any document has been effected upon a person of unsound mind in accordance with the foregoing provisions of this Rule, the party

at whose instance the document was served shall, unless the Court otherwise directs, file either —

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- (i) a sworn declaration made by the person with whom the person of unsound mind resides or under whose care he is, stating whether or not the contents or purport of the document were communicated to the person of unsound mind, and, if they were not, giving the reasons why they were not so communicated; or
- (ii) a statement in writing accounting for the absence of such sworn declaration.

(b) The Court may require the attendance before it, and may examine on oath or otherwise, any person who ought to have made a sworn declaration, conformably to the provisions of the foregoing sub-section (a).

(6) For the purposes of this Rule, a person is of unsound mind if

- (a) he has been certified as being of unsound mind —
  - (i) under the Mental Treatment Law (Guernsey), 1939, or any Law amending or supplementing that Law; or
  - (ii) by the competent authority elsewhere than in this island;  
and a certificate to that effect is still in force at the material time; or
- (b) he is a temporary patient within the meaning of the “Loi ayant rapport aux Faibles d’Esprit, 1926,” or of any Law amending or supplementing that Law.

## PART VI.—REGULATIONS RELATING TO POOR PERSONS

### Rule 43.—Meaning of “Poor Person”

(1) Subject to the provisions of paragraph (2) of this Rule, a poor person, within the meaning of these Rules, is a person —

- (a) whose assets (excluding wearing apparel and tools of trade) do not exceed in value one hundred pounds; and
- (b) whose usual income from all sources does not exceed the rate of four pounds a week.

(2) Where the person applying to be admitted to proceed as a poor person is a wife, she shall, subject to the provisions of paragraph (3) of this Rule, be deemed to be a poor person only if she and her husband together fulfil the conditions as to assets and income stated in paragraph (1) of this Rule, 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 the matrimonial cause, or contribution for support pendente lite, a wife shall be deemed to be a poor 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 Rule.

#### **Rule 44.—Poor Person's Certificates**

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

(2) The Magistrate shall examine the applicant on oath and may require the applicant to make a sworn declaration as to any facts alleged in support of the application; and he may also take evidence on oath or by sworn declaration from any other person whose testimony he regards as material to the application.

(3) If, after the investigation provided for in the last foregoing section, the Magistrate is satisfied that it is proved that the poor person's circumstances are such that he is unable to pay the cost of instituting, prosecuting, or defending the proceedings in the matrimonial suit, but not otherwise, 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 a poor person entitled to legal assistance in accordance with these Rules.

(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 a poor 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 poor person's certificate granted by the Magistrate under these Rules 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 by the Magistrate for the use of the Court.

#### **Rule 45.—Poor Person's Resources to be Certified**

The Magistrate, in his certificate, shall state the amount of the poor person's assets and income as he finds them proved.

#### **Rule 46.—Proceedings by and Against Poor Persons**

Any poor person who has obtained a poor 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 a poor 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 poor person, not exceeding the following —

- (a) where the poor person is a petitioner, and whether or not the petition is defended, the sum of five pounds, together with the amount of any disbursements incurred by the advocate on the petitioner's behalf;
- (b) where the poor person is a party other than a petitioner —
  - (i) the sum of two pounds, 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 two pounds in respect of representing the party before the Court.

**Rule 47.—Non-Liability for Court Fees and Costs**

The poor person named in the poor 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, the poor person shall not be liable to pay costs to any other party.

**Rule 48.—Allowable and Prohibited Payments to Poor Person's Advocate**

(1) The Court may, from time to time, allow such payments as it thinks just to be made by a poor 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 a poor person to deposit in Court, or as the Court directs, a sum of money, in order to cover the fees and disbursements of his advocate under Rule 46 (entitled "Proceedings by and against Poor 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 poor person.

(3) Except as provided by these Rules 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 Rules, and thereafter the poor person shall not be admitted in the same proceedings as a poor person unless the Court otherwise directs.

**Rule 49.—Discharge of Poor Person's Certificate**

If he finds cause for doing so, the Magistrate may recommend to the Court, in writing, that any certificate given by him under these Rules should be discharged, giving his reasons for such recommendation, and, if the Court directs the discharge, the poor person shall not, unless the Court otherwise orders, be entitled to the benefit of this Part of these Rules in any proceedings to which the certificate relates; and the Court may, if it thinks fit, order such discharge of its own motion or on the application of any person whom it holds to be interested in so applying.

**Rule 50.—Discontinuance of Proceedings**

After the date on which a poor person's certificate is granted, neither the poor 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.

**Rule 51.—Termination of Retainer**

(1) No poor 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 poor person, unless he satisfies the Court that he has reasonable ground for discontinuing his assistance.

**Rule 52.—Acquisition of Means after the Grant of Poor Person's Certificate**

If and whenever the poor person, or, where the wife is the poor person, if and whenever she or her husband, becomes possessed of means beyond those stated in the poor person's certificate, the poor person shall forthwith, and from time to time, report accordingly to his advocate, who shall thereupon make a report in writing to the Magistrate.

**Rule 53.—Costs in Favour of Poor Person**

(1) The Court may order an opposite party to pay the expenses of a poor 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 poor person under these Rules, but not office expenses or Court fees.

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, such sums as the Court thinks fit in respect of such unusual burden.

(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 poor 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 the 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 section (1) or section (2) of this Rule, 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.

**Rule 54.—Fraud and Misrepresentation**

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

**Rule 55.—Payment out of Money Recovered  
and Property or Interest Awarded**

(1) Having regard to any property or interest awarded by the Court to a poor person, or any money recovered by the poor person in a matrimonial suit, the Court may direct that the poor 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 a poor 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 poor person as aforesaid or out of such property or interest awarded to the poor 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 Rule, money or property recovered includes money or property recovered by virtue of a settlement or compromise.

