

ORDER OF THE ROYAL COURT

ENTITLED

The Matrimonial Causes Rules, 1952 *

[CONSOLIDATED TEXT]

NOTE

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

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* O.R.C. No. IV of 1952 (Orders of the Royal Court Vol. I, p. 64); as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Matrimonial Causes (Amendment) Rules, 1973 (O.R.C. No. I of 1973); the Matrimonial Causes (Amendment) (No. 2) Rules, 1973 (O.R.C. No. II of 1973); the Matrimonial Causes (Amendment) Rules, 1980 (O.R.C. No. I of 1980); the Matrimonial Causes (Amendment) Rules, 1983 (O.R.C. No. IV of 1983); the Matrimonial Causes (Amendment) Rules, 1986 (O.R.C. No. I of 1986); the Matrimonial Causes (Amendment) Rules, 2001 (O.R.C. No. I of 2001); the Family Proceedings (Guernsey and Alderney) Rules, 2009 (O.R.C. No. IV of 2009); the Matrimonial Causes (Amendment) Rules, 2017 (O.R.C. No. I of 2017). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Government of Alderney Law, 2004 (No. III of 2005); the Matrimonial Causes (Costs and Fees) Ordinance, 2002 (No. III of 2002, Recueil d'Ordonnances Tome XXIX, p. 57); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010). These Rules have been revoked by the Matrimonial Causes Rules, 2024 (O.R.C. No. III of 2024).

ORDER OF THE ROYAL COURT

ENTITLED

The Matrimonial Causes Rules, 1952

ARRANGEMENT OF RULES

- 1.
- 2.
- 3.
- 4.

SCHEDULE The Matrimonial Causes Rules, 1952 (Rules of Court regulating the practice and procedure in matrimonial causes and matters).

- | | |
|----------|--|
| Part I | General provisions regarding commencement of proceedings and failure to proceed. |
| Part II | Petition and proceedings in connection therewith. |
| Part III | Interlocutory proceedings and proceedings for ancillary relief. |
| Part IV | Decrees and Orders. |
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(Made on 29th March, 1952.)

The Matrimonial Causes Rules, 1952

THE ROYAL COURT, in exercise of the powers conferred on it by Article 6 of the Matrimonial Causes Law (Guernsey) 1939, and by Article 64 of the Reform (Guernsey) Law, 1948, and of all other powers thereunto enabling it hereby orders: –

1. The Rules of Court set out in the Schedule hereto shall regulate the practice and procedure in matrimonial causes and matters.

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

3. (1) Rules 1 to 43 inclusive and Rules 56 to 73 inclusive of the Matrimonial Causes Rules, 1945, are hereby repealed.

(2) This Order in its application to matrimonial causes and matters pending on the 1st day of May, 1952, shall have effect subject to such directions as the Matrimonial Causes Division of the Royal Court may in any particular case think fit to give.

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

NOTES

The following case has referred to these Rules:

A v. A (2003) (Unreported, Royal Court, 31st October, 2002) (Guernsey Judgment No. 14/2003).

In accordance with the provisions of the Government of Alderney Law, 2004,

section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(a), with effect from that same date, the functions of the Greffier include those functions (other than those specified in section 15(a) of the 2004 Law, being those relating to the keeping of a record of legislation and the registering of enactments therein) which it was, immediately before 8th March 1949, the duty of the Greffier to perform and which are not assigned by law to any other person.

REVOKED

SCHEDULE

The Matrimonial Causes Rules, 1952

RULES OF COURT REGULATING THE PRACTICE AND PROCEDURE IN
MATRIMONIAL CAUSES AND MATTERS

ARRANGEMENT OF RULES

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AND FAILURE TO PROCEED

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The Matrimonial Cause Rules, 1952

RULES OF COURT REGULATING THE PRACTICE AND PROCEDURE IN MATRIMONIAL CAUSES AND MATTERS

PART I

GENERAL PROVISIONS REGARDING COMMENCEMENT OF PROCEEDINGS AND FAILURE TO PROCEED

Commencement of proceedings.

1. (1) Every matrimonial cause shall be commenced by filing a petition addressed to the Royal Court of Guernsey, Matrimonial Causes Division (hereinafter referred to as "**the Court**").

(2) A petition shall not be filed if there is before the Court another petition by the same petitioner which has not been dismissed or otherwise disposed of by a Final Order.

(3) Every application in a matrimonial cause for ancillary relief, and every interlocutory application which may not lawfully be made *ex parte*, shall be made by notice in accordance with Form 1.

NOTE

In accordance with the provisions of the Matrimonial Causes (Amendment) Rules, 2001, rule 3, with effect from 10th July, 2001, these Rules, when cited together with the amending instruments, may be cited as the Matrimonial Causes Rules, 1952 to 2001.¹

[Application to Court to consider agreement made in contemplation, etc., of divorce or judicial separation.]

1A. (1) On application made either before or after the presentation of a petition for divorce or judicial separation, the parties to the marriage or either of them may refer to the Court any agreement or arrangement made or proposed to be made between them which relates to, arises out of or is connected with, the proceedings which are contemplated or have begun.

(2) Unless otherwise directed on an application made *ex parte*, every party to the agreement or arrangement (other than the applicant or applicants) and any other party to the proceedings or, where application is made before the presentation of the petition any person whom it is intended to make a party to those proceedings, shall be made a respondent to the application.

(3) An application under this Rule shall be accompanied by an affidavit by the applicant or applicants setting out particulars of the agreement or arrangement in question and the grounds on which the application is made and a copy of the application and of the affidavit shall be served on each respondent.

(4) Subject to the provisions of this Rule, these Rules shall, so far as applicable, apply with the necessary modifications to the application as if it were a cause and as if the notice were a petition and the applicant a petitioner.

(5) The hearing of an application under this Rule shall be heard in camera unless otherwise directed by the Court.

(6) On the hearing of an application under this Rule the Court may express an opinion, should it think it desirable to do so, as to the reasonableness of the agreement or arrangement and may give such directions, if any, in the matter as the Court thinks fit.

(7) A respondent to an application under this Rule may be heard without filing an affidavit in answer to the application.]

NOTE

Rule 1A was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(a), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Failure to Proceed.

2. (1) 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.

(2) 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, Her 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

[Contents of Petition.

3. (1) Every petition in a matrimonial suit shall; in so far as the case requires, be in accordance with Form 1A and shall contain the information required therein as near as may be in the order there set out and any further or other information required by the succeeding paragraphs of this Rule as may be applicable.

