

Orders of the Royal Court

**I
2017**

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 22nd day of May, 2017 before Richard James McMahon, Esquire, Deputy Bailiff;
present:- Susan Mowbray, Barbara Jean Bartie, John Ferguson, Stephen Murray Jones,
Terry George Snell, Esquires, David Percy Langley Hodgetts, Esquire, L.V.O., Niall
David McCathie, Terry John Ferbrache, Jonathan Grenfell Hooley, and Steven John
Morris, Esquires, Jurats.

No. 1 Order, 2017

ENTITLED

THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 2017

The Matrimonial Causes (Amendment) Rules, 2017

THE ROYAL COURT, in exercise of the powers conferred upon it by Article 6 of the Matrimonial Causes Law (Guernsey), 1939^a and Article 64 of the Reform (Guernsey) Law, 1948^b, and of all other powers enabling it in that behalf, hereby orders:-

Amendments to 1952 Rules.

1. The Schedule to the Matrimonial Causes Rules, 1952^c is amended as follows.
2. In the Arrangement of Rules -
 - (a) in the entry relating to rule 40, delete "wife's", and
 - (b) in the entry relating to paragraphs 19 and 20 of the Appendix, for "husband and wife" in each place where it occurs substitute "parties to a marriage".

^a Ordres en Conseil Vol. XI, p. 318; amended by Vol. XII, p. 278; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489; Vol. XXVII, p. 99; Vol. XXXI, pp. 171 and 278; Vol. XXXII, p. 85; Vol. XXXVI, p. 639; Vol. XXXVII, p. 308; Orders in Council Nos. XI and XXXI of 2003; No. XIII of 2011; No. XII of 2015; Ordinance No. XXXIII of 2003; No. VII of 2010; Nos. IX and XXX of 2016.

^b Ordres en Conseil Vol. XIII, p. 288; amended by Order in Council No. XIII of 2003; No. XIV of 2012; there are other amendments not relevant to this Article.

^c O.R.C. No. IV of 1952; amended by Ordinance No. XXXIII of 2003; No. IX of 2016; O.R.C. Nos. I and II of 1973; No. I of 1980; No. IV of 1983; No. I of 1986; No. I of 2001; No. IV of 2009.

3. For rule 3(7), substitute -

" (7) Where in a petition for divorce, judicial separation or nullity of marriage a petitioner asks for an interim order directing the respondent to make payments for or towards the support of the petitioner, or with respect to the custody, maintenance or education of, or access to, the children of the marriage, the petition shall contain a statement in general terms of the respondent's income and property in so far as they are within the petitioner's knowledge or belief."

4. In rule 3(8)(b), for "husband" substitute "respondent" and for "his wife" substitute "the petitioner".

5. In rule 7(2), delete "to a wife".

6. In rule 18(3), for "husband" and "husband or a wife", in each case, substitute "respondent".

7. In rule 18(4) -

(a) for "husband" substitute "respondent",

(b) delete "or where the answer of a wife alleges adultery or sodomy with a person named", and

(c) delete "or person named" in each place where it occurs.

8. For rule 35, substitute -

" 35. A petitioner who has not included in the petition a prayer for contribution for support pending suit may apply for contribution for support pending suit at any time after filing the petition, and a respondent may apply for contribution pending suit at any time after entering appearance to a petition."

9. In rule 38(1), for "husband" substitute "party".

10. In rule 38(2) -

(a) for "husband", in the first place where it occurs, substitute "party",

(b) for "a wife" substitute "the applicant",

(c) for "wife", in the second place where it occurs, substitute "applicant",

(d) for the words from and including "to the husband" to the end of paragraph (2), substitute "of his intention to proceed with the application upon the evidence already filed on the application for contributions for support pending suit".

11. For rule 38(3), substitute -

" (3) Within fourteen days after delivery of any affidavit under paragraph (1) or (2), or within such other time as the Court may fix, the

other party shall file an affidavit in reply containing full particulars of that other party's property and income."

12. Rule 38(4) is deleted.

13. For rule 40, substitute -

"Security for costs.

40. (1) A petitioner, or a respondent who has filed an answer, may apply to the Court for an order that the other party shall pay into Court or give security for the costs of and incidental to -

(a) the taking of evidence outside the jurisdiction of the Court,

(b) other matters preparatory to presenting the case to the Court,

(c) the trial or other hearing in the suit.

(2) Unless the other party proves that the applicant has sufficient separate estate or shows 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 applicant for any one or more of the purposes mentioned in sub-paragraphs (a), (b) and (c) of paragraph (1)."

14. In Form 1A of the Appendix, for paragraph (5) substitute -

"(5) *(Where the Petitioner is a woman)* No other child now living has

been born to the Petitioner during the marriage (except *(state the name of any such child and his date of birth or, if it be the case, that he is of full age)*).

(Where the Respondent is a woman) No other child now living has been born to the Respondent during the marriage so far as is known to the Petitioner (except *(state the name of any such child and his date of birth or, if it be the case, that he is of full age)*).".

15. In Form 2 of the Appendix, in paragraph 6, immediately before "wife" insert "husband or".

16. In Form 14 of the Appendix, in the heading, delete the words "APPLICATION BY A HUSBAND PETITIONER".

17. For Form 19 of the Appendix, substitute the following -

" FORM 19 Rule 48

DECLARATION OF RESCISSION

BAILIWICK OF GUERNSEY

DECLARATION OF RESCISSION OF JUDICIAL SEPARATION MADE BY
THE PARTIES TO A MARRIAGE

WHEREAS, on the day of , 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 us, the undersigned
, and , to which separation we then and there
consented:

NOW WE, by these presents, DECLARE THAT WE HAVE RESCINDED the
said Judicial Separation by having resumed co-habitation.

Signed by the above-named and , in the presence of Her
Majesty's Greffier, this day of , 20 .

Signature

Signature

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

Dated this day of , 20 .

(Signed)

Her Majesty's Greffier."

18. For Form 20 of the Appendix, substitute the following -

DECLARATION OF RESCISSION

BAILIWICK OF GUERNSEY

DECLARATION OF RESCISSION OF JUDICIAL SEPARATION MADE BY
THE ATTORNEYS OF THE PARTIES TO A MARRIAGE

WHEREAS, on the _____ day of _____, 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 _____ and _____, to which separation they then and there consented:

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

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

Signed by _____ Attorney of the said _____ and _____, Attorney of the said _____, in the presence of Her Majesty's Greffier, this _____ day of _____, 20____.

Signature of Attorney

Signature of Attorney

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

Dated this day of , 20 .

(Signed)

Her Majesty's Greffier."

Interpretation.

19. (1) In this Order -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of this Order.

^d Ordres en Conseil Vol. XIII, p. 355.

(3) Any reference in this Order to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation.

20. This Order may be cited as the Matrimonial Causes (Amendment) Rules, 2017.