## PART VII.—APPEALS

### Rule 56.—Appeals: Notice to H.M. Greffier

Wherever due notice of appeal from a judgment of the Court for Matrimonial Causes is received at the Greffe, His Majesty's Greffier shall, in addition to any customary record thereof, cause a memorandum of such notice, and of the date of its receipt, to be entered in the margin of the minute recording the said judgment in the Register of Divorce and other Matrimonial Causes.

## PART VIII.—MISCELLANEOUS

### Rule 57.—Evidence

(1) Subject to the provisions of the Law and of this Rule, the witnesses at the hearing of any matrimonial suit shall be examined viva voce and in open Court:

Provided that the Court may

- (a) subject to the provisions of paragraph (3) of this Rule, order that any particular facts specified in the order may be proved by sworn declaration;
  - (b) order that the sworn declaration of any witness may be read at the hearing on such conditions as the Court may think reasonable;
  - (c) order that evidence of any particular facts specified in the order shall be given at the hearing by statement on oath of information and belief, or by production of documents or entries in books or by copies of documents or entries or otherwise as the Court directs.
- (2) The Court may order that not more than a specified number of expert witnesses may be called.
- (3) Where it appears to the Court that any party reasonably desires the production of a witness for

cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by sworn declaration, but the expenses of such witness on attendance at the hearing shall be the subject of special consideration and direction by the Court.

(4) Any party may apply to the Court for the appointment of a commission or for letters of request to examine a party or witness in any suit and for leave to give the depositions taken on the examination in evidence at the hearing, and the Court, if it thinks fit, may grant the application and may give leave on such terms and conditions as it deems advisable.

(5) Nothing contained in any order made in virtue of this Rule shall affect the power of the Court at the hearing to refuse to admit evidence tendered in accordance with any such order if in the interests of justice it thinks fit to do so.

#### **Rule 58.—Sworn Declarations**

(1) A sworn declaration for the purposes of these Rules 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 the Judge, or Lieutenant-Judge, and 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 His 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 sworn declaration made under the provisions of paragraph (ii) of sub-section (e) of section (1) of this Rule shall be annexed a certificate that the person before whom it was sworn was, when it was sworn, a person duly authorised to take sworn declarations or administer oaths in the jurisdiction in which the declaration 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 His Majesty holding office in such jurisdiction.

(3) In this Rule, 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.

#### **Rule 59.—Questions Suggesting Witness's Adultery**

Before any question is put to a witness tending to show that he has been guilty of adultery, the advocate or other person who wishes to put that question shall inform the Court of the proposed question, and the Court shall thereupon determine whether or not the question is, conformably to the provisions of the second paragraph of Article 61 (entitled "Evidence") of the Law, admissible.

#### **Rule 60.—Copy of Decree or Other Act of Court**

(1) A sealed or other copy of any decree of the Court or other Act of Court may be issued to any person requiring it, on payment of the prescribed fee. Such copy shall bear the date of the day on which it is issued, as well as the date of the decree or other Act of Court.

(2) In the case of a decree of divorce or decree of nullity of marriage, any such copy shall bear on its face a certificate by His Majesty's Greffier, stating whether the said decree is provisional only or has ceased to be provisional by having been followed by a Final Order or by such an Order in Council as is referred to in sub-paragraph (b) of paragraph (1) of Article 12 (entitled "Decrees and Final Orders") of the Law.

(3) Any copy, issued under this Rule, of a decree of a kind other than those mentioned in the last foregoing section shall bear on its face a certificate by His Majesty's Greffier, stating whether the decree is subject to any right of appeal still subsisting at the date of that certificate.

#### **Rule 61.—Reversal of Decree of Judicial Separation**

(1) A petition to the Court for the reversal of a decree of judicial separation shall set out particulars of the decree the reversal of which is being prayed and the grounds on which the petitioner relies.

(2) All pleadings and proceedings arising out of such petition and any answer thereto shall be filed and carried on in the same manner as is by these Rules directed in respect of the original petition and answer thereto.

#### **Rule 62.—Rescission and Discharge of Judicial Separations**

His Majesty's Greffier shall keep a Register of Declarations of Rescission of Judicial Separations, made conformably to the requirements of sub-paragraph (a) of paragraph (1) of Article 29 (entitled "Provisions regarding termination of separation," etc.) of the Law, in accordance with Form 24 or Form 25 in the Appendix to these Rules, as the case requires, and shall cause a memorandum of any such declaration and of any discharge made under sub-paragraph (b) of the said paragraph, to be entered in the margin of the minute

which records the Act of Court pronouncing the separation to which the said declaration relates.

**Rule 63.—Priority of “Hypothèque”**

Upon the registration of an order whereby the Court makes a declaration pursuant to Article 52 of the Law (entitled “Power of Court to award particular priority to ‘hypothèque’”), awarding particular priority to a “hypothèque,” His Majesty’s Greffier shall, in entering the same in the Record of Hypothèques, etc., to which an Alphabetical Index is attached, make a sufficient note of the priority awarded by the Court.

**Rule 64.—Medical Inspection**

(1) In proceedings for nullity on the ground of impotency, the petitioner shall, as soon as may be, apply to the Court for the appointment of medical inspectors to examine the parties. The Court shall, upon such application —

- (a) appoint two medical inspectors, neither of whom shall be the ordinary medical attendant of either party, to examine the parties and report to the Court the result of the examination; and
- (b) order the parties to attend the said inspection for the purposes of the examination.

The above-mentioned order, endorsed with the date, time and place of the inspection for each party, shall be served personally upon the respondent or his advocate at least four days before that date.

(2) An advocate to whom the party is known shall accompany each of the parties at the time and place fixed for the inspection, for the purpose only of identifying the parties respectively to the inspectors. After each identification, which shall take place at a separate interview for each party, each party and the said advocate shall sign a minute of identification bearing date of that day, and the minute shall be annexed to the report submitted by the inspectors to the Court.