[(2) Every petition in a matrimonial suit in which the Court is alleged to have jurisdiction based on domicile shall state –

(a) the country in which the petitioner is domiciled, and

- (b) if that country is not the Bailiwick, the country in which the respondent is domiciled.

(3) Every petition in a matrimonial suit in which the Court is alleged to have jurisdiction based on habitual residence shall state –

- (a) the country in which the petitioner has been habitually resident throughout the period of one year ending with the date of the presentation of the petition, or
- (b) if the petitioner has not been habitually resident in the Bailiwick, the country in which the respondent has been habitually resident during that period,

with details in either case, including the addresses of the places of residence and the length of residence at each place.

(4) Every petition in a matrimonial suit shall state whether or not there are or have been any other proceedings in any court in the Bailiwick or elsewhere with reference to the marriage or to any children of the marriage or between the petitioner and the respondent with reference to any property of either or both of them and if so –

- (a) the nature of the proceedings,
- (b) the date and effect of any decree or order, and
- (c) in the case of any proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the decree or order.

(4A) A petition for divorce, judicial separation or nullity of marriage shall state whether there are any proceedings continuing in any country outside the Bailiwick which relate to the marriage or are capable of affecting its validity or subsistence and, if so –

- (a) particulars of the proceedings, including the court in or tribunal or authority before which they were begun,
- (b) the date when they were begun,
- (c) the names of the parties,
- (d) the date or expected date of any trial in the proceedings, and
- (e) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979,

and such proceedings shall include any which are not instituted in a court of law in that country if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status and shall be treated as continuing if they have been begun and have not been finally disposed of.]

(5) A petition for a decree of presumption of death and dissolution of the marriage shall state 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.

(6) 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 shall state –

- (a) whether any, and if so what, attempt has been made to reconcile the parties to the marriage,
- (b) 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.

[(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.]

(8) A petition shall conclude with a prayer setting out particulars of the relief claimed, including –

- (a) any claim for custody of the children of the marriage,
- (b) any claim for an award of payments to be made, pending suit, by the [respondent] for or towards the support of [the petitioner], or the maintenance or education of the children of the marriage, and

(c) any claim for costs.

(9) Subject to the provisions of the next succeeding 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*.

(10) 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 an affidavit by the petitioner verifying the facts in support thereof, shall be filed.

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

NOTES

Rule 3 was substituted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(a), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules.²

In Rule 3,

paragraph (2), paragraph (3) and paragraph (4) were substituted and paragraph (4A) inserted by the Matrimonial Causes (Amendment) Rules, 1980, rule 1(a), with effect from 1st March, 1980, subject to the savings in rule 2 of the 1980 Rules;

paragraph (7), and the words in the first and second pairs of square brackets in paragraph (8), were substituted by the Matrimonial Causes (Amendment) Rules, 2017, respectively rule 3 and rule 4, with effect from 22nd May, 2017.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this section to an "infant" shall be construed as a reference to a "minor", that is to say a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Petitioner's statement as to arrangements for children.

3A. Where a petition for divorce, nullity or judicial separation discloses that there is a minor child of the marriage who is under the age of sixteen years or who is over that age and is receiving instruction at an educational establishment or undergoing training for a trade or profession, the petition shall be accompanied by a separate written statement in accordance with Form 2B containing the information set out therein to which shall be attached a copy of any medical report mentioned therein.]

NOTES

Rule 3A was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(c), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

In accordance with the provisions of the Law Reform (Age of Majority and

Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this rule to a "minor" shall be construed as a reference to a person under the age of 18 years.

[Respondent's statement as to arrangements for children.]

3B. A respondent spouse on whom there is served a statement in accordance with Rule 3A of these Rules may, at any time before the Court makes an order under paragraph (1) of Article 12B of the Law, file a written statement of his views on the present and proposed arrangements for the children and shall serve a copy thereof on the petitioner.]

NOTE

Rule 3B was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(c), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Excusal of joinder of co-respondent.

4. If a petitioner or respondent desires to apply to the Court to be excused, in virtue of the provisions of Article 10 (entitled "Joinder of Co-respondent, damages and costs.") 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 14.

Affidavit in support of petition.

5. [(1) With every petition in a matrimonial suit shall be filed an affidavit by the petitioner verifying the facts alleged so far as he has personal cognizance thereof and deposing as to his belief in the truth of the rest thereof.]

(2) The affidavit shall also state –

- (a) ...
- (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 affidavit 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 affidavit 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 affidavit 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) ...

[(7) Where a petition for divorce alleging any such fact as is mentioned in subparagraph (e) of paragraph (1) of Article 16A of the Law contains a proposal by the petitioner (not being a proposal agreed between the petitioner and the respondent) to make financial provision for the respondent, the petition shall be accompanied by an affidavit by the petitioner giving brief particulars of his means and commitments.]

NOTES

In Rule 5,

paragraph (1) was substituted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(b), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules;

paragraph (2)(a) was repealed, and paragraph (7) inserted, by the Matrimonial Causes (Amendment) Rules, 1973, respectively rule 1(d)(i) and rule 1(d)(ii), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules;

paragraph (6) was repealed by the Matrimonial Causes (Amendment) Rules, 1980, rule 1(b), with effect from 1st March, 1980, subject to the savings in rule 2 of the 1980 Rules.

[Certificate with regard to reconciliation.]

5A. Where an advocate is acting for a petitioner for divorce or judicial separation, a certificate in accordance with Form 2A shall be filed with the petition, unless otherwise directed by the Court on an application made *ex parte*.]

NOTE

Rule 5A was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(e), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Notice of petition and notice of proceedings.

6. (1) Every copy of a petition for service on a respondent spouse shall be accompanied by a notice of petition in accordance with Form 2, a form of acknowledgment of service in accordance with Form 3 and a memorandum of appearance in duplicate in accordance with Form 4.

(2) Every copy of a petition for service on a co-respondent or person charged with adultery or sodomy, whether made a respondent or not, shall be accompanied by a notice of proceedings in accordance with Form 5, a form of acknowledgment of service in accordance with Form 3 and a memorandum of appearance in duplicate in accordance with Form 6.

Notice of application for ancillary relief.

7. (1) A notice of an application for ancillary relief and every copy

thereof for service shall if the respondent to the application has not already entered an appearance to the petition in the matrimonial cause in which the application is made, contain a notice to appear in accordance with Form 7, and shall be accompanied by a form of acknowledgement of service in accordance with Form 3 and a memorandum of appearance in duplicate in accordance with Form 8.

(2) A notice of an application for contributions for support pending suit, maintenance of the children, maintenance, a secured provision, permanent contributions for support, periodical payments or for securing periodical payments [...], and every copy thereof for service, shall contain a notice to file evidence in accordance with Form 9.