(3) On a petition for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage, either party may apply to the Court for the appointment of medical inspectors to examine the parties. The Court shall, upon such application, appoint two medical inspectors as aforesaid and either of the parties shall be at liberty to undergo examination by such inspectors. The provisions of paragraph (2) of this Rule shall apply to any such examination and the inspectors shall report to the Court the result of the examination.

(4) In order to ensure that the parties shall not meet at the place appointed for the medical inspection, the times of their respective appointments with the inspectors shall be arranged at a suitable interval, or alternatively, separate waiting rooms shall be provided for them.

(5) Every report made in pursuance of this Rule shall be filed in a file which shall not be available to the public, and either party shall be entitled to be supplied with a copy upon payment of the prescribed fee.

(6) The Court may grant a decree of nullity of marriage notwithstanding that the respondent has not submitted to medical inspection.

#### **Rule 65.—Security for Costs**

Any Court exercising jurisdiction under the Matrimonial Causes Law (Guernsey), 1939, may require security for costs to be given by a petitioner or an applicant for leave to intervene, as a condition of proceeding with his petition or application.

#### **Rule 66.—Dating of Procedural Documents**

Every petition and notice, and every other procedural document issued under these Rules, shall bear the date of the day on which it is signed. If any document is signed by more than one person and bears no more than one date as the date of its having been signed, that date

shall, unless the contrary appears, be presumed to be the date on which it was signed by each of those persons.

**Rule 67.—Time Allowance in Process, for Absentees**

(1) Where, under these Rules, a period from the date of the service of process on any person —

(a) who has not, either voluntarily or in compliance with these Rules, furnished an address for service in the Island of Guernsey; and

(b) whose address for service is not, under the operation of these Rules, situate at the office of His Majesty's Sergeant;

is limited for the taking by that person of some procedural step, then if at such date as aforesaid, that person is absent from the Island of Guernsey, the period so limited shall, unless the Court otherwise directs, be increased —

(i) if such process was personally served on that person, by a period equivalent to one half of the period of the "Terme à Ecrire" which, under the provisions of the Ordinance entitled "Ordonnance provisoire au sujet des termes à écrire" dated the 8th day of February, 1936, and any Ordinance amending the same, would be appropriate in the circumstances of that person in proceedings, other than matrimonial suits, directed against that person, before the Royal Court; or

(ii) if the service of such process on that person was by means of substituted service, then—  
if the whereabouts or recent whereabouts of that person are known by such period as is last hereinbefore mentioned; and

if the whereabouts or recent whereabouts of that person are not known, by a period of sixty days.

(2) For the purposes of a notice under Rule 14 (entitled "Proceedings preparatory to hearing of Application"), the period of notice required by that Rule shall be increased by the period allowed under this Rule for the taking of such a procedural step as is referred to in section (1) of this Rule.

**Rule 68.—Computation of Time**

(1) Except as provided in the next ensuing section, and unless the Court otherwise directs, Sunday, Christmas Day, Good Friday and Public Holidays declared by Ordinance of the Royal Court, shall be included in any period of time delimited in these Rules for the taking of a procedural step.

(2) When such time as aforesaid expires on a Sunday or other day mentioned in the foregoing section, that time shall be computed so as to extend to and include the next working day following that Sunday or other such day, as the case may be.

(3) The days of August and September shall, unless the Court otherwise directs in any particular case, and except for the purpose of an application for such a direction, be dies non juridici so far as regards the computation of time, under these Rules, for the taking of any procedural step.

(4) Where any limited time from or after any date or event is appointed or allowed by these Rules or by an order of the Court for doing any act or taking any procedural step or any proceeding, then, unless the Court otherwise directs,

- (a) in the computation of such limited time, that time shall be taken as exclusive of the day of that date or the happening of that event, and as commencing at the beginning of the next following day; and
- (b) the act, procedural step or proceeding shall be done or taken at the latest on the last day of that limited time, unless the last day is a day

mentioned in section (1) of this Rule, and, if it is such a day, the provisions of section (2) of this Rule shall apply.

**Rule 69.—General Provision Regarding Procedure**

With regard to any matter for which these Rules do not specifically provide, the procedure applicable shall, as nearly as circumstances permit, be that of the Royal Court in civil cases.

**Rule 70.—General Provision Regarding Forms**

General Forms of Process are set out, by way of example, in the Forms contained in the Appendix to these Rules, and, subject to all relevant specific requirements contained in these Rules, such Forms shall be followed as nearly as may be, according to the circumstances of the suit in which they are used; and the provisions of these Rules regarding the use of any particular Form shall be construed accordingly.

**Rule 71.—Interpretation**

(1) The provisions of Article 1 (entitled “Definitions and Interpretation”) of the Law shall apply in like manner to the words and expressions therein mentioned, when they occur in these Rules.

(2) In these Rules, unless the context otherwise requires or it is otherwise specially provided, the following words and expressions have the meanings hereby respectively assigned to them, namely:—

“Ancillary relief” means relief by way of the award of pecuniary, proprietary or personal rights (including an order under Part VII. (entitled “Care of Children”) of the Law) granted in virtue of the Law or of these Rules, subordinately to, or in consequence or furtherance of, the granting of a decree under the Law or in connexion with proceedings directed to obtaining such a decree:

“ Court Fees ” includes the fees chargeable by His Majesty’s Greffier and His Majesty’s Sergeant:

“ Endorsed ” includes the placing of any written or printed matter to which the expression relates after and on the same document as any antecedent written or printed matter, but such subsequently written or printed matter shall not be on the back of any part of the said document.

“ Examined copy ” means examined against the original by His Majesty’s Greffier marked as examined by the examining officer, and sealed with the seal of His Majesty’s Greffier:

“ Filed ” means handed to His Majesty’s Greffier for filing as a document for inclusion in the dossier relating to the suit in question; and “ file ” and “ filing ” shall be correspondingly construed:

“ His Majesty’s Greffier ” includes any Deputy Greffier:

“ The Island ” and “ This Island ” mean the Island of Guernsey:

“ The Law ” means The Matrimonial Causes Law (Guernsey), 1939, and any Law amending, supplementing or superseding that Law:

“ Opposite parties ” means parties between whom there is some right to be adjusted in the proceedings:

“ Petition ” means a petition for the purposes of these Rules and includes “ cross-petition,” whether made separately or in another pleading, in so far as is necessary, and the word “ petitioner ” shall be correspondingly construed:

“ Sworn declaration ” 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 Rule 58.

**Rule 72.—Commencement**

These Rules shall come into operation on such day as the Royal Court by Ordinance appoints.

**Rule 73.—Short Title**

These Rules may be cited as the Matrimonial Causes Rules, 1945.

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## APPENDIX OF FORMS

The Forms contained in this Appendix are subject to the provisions of Rules 70 (entitled "General Provision regarding Forms")

## FORM 1

## DIVORCE

(Rule 5 (1) )

**HUSBAND'S PETITION FOR DISSOLUTION OF MARRIAGE ON THE GROUND OF ADULTERY.**

IN THE ROYAL COURT OF GUERSEY  
MATRIMONIAL CAUSES DIVISION

<i>Between</i>	A.B.	Petitioner
	and	
	C.B.	Respondent
	and	
	E.F.	Co-Respondent.

TO THE COURT FOR MATRIMONIAL CAUSES:

This                      day of                      , 19  
THE PETITION of A.B. (*in Poor Persons' cases add—"Suing as a Poor Person"*) sheweth—

(1) That on the                      day of                      , 19                      , your petitioner was lawfully married to C.B., then C.D., spinster (*or give other status*) (hereinafter called the respondent) at (*state place of marriage, copying details exactly from marriage certificate*);

(2) That after the said marriage, your petitioner and the respondent lived and cohabited at (*give at least one specific address: if there has been no cohabitation within the jurisdiction, state this*), and there is issue of that marriage now living (*if there is living issue, give names and dates of birth, or names and ages; alternatively, state that there is no living issue*).

(3) That your petitioner is a (*state occupation and status*) and resides at (*give specific address*); that the said

respondent resides at (*give specific address*); and that both your petitioner and the said respondent are domiciled in the Bailiwick of Guernsey;

(4) That there have been no previous proceedings in any Court with reference to the said marriage by or on behalf of either party to the said marriage; (*if there have been such proceedings, give nature and date, the result of same, and the purport of any decree or order, and state whether there has been cohabitation since the making thereof, and that, save and except those stated, there have been no proceedings*);

(5) That the said respondent has frequently committed adultery with E.F. (*or, with a man whose name and identity are unknown*);

(6) That on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_, the said respondent committed adultery with E.F. (*or, with a man whose name and identity are unknown*);

*(The following paragraphs, 7 and 8, should be inserted where applicable).*

(7) That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the said respondent was delivered of a child named \_\_\_\_\_, the paternity of which is in dispute.

*(If paragraph 7 is used, there should, in paragraph (2), after stating the issue of the marriage, be added, after the words "now living," the words "other than as set out in paragraph 7.")*

(8) That your petitioner claims damages against the said E.F.

Your petitioner therefore prays that the Court will be pleased to decree (*or, where the discretion of the Court is sought to be exercised*: that the Court will be pleased to exercise its discretion in his favour and decree)—

- (1) That the marriage of your petitioner with the said respondent be dissolved;
- (2) (*Where applicable*) That your petitioner may have the custody of his said children;

- (3) (*Where applicable*) That the sum of £  
be paid by the said E.F. as damages in respect  
of the adultery by him committed with the said  
respondent;
- (4) That the said E.F. (*and, if costs are claimed  
against the wife, and the said respondent*) be  
condemned in the costs of these proceedings;
- (5) (*Insert in all cases*) That your petitioner may  
have such further and other relief as may be  
just.

(Signed) A.B.

(Petitioner's signature).

**FORM 2.**

**DIVORCE**

(Rule 5 (1) )

**WIFE'S PETITION FOR DISSOLUTION OF  
MARRIAGE ON THE GROUND OF  
ADULTERY**

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

<i>Between</i>	A.B.	Petitioner
	and	
	C.B.	Respondent
	and	
	E.F.	Co-Respondent.

TO THE COURT FOR MATRIMONIAL CAUSES:

This                      day of                      , 19 .  
THE PETITION of A.B. (*in Poor Persons' cases add—  
"Suing as a Poor Person"*) sheweth —

(1) That on the                      day of  
19 , your petitioner, then A.S., spinster (*or give other  
status*) was lawfully married to C.B. (hereinafter called  
the respondent) at (*state place of marriage, copying  
details exactly from marriage certificate.*);

(2) That, after the said marriage, your petitioner and the said respondent lived and cohabited at (*give at least one specific address: if there has been no cohabitation within the jurisdiction, state this*), and there is issue of that marriage now living (*if there is living issue, give names and ages: alternatively, state that there is no living issue*);

(3) That your petitioner resides at (*give specific address*); that the said respondent, who is a (*state occupation or status*), resides at (*give specific address*); and that both your petitioner and the said respondent are domiciled in the Bailiwick of Guernsey;

(4) That there have been no previous proceedings in any Court with reference to the said marriage by or on behalf of either party to the said marriage (*if there have been such proceedings, give nature and date, the result of same, and the purport of any decree or order, and state whether there has been cohabitation since the making thereof, and that, save and except those stated, there have been no proceedings*);

(5) That the said respondent has frequently committed adultery with W.N. (*or, with a woman whose name and identity are unknown*);

(6) That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, the said respondent committed adultery with W.N. (*or, with a woman whose name and identity are unknown*);

(*The following paragraphs 7, 8 and 9, should be inserted where applicable*).

(7) That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the said W.N. was delivered of a child, of which the respondent is the father;

(8) That your petitioner claims damages against the said W.N.;

(9) (*Where payment, pending suit, for or towards the petitioner's support, etc., is claimed*). That, to the best of your petitioner's knowledge and belief, the said respondent derives from his (business or profession,

or position, as a *state occupation*) an annual income of £ , and also owns real and personal property, to the approximate value of £ .