NOTE

In rule 7, the words omitted in square brackets were revoked by the Matrimonial Causes (Amendment) Rules, 2017, rule 5, with effect from 22nd May, 2017.

Service of petition and notice of application for ancillary relief.

8. (1) Unless the Court otherwise directs –
- (a) a copy of every petition shall be served personally or by registered post upon every respondent, co-respondent and person [with whom such fact as is mentioned in sub-paragraph (a) or (b) of paragraph (1) of Article 16A of the Law is alleged to have been committed] who is named in the petition, and
 - (b) a copy of every notice of an application for ancillary relief shall be served personally or by registered post upon the respondent thereto, unless the respondent thereto is the petitioner or, being respondent in the

cause, has entered a general appearance to the petition in the cause in which the application is made, in which case the notice may be served by leaving it at, or sending it by prepaid post to, the address for service.

Personal service shall in no case be affected by the petitioner or the intended petitioner.

(2) For the purposes of the last foregoing paragraph a document shall be deemed to have been duly served by registered post if it is sent by pre-paid registered post to the party to be served, and an acknowledgement of service in accordance with Form 3, of his identity and of his receipt of the document is signed by him and returned to the advocate for the petitioner or, if the petitioner is acting in person, to the petitioner, at the address for service:

Provided that where the party to be served is a respondent spouse, his signature on the acknowledgment of service shall be proved at the trial or hearing.

(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 specifying (a) the kinds 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.

NOTE

In Rule 8, the words in square brackets were substituted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(f), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Service of other documents.

9. (1) Unless the Court otherwise directs, service of delivery of any notice or other document in a matrimonial cause may, if no other mode of service or delivery is prescribed, be effected –

- (a) where the party to be served is the petitioner or has entered an appearance, by leaving the notice or document at, or by sending it by pre-paid registered post to, the address for service,
- (b) in any other case, by delivering the notice or document to the party to be served or by leaving it at, or by sending it to him by pre-paid registered post to, his last known address.

(2) A copy of every affidavit filed in support of or in answer to an application for ancillary relief shall be delivered to the opposite party, if he is the petitioner or has entered an appearance, within forty-eight hours after the affidavit has been filed. If the opposite party is not the petitioner and has not entered an appearance and the time for entering an appearance has not expired, a copy of the affidavit shall be served upon him with the notice in support of which the affidavit is filed.

Addresses for service.

10. (1) Every party to a matrimonial suit, and every person seeking to become a party to any such suit, shall furnish to Her Majesty's Greffier and to every opposite party an address within the Island of Guernsey 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 Her 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 Island of Guernsey, 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 paragraph (1) of this Rule, his address for subsequent service shall be the office of Her Majesty's Sergeant in Guernsey.

Service out of the jurisdiction.

11. (1) A petition, notice, or other document in a matrimonial cause, may be personally served out of the Bailiwick without leave of the Court by any person, subject to the provisions of the ensuing paragraph of this Rule.

(2) Subject to the provisions of any relevant Convention between Her Majesty and the Government of a Foreign Country, the provisions of which extend to the Bailiwick of Guernsey the under-mentioned procedure shall apply to

service where the person to be served is not a British subject and is not within any part of Her Majesty's dominions:

- (a) Request for service abroad shall be made to the Court, in accordance with Form 15.
- (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 at the instance and cost of the person making the request 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 for the further transmission of the same, through Her 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.
- (c) An official certificate, or declaration on oath or otherwise, transmitted through the diplomatic channel 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.

NOTE

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.

Proof of service.

12. (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 shown 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 –

- (a) the receipt by the advocate for the petitioner, or by the petitioner if he is acting in person, of an acknowledgment of service in accordance with Form 3, which shall be filed at the Greffe,
- (b) in the case of personal services –
 - (i) of service in the Island of Guernsey, a certificate of service by Her Majesty's Sergeant of that Island, which certificate shall be in accordance with Form 11,
 - (ii) of service in the Island of Alderney, a certificate of service by the Clerk of the Court of that Island,
 - (iii) of service in the Island of Sark, a certificate of service by the Prévôt of that Island,
 - (iv) of service elsewhere, an affidavit of service in accordance with Form 10 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.

NOTE

In accordance with the provisions of the Government of Alderney Law, 2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court and in accordance with the provisions of section 25(1)(a), with effect from that same date, the functions of the Greffier include those functions (other than those specified in section 15(a) of the 2004 Law, being those relating to the keeping of a record of legislation and the registering of enactments therein) which it was, immediately before 8th March 1949, the duty of the Greffier to perform and which are not assigned by law to any other person.

Entry of Appearance.

13. (1) Unless the Court otherwise directs, and subject to the provisions of –

- (a) section (1) of Rule 43 relating to the time allowable for the taking of procedural steps in the case of minors and persons of unsound mind, and
- (b) Rule 54 (entitled "Time Allowance in Process, for Absentees"),

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

(2) If the person desiring to appear is acting in person he shall either leave with or send by post to Her Majesty's Greffier a memorandum of appearance in duplicate in accordance with Form 4, 6, 8 or 12, whichever is appropriate, containing an address for service within the Island of Guernsey.

(3) If an advocate is acting on behalf of the person desiring to appear, he shall leave with or send by post to Her Majesty's Greffier a memorandum of appearance in duplicate in accordance with Form 4, 6, 8 or 12, whichever is appropriate, containing an address for service within the Island of Guernsey.

(4) Upon receipt of the memorandum of appearance, Her 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, and shall deliver or send by post to the person entering the appearance one copy of the memorandum sealed with the seal of Her Majesty's Greffier. The memorandum so sealed shall be a certificate that the appearance has been entered as stated therein.

(5) Notice of such appearance, in accordance with Form 13, shall be given by the person entering the appearance or his advocate, as the case may be, to the petitioner.

Application for appointment of mediators.

14. (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.

Proceedings preparatory to hearing of application.

15. (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 Her Majesty's Greffier a detailed statement, in writing, of the nature of the application,
- (b) shall thereupon, or in due course, ascertain from Her 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 [seven days' notice] of the hearing in accordance with Form 1.

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

NOTE

In Rule 15, the words in square brackets were substituted by the Matrimonial Causes (Amendment) Rules, 1983, rule 1(a), with effect from 1st June, 1983, subject to the savings in rule 2 of the 1983 Rules.

[Notice of absence or withdrawal of consent.]

15A. (1) A respondent to a petition which alleges any such fact as is mentioned in sub-paragraph (d) of paragraph (1) of Article 16A of the Law may give notice to the Court either that he does not consent to a decree being granted or that he withdraws any consent which he has already given.