Your petitioner therefore prays that the Court will be pleased to decree (*or, where the discretion of the Court is sought to be exercised: that the Court will be pleased to exercise its discretion in her favour and decree*)—

- (1) That the marriage of your petitioner with the said respondent be dissolved;
- (2) (*Where applicable*) That your petitioner may have the custody of her said children;
- (3) (*Where applicable*) That the sum of £ be paid by the said W.N. as damages in respect of the adultery by her committed with the said respondent;
- (4) That the said W.N. (*and, if costs are claimed against the husband: and the said respondent*) be condemned in the costs of these proceedings;
- (5) (*Where applicable*) That the said respondent be ordered to make payments, pending suit, for or towards your petitioner's support (*etc. as applicable*), as the Court deems just;
- (6) (*Insert in all cases*) That your petitioner may have such further and other relief as may be just.

(Signed) A.B.

(Petitioner's Signature)

### FORM 3.

#### DIVORCE

(Rule 5 (1) )

#### INSTANCES OF ALLEGATIONS OF GROUNDS OF PETITION OTHER THAN ADULTERY

##### (1) *Desertion*

(5) That on the                      day of                      ,  
19                      , the said respondent left your petitioner, and has  
ever since lived separate and apart from her (*or, him*),

and deserted her (*or, him*) without just and reasonable cause for a period of three years and upwards immediately preceding the presentation of this petition.

(2) *Cruelty*

(5) (a) That the said respondent is a man of violent temper and that he has, in and during the years 19 and 19 , habitually used coarse, abusive, violent and threatening language towards your petitioner and has frequently assaulted and struck her.

(b) That on the day of , 19 , at , the said respondent violently (*describe the act or acts of cruelty in detail, in separate paragraphs*); or

(c) That on or about the day of , 19 , the said respondent wilfully and recklessly communicated to your petitioner a venereal disease, namely , being thereby guilty of cruelty to her.

(3) *Unsoundness of Mind*

(5) That the said respondent is incurably of unsound mind and has been continuously under care and treatment at since the day of , 19 .

*(The period shewn must be of at least five years immediately preceding the presentation of the petition).*

(4) *Habitual Drunkenness*

(5) That the said respondent is, and has been since (*a period of not less than three years since the celebration of the marriage and immediately preceding the presentation of the petition must be shewn*), an habitual drunkard, and that by reason thereof, co-habitation of your petitioner with the respondent is a grave hardship;

That on the day of , 19 , and at other times during the years 19 and



respondent, and that the said attempts failed for the following reasons:

1915

OR

That, for the following reasons, it is impracticable or undesirable to attempt to reconcile your petitioner and the said respondent, that is to say, because (*give reasons*);

OR

That your petitioner is willing to go before a Mediator assigned by the Court to endeavour to reconcile your petitioner and the said respondent.

#### FORM 6

#### PETITION FOR RESTITUTION OF CONJUGAL RIGHTS

(Rule 5 (1) )

(The form of petition is, at the outset, similar to a petition for divorce. (But see also Article 30 of the Law). After paragraph (4) in the recital, however, it may proceed as follows:—)

(5) That on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, the said respondent withdrew from cohabitation with your petitioner, and has refused, and still refuses, to render her conjugal rights;

(6) That your petitioner *bona fide* desires a resumption of cohabitation and restitution of her conjugal rights and is sincerely willing to render conjugal rights to the said respondent.

(7) (*Where applicable*) That on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, your petitioner sent by registered post, and addressed to the said respondent at \_\_\_\_\_, being his then last known address, a letter in the following terms:—

(*Set out terms of letter, followed by terms of any reply thereto, and if there has been no reply, state that*

*fact, and if it be so, that the petitioner's letter has not been returned, or other the facts of the case).*

(8) (*Where payment, pending suit, for or towards the petitioner's support, etc. is claimed*) That, to the best of your petitioner's knowledge and belief, the said respondent derives from his (business, or profession, or position, as a: *state occupation*) an annual income of £                   , and also owns (etc.).

Your petitioner therefore prays that the Court will be pleased to decree:

- (1) That the said respondent do return to your petitioner and render to her conjugal rights;
- (2) (*Where applicable*) That your petitioner may have the custody of her said children;
- (3) That the said respondent be condemned in the costs of these proceedings;
- (4) (*Where applicable*) That the said respondent be ordered to make payment, pending suit, for or towards your petitioner's support, (*etc. as applicable*), as the Court deems just;
- (5) That your petitioner may have such further and other relief as may be just.

#### FORM 7

#### WIFE'S PETITION FOR NULLITY OF MARRIAGE

(Rule 5 (1) )

#### GROUND OF PETITION: IMPOTENCY

(*N.B.—*In framing petitions for Nullity of Marriage, the provisions of Article 33 (entitled "Conditions of Exercise of Jurisdiction with regard to Suits for Nullity of Marriage") of the Law require to be observed.)

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*Between* A.B. (otherwise A.S.) Petitioner  
and

C.B.

Respondent.



or position, as a: *state occupation*) an annual income of £ , and also owns real and personal property to the value of £ .

Your petitioner therefore prays that the Court will be pleased to decree—

- (1) That the marriage in fact celebrated between your petitioner and the said respondent be pronounced and declared to have been and to be absolutely null and void, and your petitioner to have been and to be free from all bond of marriage with the said respondent;
- (2) That the said respondent be condemned in the costs of these proceedings;
- (3) That the said respondent be ordered to make payment, pending suit, for or towards your petitioner's support as the Court deems just;
- (4) That your petitioner may have such further and other relief as may be just.

(Signed) A.B.

(Petitioner's Signature.)