(2) Where any such notice is given and none of the other facts mentioned in paragraph (1) of Article 16A of the Law is alleged, the proceedings on the petition shall be stayed and Her Majesty's Greffier shall thereupon give notice of the stay to all parties.]

NOTE

Rule 15A was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(g), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Form of appearance.

16. (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 *ex parte* 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 except 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 paragraph (1) of that Rule.

Amended and supplemental petitions.

17. (1) A petition may be amended before service –
- (a) upon the filing of an affidavit by the petitioner, or
 - (b) with leave of the Court, upon the filing of an affidavit by the advocate acting for the petitioner, verifying the new facts alleged.

After service a petition may be amended only with leave of the Court.

(2) A supplemental petition may be filed only after service of the original proceedings and only with leave of the Court.

(3) An application for leave to amend a petition after service or for leave to file a supplemental petition shall, unless the Court otherwise directs, be supported by an affidavit by the petitioner verifying the new facts alleged and notice thereof shall, unless the Court otherwise directs, be served on every opposite party who has entered an appearance, or, if no appearance has been entered, the application may be made *ex parte* by filing the affidavit.

(4) Any affidavit filed under this Rule shall verify the new facts of which the deponent has personal knowledge and depose as to belief in the truth of the other new facts alleged. The affidavit shall, in relation to those facts, contain the information required by Rule 5 in the case of the original petition.

(5) An order made under this Rule shall, in cases where an appearance has been entered in the original proceedings, fix the time within which the memorandum of appearance must be amended or the answer must be filed or amended.

(6) Unless the Court otherwise directs, a copy of the amended

petition or of the supplemental petition, together with a copy of the order (if any) made under this Rule, shall be served upon the respondent, co-respondent or person named therein and, in the case of a respondent, co-respondent or person who is not named in the original petition or who is named therein but has not entered an appearance thereto, the amended petition or supplemental petition shall be accompanied by a notice of petition in accordance with Form 2 or, as the case may be, by a notice of proceedings in accordance with Form 5, a form of acknowledgment of service in accordance with Form 3 and a memorandum of appearance in duplicate in accordance with whichever of Forms 4 or 6 is appropriate. The provisions of Rules 8, 10, 11 and 12 shall apply to amended petitions and supplemental petitions as they apply to petitions.

Answer.

18. [(1) A respondent, co-respondent or person named who has entered an appearance to a petition and who –

- (a) wishes to defend the petition or to dispute any of the facts alleged in it, or
- (b) being the respondent spouse, wishes to make in the proceedings any charge against the petitioner in respect of which the respondent spouse prays for relief, or
- (c) being the respondent to a petition to which paragraph (1) of Article 18 of the Law applies, wishes to oppose the grant of a decree on the ground mentioned in that paragraph,

shall, within fourteen days after the expiration of the time limited for the entry of appearance, file an answer to the petition by sending it by pre-paid registered post to, or by leaving it with, Her Majesty's Greffier:

Provided that a co-respondent or person named, whether made a co-respondent or not, who indicates in the memorandum of appearance that he intends only to deny the charges of adultery, or any of them, shall be entitled, without filing an answer, to defend at the trial by denying such charges.]

[(1A) Where an answer to any petition contains a prayer for relief, it shall contain the information required by paragraph (4A) of Rule 3 in the case of the petition in so far as it has not been given by the petitioner.]

(2) Every answer or subsequent pleading containing more than a simple denial of the facts stated in the petition or answer, as the case may be, shall set out with sufficient particularity the facts relied upon but not the evidence by which they are to be proved.

(3) Where the answer of a [respondent] alleges adultery and prays for relief, or where the answer of a [respondent] contains a claim for costs against an alleged adulterer, the alleged adulterer shall, if living at the date of the filing of the answer, be added to the title of the cause as "A.B. cited" and shall, unless the Court otherwise directs, be served with a copy of the answer accompanied by a notice of proceedings in accordance with Form 5, a form of acknowledgment of service in accordance with Form 3, and a memorandum of appearance in duplicate in accordance with Form 6, as if it were a petition.

(4) Where the answer of a [respondent] alleges adultery, but does not pray for relief and does not contain a claim for costs against the alleged adulterer [...], a copy of the answer shall, unless the Court otherwise directs, be served on the alleged adulterer [...], together with a notice of proceedings in accordance with Form 5, a form of acknowledgment of service in accordance with Form 3, and a memorandum of appearance in duplicate in accordance with Form 6, and the alleged adulterer [...] shall be entitled to appear and intervene in the proceedings.

(5) A party or his advocate who files any pleading subsequent to a petition shall, within forty-eight hours thereafter, deliver a copy thereof to every opposite party.

(6) A party cited or person named in an answer who has entered an appearance to the answer and who wishes to defend all or any charges made therein, shall, within fourteen days after the expiration of the time limited for the entry of appearance, file an answer to the charges by sending it by pre-paid registered post to, or by leaving it with, Her Majesty's Greffier:

Provided that a party cited or person named in an answer who indicates in the memorandum of appearance that he intends only to deny the charges of adultery, or any of them, shall be entitled, without filing an answer, to defend at the trial by denying such charges.

NOTES

In Rule 18,

paragraph (1) was substituted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(h), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules;

paragraph (1A) was inserted by the Matrimonial Causes (Amendment) Rules, 1980, rule 1(c), with effect from 1st March, 1980, subject to the savings in rule 2 of the 1980 Rules;

the words in square brackets in, first, paragraph (3) and, second, the first pair of square brackets in paragraph (4) were substituted and the words omitted in, third, the second and, fourth, the third and fourth pairs of square brackets in paragraph (4) were revoked by the Matrimonial Causes (Amendment) Rules, 2017, respectively rule 6, rule 7(a), rule 7(b) and rule 7(c), with effect from 22nd May, 2017.

[Affidavit in support of answer.]

19. With every answer or subsequent pleading containing more than a

simple denial of the facts stated in the petition or the answer, as the case may be, there shall be filed an affidavit made by the person who files the answer or subsequent pleading, verifying every allegation in such answer or subsequent pleading so far as he has personal cognizance thereof and deposing as to his belief in the truth of the rest thereof.]

NOTE

Rule 19 was substituted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(i), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Reply.

20. (1) No reply shall be filed without leave except where the answer contains counter-charges and a prayer for relief, in which case a reply may be filed within fourteen days from the delivery of the answer.

(2) No subsequent pleading shall be filed without leave.

Particulars of pleadings.

21. (1) Any party may be letter require any other party to furnish particulars of any allegation or other matter pleaded and, if the other party fails to furnish such particulars within a reasonable time, the party requiring the particulars may apply for an order that particulars be given.

(2) All particulars, whether given in pursuance of an order or otherwise, shall be filed by the party giving them within forty-eight hours after being furnished to the party requiring them.

Discretion statement.

22. ...

NOTE

Rule 22 was repealed by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(j), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Keeping of records and listing of causes.

23. (1) Her 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) Her Majesty's Greffier shall 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.

Listing suit for trial.

24. (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 Her Majesty's Greffier the date which is assigned for the trial,
- (c) upon ascertaining such date, to give to, or cause to be served upon, every party who has entered an appearance not less than fourteen days' notice of the trial, which notice shall include mention of that date, and to file, before the date of trial, an acknowledgment of the receipt of such notice or a certificate of Her

Majesty's Sergeant to the effect that such notice has been given.

(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, and the respondent or such other party shall thereupon give immediate notice thereof to the petitioner.

(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 leave of the Court], 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.

NOTE

In Rule 24, the words in square brackets were substituted by the Matrimonial Causes (Amendment) Rules, 1986, rule 1, with effect from 20th January, 1986.

PART III

**INTERLOCUTORY PROCEEDINGS AND PROCEEDINGS FOR ANCILLARY
RELIEF**

Interveners.

25. (1) Application to the Court for leave to intervene in any suit shall be supported by an affidavit which shall be filed. The applicant shall, when filing the detailed statement required by Rule 15, give to Her Majesty's Greffier an address for service within the Island of Guernsey.

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".

Amendment of pleadings and other documents.

26. 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.

Pleadings and other procedural steps out of time.

27. (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 paragraph (1) of this Rule, no pleading shall be filed out of time as delimited by these Rules.

Staying proceedings for restitution.

28. 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.

Separate trial of issues.

29. 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.

Right of respondent or co-respondent to be heard on question of costs, [custody and access].

30. (1) After entering an appearance, a respondent, co-respondent or party cited in an answer 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) ...

NOTE

In Rule 30, paragraph (2) was repealed and the words in square brackets in the marginal note thereto were substituted by the Matrimonial Causes (Amendment) Rules, 1973, respectively rule 1(k)(ii) and rule 1(k)(i), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Public notice of suits, and duty to give information to Investigating Officer in certain cases.

31. Her Majesty's Greffier shall, after the filing of any petition, cause to be

published in the vestibule of the Royal Court for seven consecutive days a notice 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 show 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.

Delivery of documents in suit to Investigating Officer.

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

31.

Intervention by Investigating Officer.

33. (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 deliver to each of the parties to the suit [and to every other party affected by the intervention] a 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) ...

- (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 paragraph (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 shown to the Court that the Investigating Officer has had due notice thereof.

NOTE

In Rule 33, the words in square brackets in paragraph (1)(a) were inserted and paragraph (1)(b) was repealed by the Matrimonial Causes (Amendment) Rules, 1973, respectively rule 1(l)(i) and rule 1(l)(ii), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

When entry of appearance unnecessary to pleading of Investigating Officer.

34. (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 33; 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.

Contribution for support pending suit.

[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.]

NOTE

Rule 35 was substituted by the Matrimonial Causes (Amendment) Rules, 2017, rule 8, with effect from 22nd May, 2017.

Care of children.

36. ...

NOTE

Rule 36 was repealed by the Family Proceedings (Guernsey and Alderney) Rules, 2009, rule 63(1)(a), with effect from 4th January, 2010.

Applications under Part VIII of the Law.

37. (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 paragraph, 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 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.

NOTES

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this rule to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this rule to a "minor" shall be construed as a reference to a person under the age of 18 years.

Evidence on applications for contributions for support, &c.

38. (1) Where a [party] is served with a petition in which contributions for support pending suit, maintenance of the children, maintenance or a secured provision is claimed, and enters an appearance, he shall, within fourteen days after the expiration of the time limited for appearance, file an affidavit setting out full particulars of his property and income.

(2) Where a [party] is served with a notice of an application for contributions for support pending suit, maintenance of the children, maintenance, a secured provision, permanent contributions for support, periodical payments or for securing periodical payments to [the applicant], he shall, within fourteen days after service of the notice upon him, or if he has not at the time of such service entered an appearance, after entering an appearance and within fourteen days after the expiration of the time limited for appearance, file an affidavit setting out full particulars of his property and income, unless in the case of any such application, other than an application for contributions for support pending suit, the [applicant] at the time of service of the application gives notice [of his intention to proceed with the application upon the evidence already filed on the application for contributions for support

pending suit.]

[(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.]

[(4) ...]

NOTE

In Rule 38, the words in square brackets in, first, paragraph (1), second, the first, third, the second, fourth, the third and, fifth, the fourth pairs of square brackets in paragraph (2) and, sixth, paragraph (3) were substituted and, seventh, paragraph (4) was revoked by the Matrimonial Causes (Amendment) Rules, 2017, respectively rule 9, rule 10(a), rule 10(b), rule 10(c), rule 10(d), rule 11 and rule 12, with effect from 22nd May, 2017.³

Evidence on applications for settlement of wife's property or variation of settlements.

39. (1) An application for settlement of a wife's property or variation of marriage settlements shall state the nature of the settlement or variation proposed and shall, unless otherwise directed, be supported by an affidavit by the petitioner stating the facts relied on in support of the application. The affidavit shall set out, in the case of an application for settlement of a wife's property, full particulars of the property to which she is entitled either in possession or reversion, or, in the case of an application for variation of marriage settlements, full particulars of the marriage, any children of the marriage, all settlements, whether ante-nuptial or post-nuptial, and of the funds brought into the settlements by the husband and the wife.

(2) The application shall, in addition to being served on the respondent, be served on the trustees of any settlements and upon such other persons as the Court may direct, and any part so served may, within fourteen days after such

service and after entering an appearance in accordance with Form 12, file an affidavit in answer.

Security for wife's costs.

40. (1) A wife who is a petitioner or who has filed an answer 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 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 wife for any one or more of the purposes mentioned in sub-paragraphs (a), (b) and (c) of paragraph (1) of this Rule.

[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 subparagraphs (a), (b) and (c) of paragraph (1).]

NOTE

Rule 40 was substituted by the Matrimonial Causes (Amendment) Rules, 2017, rule 13, with effect from 22nd May, 2017.⁴

[Stay under the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979.

40A. (1) An application by the petitioner or respondent in proceedings for divorce for an order under paragraph 7 of the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979 (in this Rule referred to as "**the Schedule**") shall be made to the Court for its decision as if it were an application for ancillary relief.