### FORM 8

#### WIFE'S PETITION FOR PRESUMPTION OF DEATH AND DISSOLUTION OF MARRIAGE THEREON

(Rule 5 (1) )

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*Between* A.B. Petitioner  
and

C.B. Respondent, whose death the  
Court is prayed to presume.

TO THE COURT FOR MATRIMONIAL CAUSES:

This                      day of                      , 19 .  
THE PETITION OF A.B. (*in Poor Persons' cases add,*  
"Suing as a Poor Person") sheweth:—

(1) That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, your petitioner, A.B., then A.S., spinster (*or, give other status*), was lawfully married to C.B., (hereinafter called the respondent) at (*state place of marriage, copying details exactly from marriage certificate*);

(2) That, after the said marriage, your petitioner and the said respondent lived and cohabited at (*give at least one specific address: if there has been no cohabitation within the jurisdiction, state this*) and there is issue of that marriage now living (*if there is living issue, give names and dates of birth or names and ages: alternatively, state that there is no living issue*);

(3) That your petitioner resides at (*give specific address*); that, when cohabitation continued, and, so far as is known to your petitioner, after it ceased, the respondent was a (*state occupation or status*); that the respondent's address last known to your petitioner was \_\_\_\_\_; and that the respondent was domiciled in the Bailiwick of Guernsey immediately before his departure or disappearance therefrom;

(4) That there have been no previous proceedings in any Court with reference to the said marriage (*If there have been such proceedings give nature and date, the result of same, and the purport of any decree or order, and state whether there has been cohabitation since the making thereof, and that, save and except those stated, there have been no proceedings.*);

(5) That your petitioner and the said respondent last cohabited at \_\_\_\_\_ until the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and that thereafter (*state the circumstances in which cohabitation ended and in which the respondent disappeared*);

(6) That since \_\_\_\_\_ the said respondent has been continually absent from your petitioner; that your petitioner has received no letter or other news from \_\_\_\_\_ or of the respondent since \_\_\_\_\_;

that, so far as is known to your petitioner, the respondent was last seen alive at \_\_\_\_\_ on \_\_\_\_\_ and that your petitioner has no reason to believe that the respondent has been living since \_\_\_\_\_ but that, on the contrary, your petitioner believes that reasonable grounds exist for supposing that the respondent is dead.

Your petitioner therefore prays that the Court will be pleased to decree —

- (1) That the death of the said respondent be presumed and that the marriage of your petitioner with the respondent be dissolved;
- (2) (*Where applicable*) That your petitioner may have the custody of her said children;
- (3) That your petitioner may have such further and other relief as may be just.

(Signed) A.B.

(Petitioner's Signature.)

## FORM 9

### ANSWER

(Rule 5 (1) )

### *ANSWER BY A WIFE RESPONDENT TO A PETITION FOR DIVORCE ON THE GROUND OF ADULTERY*

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*Between* A.B. Petitioner  
and  
C.B. Respondent  
and  
E.F. Co-Respondent.

TO THE COURT FOR MATRIMONIAL CAUSES:

This \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ .  
The respondent, C.B., by her Advocate (*or, in person*),  
says, in answer to the petition filed in this Cause —

(1) That she is not guilty of adultery as alleged in the said petition;

(2) That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and on other days between that day and \_\_\_\_\_, 19\_\_\_\_, the said A.B., the petitioner, at \_\_\_\_\_, committed adultery with G.H.

*(In like manner the respondent is to state, connivance, condonation, or other matter relied on as a ground for dismissing the petition.)*

### *Connivance*

(2) That if the respondent has committed adultery, which she denies, the petitioner has connived at such adultery.

### *Unreasonable delay*

(2) That the petitioner, with full knowledge of all the alleged facts on which he now relies, has been guilty of unreasonable delay in not presenting his petition for upwards of \_\_\_\_\_ years.

## **FORM 10**

### **APPLICATION FOR EXCUSAL OF CITATION OF CO-RESPONDENT**

**(Rule 6)**

### ***APPLICATION BY A HUSBAND PETITIONER***

*(Heading in the Cause)*

In virtue of the provisions of Article 10 (entitled "Joinder of Co-Respondent" etc.) of the Matrimonial Causes Law (Guernsey), 1939, your petitioner in this Cause asks that, for the undermentioned reason (*or, reasons*) the Court will be pleased to order that your petitioner be excused from citing, as a co-respondent in the said cause, E.F.; with whom your petitioner, in his

petition, alleges that the said respondent has committed adultery, that is to say, by reason of the fact that the said E.F. is dead (*or, facts that etc.*)

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
 19\_\_\_\_, at \_\_\_\_\_,  
 (Signed) \_\_\_\_\_, the petitioner.  
 OR  
 (Signed) \_\_\_\_\_, Advocate for  
 the petitioner.

### FORM 11

#### NOTICE TO ENTER APPEARANCE TO BE ENDORSED ON A PETITION OR ANSWER

(Rule 8 (1) )

IN THE ROYAL COURT OF GUERNSEY  
 MATRIMONIAL CAUSES DIVISION

TO \_\_\_\_\_, of \_\_\_\_\_,  
 TAKE NOTICE that you are required, within fourteen days (*or as the case may be*) after service hereof upon you, to enter an appearance in this suit, either in person or by your advocate, at the Greffe, and thereafter to make answer to this petition (*or, make reply to this answer, as the case may be, etc.*) and that, in default of your so doing, the Court may proceed to hear the petition (*or, answer, etc.*) and pronounce judgment, your absence notwithstanding.

If you enter an appearance, you must at the same time furnish to His Majesty's Greffier and to opposite parties, an address within the Bailiwick of Guernsey for service.

The address for service furnished by you, or on your behalf, will, subject to the provisions of section (1) of Rule 10, be the address for service of subsequent process relating to the suit and matters arising thereout; and, if you do not furnish such an address, the address for service will be the office of His Majesty's Sergeant in Guernsey.

*(If the petition includes a claim for an interim order for payments, pending suit, to be made by the husband, the contents of Form 12, so far as appropriate, are to be endorsed after this Notice.)*

The petition (or answer) is filed and this notice is issued by (name of party or advocate(s)), of .

Dated this                      day of                      , 19 .

(Signed).....

His Majesty's Sergeant.

*Note.*—Every petition under these Rules, and every notice thereunder where the reference herein mentioned is material, shall include a notification to the party upon whom such petition or notice is served, referring to the Form for entering an appearance required by these Rules and stating where copies of such Forms are obtainable and the prescribed fee for entering an appearance.

**FORM 12**

**ADDITIONAL NOTICES TO BE INCLUDED IN A NOTICE TO ENTER APPEARANCE (FORM 11), WHERE THE PETITION CONTAINS A CLAIM FOR INTERIM PAYMENTS, PENDING SUIT**

**(Rule 8 (1) )**

AND FURTHER TAKE NOTICE that should you not desire to be heard on this petition in regard to any relief claimed other than the claim for interim payments, pending suit, you are at liberty, within fourteen days (*or as the case may be*) after service hereof upon you, to enter an appearance to the said petition, limited to that claim; and that, in default of your so doing, the Court may proceed to hear and determine such claim and may order such payments, your absence notwithstanding.

AND FURTHER TAKE NOTICE that in the event of your entering an appearance to the said petition, either generally, or limited to the claim for payments, pending suit, as aforesaid, you are required within fourteen days

(*or as the case may be*) thereafter to file a sworn declaration in pursuance of Rule 34 of the Matrimonial Causes Rules, 1940, giving full particulars of your property and income.

### FORM 13

#### **NOTICE TO ENTER APPEARANCE, TO BE CONTAINED IN A NOTICE OF AN APPLICATION FOR ANCILLARY RELIEF, WHERE APPEARANCE HAS NOT BEEN ENTERED TO THE PETITION**

(Rule 8 (2) )

AND FURTHER TAKE NOTICE that should you, the said \_\_\_\_\_, desire to be heard on the said application, you are at liberty, within fourteen days (*or as the case may be*) after service hereof upon you, to enter an appearance to the said petition limited to the subject-matter of the said application, either in person or by your advocate(s), in this Court, and that, in default of your so doing, the Court may proceed to hear the said application and make such order thereon as it may think fit, your absence notwithstanding. If you enter an appearance, you must also furnish to His Majesty's Greffier, and to opposite parties, an address within the Bailiwick of Guernsey, for service.

### FORM 14

#### **NOTICE TO FURNISH EVIDENCE, TO BE CONTAINED IN A NOTICE OF AN APPLICATION FOR CONTRIBUTIONS FOR SUPPORT, PERIODIC PAYMENTS, MAINTENANCE OR EDUCATION OF CHILDREN, OR THE GIVING OF SECURITY FOR ANY OF THESE PURPOSES**

(Rule 8 (3) )

AND FURTHER TAKE NOTICE that unless, at the time of the service hereof upon you, the applicant or the applicant's advocate(s) give(s) notice to you dispensing with this requirement, you are required within fourteen days (*or as the case may be*) after (such service, *if contents of Form 13 are included*), to file with His Majesty's Greffier a sworn declaration in pursuance of

Rule 34 of the Matrimonial Causes Rules, 1940, giving full particulars of your property and income, and that in default of your so doing the Court may, in virtue of the provisions of Article 68 (entitled "Power of Court etc.") of the Matrimonial Causes Law (Guernsey), 1939, make such order against you as it deems fit.

1945

**FORM 15**  
**REQUEST FOR SERVICE ABROAD**  
**(Rule 11 (2) (a) )**

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*Between* A.B. Petitioner  
and  
C.B. Respondent  
and  
E.F. Co-Respondent

TO THE COURT FOR MATRIMONIAL CAUSES:·

I hereby request that a notice of a petition (*or, as the case may be*) in this Cause be transmitted through the proper channel to (*name of country*) for service (*or, substituted service*) on the co-respondent at \_\_\_\_\_, or elsewhere in (*name of country*).

And I hereby personally undertake to be responsible for all expenses incurred by His Majesty's Principal Secretary of State for Foreign Affairs in respect of the service hereby requested, and I undertake that, on receiving due notification of the amount of such expenses, I will pay the same to the Chief Clerk, the Foreign Office or as the Court directs, and that I will produce the receipt for such payment to His Majesty's Greffier, if required so to do.

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

(Signed).....  
Advocate(s) for the petitioner.

**REQUEST TO LIEUTENANT-GOVERNOR FOR TRANSMISSION OF NOTICE OF PROCEDURAL DOCUMENT TO FOREIGN GOVERNMENT**

(Rule 11 (2) (b) )

The Bailiff of Guernsey presents his compliments to His Excellency the Lieutenant-Governor, and begs to forward herewith a notice of a petition in a Matrimonial Cause between \_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_, issued, and \_\_\_\_\_, pursuant to order, out of the Royal Court of Guernsey. \_\_\_\_\_, for transmission, through His Majesty's Principal Secretary of State for Foreign Affairs, to the Ministry of Foreign Affairs in (*name of country*), with the request that the same may be served personally upon \_\_\_\_\_, against whom proceedings have been taken as aforesaid in the Royal Court of Guernsey, and with the further request that evidence of the service of the same upon the said \_\_\_\_\_ may be officially certified to the Royal Court of Guernsey, or declared upon oath, or otherwise, in such manner as is consistent with the usage or practice of the Courts of (*name of country*), in proving service of legal process.

The Bailiff begs further to request that if efforts to effect personal service of the said notice of petition prove ineffectual, the Government or Court of the said country may certify accordingly to the Royal Court of Guernsey.

Dated at the Royal Court House, Guernsey, this

day of \_\_\_\_\_, 19 \_\_\_\_ .

(Signed).....

Bailiff.