(2) An application in proceedings for divorce, judicial separation or nullity of marriage for an order under paragraph 8 of the Schedule shall be made to the Court for its decision as if it were an application for ancillary relief.

(3) Where, in proceedings for divorce, judicial separation or nullity of marriage, it appears to the Court from any information given pursuant to paragraph (4A) of Rule 3 or paragraph (1A) of Rule 18 or paragraph (4) of this Rule that any proceedings which are in respect of the marriage in question or which are capable of

affecting its validity or subsistence are continuing in any country outside the Bailiwick and the Court considers that the question whether the proceedings on the petition should be stayed under paragraph 8 of the Schedule ought to be determined by the Court, the Court shall consider the question for its decision as if it were an application for ancillary relief; and in this paragraph the reference to proceedings continuing in any country outside the Bailiwick has the same meaning as in paragraph (4A) of Rule 3.

(4) Where in proceedings for divorce, judicial separation or nullity of marriage which are continuing in the Court there has been a change in the information given by a party to the proceedings pursuant to paragraph (4A) of Rule 3 or paragraph (1A) of Rule 18 that party shall file a statement giving particulars of the change by sending it by pre-paid registered post to, or by leaving it with, Her Majesty's Greffier and notice thereof shall, unless the Court otherwise directs, be served by that party on every opposite party who has entered an appearance.

(5) An application by a party to the proceedings for an order under paragraph 9 of the Schedule shall be made to the Court for its decision as if it were an application for ancillary relief.

(6) The hearing of any application under this Rule shall be heard *in camera* unless otherwise directed by the Court.]

NOTE

Rule 40A was inserted by the Matrimonial Causes (Amendment) Rules, 1980, rule 1(d), with effect from 1st March, 1980, subject to the savings in rule 2 of the 1980 Rules.

PART IV
DECREES AND ORDERS

Form of decree.

41. (1) Every decree of the Court shall be signed by Her Majesty's Greffier.

[(2) Where a decree is pronounced on a petition in which any such fact as is mentioned in sub-paragraph (d) or (e) of paragraph (1) of Article 16A of the Law is alleged, the decree shall state whether that fact was the only fact mentioned in the said paragraph (1) of that Article on which the petitioner was entitled to rely in support of his petition.]

(3) A sealed or other copy of any decree of the Court may be issued to any person requiring it on payment of the prescribed fee.

NOTE

In Rule 41, paragraph (2) was substituted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(m), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Application out of time for Final Order.

42. 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 an affidavit 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 OR PERSONS OF UNSOUND MIND

Minors and persons of unsound mind as parties.

43. (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 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 a copy of that document shall be served –

(a) on the guardian, if any, already appointed under the foregoing paragraph, 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 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 a copy of that document shall be served –

(a) on the guardian, if any, already appointed under paragraph (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 paragraph 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 –

(i) an affidavit 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 affidavit.

(b) The Court may require the attendance before it, and may examine on oath or otherwise any person who ought to have made an affidavit, conformably to the provisions of the foregoing sub-paragraph (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 Law or Laws referred to in the foregoing provisions of this

paragraph or of a substantially similar enactment in force in an extraneous jurisdiction, or

- (c) he is a mental defective within the meaning of the "Loi ayant rapport aux Faibles d'Esprit, 1926", or of any Law amending or supplementing that Law.

NOTES

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the references in this rule to a "minor" or "minors" shall be construed as references to a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

The Mental Treatment Law (Guernsey) 1939 has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(b), with effect from 8th April, 2013, subject to, first, the savings and transitional provisions in section 104 of and Schedule 4 to the 2010 Law and, second, the transitional provisions in section 17 of the Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013.

The Loi ayant rapport aux Faibles d'Esprit, 1926 has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(a), with effect from 8th April, 2013.

PART VI

MISCELLANEOUS

Evidence.

44. (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 affidavit,
- (b) order that the affidavit of any witnesses 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 affidavit, 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.

NOTE

The following case has referred to Rule 44:

*A v. A (2003) (Unreported, Royal Court, 31st October, 2002)
(Guernsey Judgment No. 14/2003).*

Affidavits.

- 45.** (1) An affidavit 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 any two Jurats,
 - (c) if made in the Island of Sark, be made before the Seneschal,
 - (d) if made in the Island of Jersey, or in Great Britain, Northern Ireland, or the Isle of Man, be made before any person authorised by law in the place in which it is made to take sworn declarations or administer oaths,
 - (e) if made elsewhere, be made before –

- (i) a Consular Officer of Her Majesty, or
- (ii) any person authorised by law in the place in which it is made to take sworn declarations or administer oaths.

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

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

(3) In this 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.

NOTE

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein

relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.

Questions suggesting witness's adultery.

46. Before any question is put to a witness tending to show that he has [committed] 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.

NOTE

In Rule 46, the word in square brackets was substituted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(n), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

[Application for rescission of decree.

46A. (1) An application by a respondent under Article 18C of the Law for the rescission of a decree of divorce shall be accompanied by an affidavit by the applicant setting out the allegations on which the applicant relies and a copy of the application and of the affidavit shall be served on the petitioner.

(2) Unless otherwise directed by the Court, the notice of the application shall be served on the petitioner not less than fourteen days before the day fixed for the hearing of the application.

(3) Subject to the provisions of this Rule, these Rules shall, so far as applicable, apply with the necessary modifications to the application as if it were a cause and as if the notice were a petition and the applicant a petitioner.

(4) The hearing of an application under this Rule shall be heard in

open court unless otherwise directed by the Court.]

NOTE

Rule 46A was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(o), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

[Application under Article 18A of the Law.

46B. (1) An application by the respondent to a petition for divorce under Article 18A of the Law for the Court to consider the financial position of the respondent after the divorce shall be made to the Court in accordance with Form 5A.

(2) The hearing of an application under this Rule shall be heard *in camera* unless otherwise directed by the Court.

(3) A statement of any of the matters mentioned in paragraph (2) of Article 18A of the Law with respect to which the Court is satisfied, or where the Court has proceeded under paragraph (3) of the said Article, a statement that the conditions for which that paragraph provides have been fulfilled, shall be entered in the Act of Court relating to such proceedings.]

NOTE

Rule 46B was inserted by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(o), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

Reversal of decree of judicial separation.

47. (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.

Rescission and Discharge of Judicial Separations.

48. Her 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 19 or Form 20, 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.

Appeals: Notice to H.M. Greffier.

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

Priority of "Hypothèque".