FORM 17

1945

**ORDER GIVING LEAVE TO A PETITIONER TO  
BESPEAK A REQUEST FOR SUBSTITUTED SERVICE  
OF NOTICE OF PETITION IN A FOREIGN COUNTRY**

(Rule 11 (2) (d) )

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*Between* A.B. Petitioner  
and  
C.B. Respondent  
and  
E.F. Co-Respondent

THE COURT, upon reading the (*certificate or declaration provided for in sub-paragraph (d) of paragraph (2) of Rule 11 (entitled "Service out of the Jurisdiction") of the Matrimonial Causes Rules, 1940*),

ORDERS that the petitioner be at liberty to bespeak a request for substituted service of notice of the petition in this Cause on the co-respondent at \_\_\_\_\_ or elsewhere in (*name of country*), and that the said co-respondent have \_\_\_\_\_ days after such substituted service in which to enter an appearance.

Dated at the Royal Court House, Guernsey, this  
day of \_\_\_\_\_, 19 \_\_\_\_ .  
(Signed).....

Seal of the \_\_\_\_\_ His Majesty's Greffier.  
Royal Court

FORM 18

**REQUEST TO LIEUTENANT-GOVERNOR IN CASE OF  
SUBSTITUTED SERVICE, IN A FOREIGN COUNTRY,  
OF NOTICE OF PETITION**

(Rule 11 (2) (d) )

The Bailiff of Guernsey presents his compliments to His Excellency the Lieutenant-Governor, and begs to forward herewith a Notice of a Petition in a Matrimonial Cause between \_\_\_\_\_ and \_\_\_\_\_

in which the petitioner has obtained an Order of the Royal Court of Guernsey (which order is also enclosed), giving leave to bespeak a request that the said notice of petition may be served by substituted service on the co-respondent

at \_\_\_\_\_ in (*name of country*).

The Bailiff requests that the said Notice of Petition and Order may be forwarded, through His Majesty's Principal Secretary of State for Foreign Affairs, to the proper authority in (*name of country*), with the request that the same may be transmitted by post addressed to the co-respondent at

(*the last known place of abode or place of business of the said co-respondent*), or there delivered in such manner as may be consistent with the usage or practice of the Courts of (*name of country*) for service of legal process where personal service cannot be effected; and with the further request that the same may be officially certified to the Royal Court of Guernsey or declared upon oath, or otherwise in such manner as is consistent with the practice of the Courts of (*name of country*) in proving service of legal process.

Dated at the Royal Court House, Guernsey, this  
day of \_\_\_\_\_, 19\_\_\_\_  
(Signed).....

Bailiff.

**FORM 19**

**CERTIFICATE OF PERSONAL SERVICE**

(Rule 12 (3) (a) (i) )

(*Heading in the Cause*)

An examined copy of the petition (*or as the case may be*), in the above Cause, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, was duly served by the undersigned on (*give name of person served*) at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
(Signed).....

His Majesty's Sergeant.



appearing) (state whether appearance is general or limited to any particular relief).

Dated this                      day of                      19 .

(Signed)

of    , whose address for service  
is    , in the Bailiwick of Guernsey.

**FORM 22**  
**NOTICE OF APPLICATION**  
**(Rule 15)**

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

IN THE MATTER OF A PETITION BY

for (*here set out particulars of the matrimonial cause in which the application is made*).

TO    of

TAKE NOTICE that the petitioner (*respondent*) intends to apply to the Court on the                      day of 19 , for an order that (*here set out a detailed statement of the ancillary relief claimed or other the nature of the proceedings*).

(*Insert here in appropriate cases the contents of Form 13 or Form 14*).

THIS NOTICE is issued by (*Name of applicant or his advocate*) of

Dated this                      day of                      , 19 .

**FORM 23**  
**NOTICE TO A PERSON ENTITLED TO INTERVENE**  
**(Rule 17 (4) and 19 (3) )**

IN THE ROYAL COURT OF GUERNSEY  
MATRIMONIAL CAUSES DIVISION

*(Heading in the Cause)*

TO    of

TAKE NOTICE that you are entitled to apply to the Court for leave to intervene in this cause, should you think fit



NOW WE, by these presents, DECLARE

THAT WE HAVE RESCINDED the said Judicial Separation by having resumed co-habitation.

Signed by the above-named Husband and Wife, in the presence of His Majesty's Greffier, this day of \_\_\_\_\_, 19 .

Signature of Husband.....

Signature of Wife.....

This declaration was signed by the above-named Husband and Wife in my presence, both being present at the same time.

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

(Signed).....  
His Majesty's Greffier.

**FORM 25**

**DECLARATION OF RESCISSION**

**(Rule 62)**

*BAILIWICK OF GUERNSEY*

*DECLARATION OF RESCISSION OF JUDICIAL SEPARATION MADE BY THE ATTORNEYS OF THE HUSBAND AND WIFE*

WHEREAS, on the \_\_\_\_\_ day of \_\_\_\_\_ 19 . the Royal Court, sitting as an Ordinary Court (*or, as the case may be, the Court for Matrimonial Causes*), pronounced, in the exercise of its jurisdiction under sub-paragraph (a) of paragraph (4) of Article 2 of the Matrimonial Causes Law (Guernsey), 1939, a judicial separation between \_\_\_\_\_, the Husband and \_\_\_\_\_, his Wife, to which separation they then and there consented:

NOW WE, the undersigned, being the attorneys of the  
said Husband and Wife, hereby DECLARE

1945

That the above-named Husband and Wife HAVE  
RESCINDED the said Judicial Separation by having  
resumed co-habitation.

Signed by \_\_\_\_\_ ,  
Attorney of the said Husband  
and \_\_\_\_\_ , Attorney of the said  
Wife, in the presence of His Majesty's Greffier, this  
\_\_\_\_\_ day of \_\_\_\_\_ , 19 \_\_\_\_ .

Signature of Husband's Attorney.....

Signature of Wife's Attorney.....

This declaration was signed by the above-named  
Attorneys in my presence, both being present at the  
same time.

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

(Signed).....  
His Majesty's Greffier.