50. Upon the registration of an order whereby the Court makes a declaration pursuant to Article 52 (entitled "Power of Court to Award Particular Priority to 'Hypothèque'") of the Law, awarding particular priority to a "hypothèque", Her 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.

Medical Inspection.

51. (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.

NOTE

In accordance with the provisions of the Matrimonial Causes (Costs and Fees) Ordinance, 2002, section 5, with effect from 1st February, 2002, the amount recoverable on account of a medical inspector appointed by the Court under this Rule in respect of the examination of any party and the report to the Court on the result of such examination is the amount actually and reasonably paid by way of his fee.

Security for Costs.

52. Any Court exercising jurisdiction under the Law may require security for costs to be given by a petitioner or an applicant for leave to intervene, as a condition of proceedings with his petition or application.

Dating of Procedural Document.

53. 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.

Time Allowance in Process, for Absentees.

54. (1) (a) Where, under these Rules, a period from the date of the service of process on any person who has not, either voluntarily or in compliance with these Rules, furnished an address for service in the Island of Guernsey 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 by a period equivalent to one half of the period of the "Terme à Écrire" which, under the provisions of the Ordinance entitled "Ordonnance 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

(b) if the service of such process on that person was by means of substituted service, the period so limited shall, unless the Court otherwise directs, be increased by a period of sixty days.

(2) For the purposes of a notice under Rule 15 (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 paragraph (1) of this Rule.

NOTE

The "Ordonnance au sujet des termes à écrire" ⁵ has since been repealed by the Royal Court Civil Rules, 1989, rule 57, Schedule, with effect from 1st October, 1989, subject to the transitional provision therein.

Computation of Time.

55. (1) Except as provided in the next ensuing paragraph 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 paragraph, 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) ...

(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 paragraph (1) of this Rule, and, if it is such a day, the provisions of

paragraph (2) of this Rule shall apply.

NOTE

In Rule 55, paragraph (3) was repealed by the Matrimonial Causes (Amendment) Rules, 2001, rule 1, with effect from 10th July, 2001.

General Provision regarding Procedure.

56. 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.

Interpretation.

57. (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) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these Rules as it applies to the interpretation of an enactment.

(3) In these Rules, unless the context otherwise requires or it is otherwise specifically provided, the following words and expressions have the meanings hereby respectively assigned to them, namely –

"affidavit" means a declaration in writing which is deposed to on oath or by affirmation or solemn declaration by the declarant, and which complies with the provisions of Rule 45,

"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 connection with proceedings directed to obtaining such a decree,

"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,

"filed" means handed to Her 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 construed accordingly,

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

"interlocutory application" means an application in a suit or cause after the filing of the petition but does not include an application for ancillary relief,

"interlocutory matter" means a matter in a suit or cause after the filing of the petition,

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

"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 construed accordingly,

"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.

(4) In these Rules, unless the context otherwise requires, a Rule referred to by a number means the Rule so numbered in these Rules, and a Form referred to by number means the Form so numbered in the Appendix to these Rules.

(5) The forms in the Appendix to these Rules, or forms to the like effect shall, subject to all relevant specific requirements contained in these Rules, be used in the cases to which they refer, with such variations as circumstances may require.

APPENDIX

FORM 1

Rules 1, 15(1)(c)

NOTICE OF APPLICATION

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 Forms 7, 8 and 9).

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

Dated this _____ day of _____, 19____.

has) (*or* The petitioner and the respondent have) been habitually resident in the Bailiwick throughout the period of one year ending with the date of the presentation of the petition (*or as the case may be*) (*give details of the habitual residence relied on including the addresses of places of residence during the one year period and the length of residence at each place*); the petitioner is a (*state occupation*) (and resides at _____) and the respondent is a (*state occupation*) (and resides at _____).]

(4) There is (are) (no (*or state number*) children of the marriage now living) (namely *state the name of each child and his date of birth or, if it be the case, that he is of full age and in the case of each minor child over the age of 16, whether he is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation*)).

(5) (*In the case of a husband's petition*). No other child now living has been born to the Respondent during the marriage so far as is known to the Petitioner (*or in the case of a wife's petition*). 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*)).

(6) (*Where there is a dispute whether a child is a child of the marriage*). The Petitioner alleges that _____ is (not) a child of the marriage because (*give full particulars of the facts relied on by the Petitioner in support of his or her allegation that the child is or, as the case may be, is not, a child of the marriage*).

(7) (*Where appropriate in the case of a child who is a minor*). The said _____ was, on the _____ day of _____ 19____, placed under the supervision of the States [Committee for Health & Social Care] (*or a probation officer, as the case may be*).

(8) (Where an application is made in the petition for an order for the support of a child of whom the Respondent is not a parent). The Respondent assumed responsibility for the maintenance of the said _____ to the following extent and for the following time namely (*give details*). There is no other person liable to maintain the said child (except _____).

(9) There have been no previous proceedings in the Bailiwick or elsewhere with reference to the marriage (or to any children of the marriage) (except (*state the nature of the proceedings, the date and effect of any decree or order and, in the case of proceedings with reference to the marriage, whether there has been any resumption or cohabitation since the making of the decree or order*)).

[(9A) There are no proceedings continuing in any country outside the Bailiwick which are in respect of the marriage or are capable of affecting its validity or subsistence (except (*give particulars of the proceedings, including the court in or tribunal or authority before which they were begun, the date when they were begun, the names of the parties, the date or expected date of any trial in the proceedings and such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Schedule to the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979*)).]

(10) The following (*or No*) agreement or arrangement has been made or is proposed to be made between the parties for the support of the Respondent (*or the Petitioner*) (and the said children) (namely *state details*)).

(11) (*In the case of a petition for divorce alleging only any such fact as is mentioned in sub-paragraph (e) of paragraph (1) of Article 16A of the Matrimonial Causes Law (Guernsey), 1939, as amended*). The Petitioner proposes, if a decree of divorce is granted, to make the following financial provision for the Respondent (*give details of any proposal not mentioned in paragraph (10)*) (*or The Petitioner makes no proposals for financial provision for the Respondent in the event of a decree of*

divorce being granted).

(12) *(In the case of a petition for divorce)*. The said marriage has broken down irretrievably.

(13) The Respondent has committed adultery with
and the Petitioner finds it intolerable to live with the Respondent *(or The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent) (or The Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the Petition) (or The parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of this Petition and the Respondent consents to a decree being granted) (or The parties to the marriage have lived apart for a continuous period of at least five years immediately preceding the presentation of the Petition) (or, where the petition is not for divorce or judicial separation, set out the ground on which relief is sought, and in any case state with sufficient particularity the facts relied on but not the evidence by which they are to be proved)*.

(14) The Petitioner therefore prays –

- (1) that the said marriage may be dissolved *(or as the case may be)*,
- (2) that he (she) may be granted the custody of *(state name(s) of the child(ren))*,
- (3) that he (she) may be granted the following ancillary relief, namely *(state particulars of any application for ancillary relief which it is intended to claim)*,

(4) (where appropriate) that _____ may
be ordered to pay the cost of this suit.

(15) The names and addresses of the persons who are to be served with this petition are (give particulars, stating if any of them is a person under disability).

THIS PETITION is issued by (Name of Petitioner or his or her Advocate) of
whose Address for Service is
in the Island of Guernsey.

Dated this _____ day of _____, 19 ____ .

(Signed)
The Petitioner.]

NOTES

Form 1A was inserted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(c)(i), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules.

In Form 1A,

paragraph (3) was substituted and paragraph (9A) inserted by the Matrimonial Causes (Amendment) Rules, 1980, respectively rule 1(e)(i) and rule 1(e)(ii), with effect from 1st March, 1980, subject to the savings in rule 2 of the 1980 Rules;

paragraph (5) was substituted by the Matrimonial Causes (Amendment) Rules, 2017, rule 14, with effect from 22nd May, 2017;

the words in square brackets in paragraph (7) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.⁶

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for

Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁷

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, first, a person shall attain full age on attaining the age of eighteen instead of on attaining the age of twenty and the references in this Form to a person of "full age" shall be construed accordingly and, second, the references in this Form to a "minor" shall be construed as a reference to a person under the age of 18 years.

3. If you wish to be heard on any matter in connection with the Petition you (or your Advocate) must complete the accompanying Memorandum of Appearance *in duplicate* and send or deliver *both* copies (without fee) so as to reach Her Majesty's Greffier, Royal Court House, Guernsey, within fourteen days (*or as the case may be*) after you received this Notice. You (or your Advocate) will receive notice of the case being set down for hearing. When the case is heard, you must attend the hearing if you wish to be heard.

4. (*Delete if not applicable*). If you wish to do so, you may, in addition to sending the Memorandum of Appearance, send or deliver a Statement in writing setting out your views on the proposals regarding the children, so as to reach Her Majesty's Greffier, Royal Court House, Guernsey, within fourteen days after the time allowed for sending the Memorandum of Appearance. You (or your Advocate) must at the same time send a copy of your Statement to (the Advocate for) (*delete if not applicable*) the Petitioner.

5. If the reply to Question 4 (or 7) (*delete if not applicable*) in the Memorandum of Appearance is Yes, you (or your Advocate) must, in addition to sending the Memorandum of Appearance, send or deliver an Answer in writing together with a fee of (*insert prescribed fee*) so as to reach Her Majesty's Greffier, Royal Court House, Guernsey, within fourteen days after the time allowed for sending the Memorandum of Appearance. You (or your Advocate) must at the same time send a copy of your Answer to (the Advocate for) (*delete if not applicable*) the Petitioner.

6. (*Delete or amend this paragraph as may be necessary*) If you wish to oppose the claim for contributions for support, maintenance of the children, maintenance or a secured provision, you (or your Advocate) must, in addition to sending the Memorandum of Appearance, also send or deliver, so as to reach Her Majesty's Greffier, Royal Court House, Guernsey, within fourteen days after the time allowed for sending the Memorandum of Appearance, an affidavit (which must be

sworn before a person authorised to administer oaths) giving full particulars of your property and income, together with a fee of *(insert prescribed fee)*. You (or your Advocate) must at the same time send a copy of your affidavit to (the Advocate for) *(delete if not applicable)* the Petitioner. If you wish to allege that your [husband or] wife has property or income you should say so in your affidavit.

7. *(Delete if not applicable)*. If the reply to Question 6 in the Memorandum of Appearance is Yes, the consequences to you are that –

- (a) provided the Petitioner establishes the fact that the parties to the marriage have lived apart for two years immediately preceding the presentation of the Petition and that you consent, a decree will be granted unless, in the case of a petition for divorce, the Court is satisfied that the marriage has not broken down irretrievably,
- (b) your rights in the estate of the Petitioner will cease on the making of a Final Order on a decree of divorce,
- (c) in the case of a decree of divorce the Final Order will end the marriage thereby affecting any right to a pension which depends upon the marriage continuing or upon you being left a widow,
- (d) apart from the consequences listed above there may be others applicable to you depending on your particular circumstances,

about these you should obtain legal advice from an Advocate.

8. *(Delete if not applicable)*. If after consenting you wish to withdraw

your consent, you must immediately give notice in writing to Her Majesty's Greffier, Royal Court House, Guernsey, and to (the Advocate for) (*delete if not applicable*) the Petitioner.

9. (*Delete if not applicable*). The only fact on which the Petitioner relies in support of the Petition is that the parties to the marriage have lived apart for at least five years. Article 18A of the Matrimonial Causes Law (Guernsey), 1939, as amended, provides that if in such a case the Respondent applies to the Court to consider the Respondent's financial position after the divorce, a Final Order cannot be made on the decree of divorce unless the Court is satisfied that the Petitioner has made or will make proper financial provision for the Respondent, or else that the Petitioner should not be required to make any financial provision for the Respondent. Paragraph (11) (*or as the case may be*) of the Petition will tell you whether the Petitioner proposes to make any financial provision for you. It is important that you should consider this information carefully before answering Question 8 in the Memorandum of Appearance.

10. (*Delete if not applicable*). If the reply to Question 8 in the Memorandum of Appearance is Yes, you must, before a Final Order is made on the decree of divorce, make application to the Court by notice in accordance with Form 5A by sending or delivering the notice, together with a fee of (*insert prescribed fee*), to Her Majesty's Greffier, Royal Court House, Guernsey. You (or your Advocate) must at the same time send a copy of the notice to (the Advocate for) (*delete if not applicable*) the Petitioner.

11. If you intend to instruct an Advocate to act for you in these proceedings, you should at once complete and sign the Form of Acknowledgment of Service and then give him all the documents which have been served upon you, so that he may take the necessary steps on your behalf within the time specified. If you do not intend to instruct an Advocate, you should nevertheless give an address for service in the Island of Guernsey in the Memorandum of Appearance so that any

documents affecting your interests which are sent to you will in fact reach you.

Dated this day of , 19 .

(Signed)

The Petitioner.

or

(Signed)

Advocate for the Petitioner.]

NOTES

Form 2 was substituted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(c)(ii), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules.

In Form 2, the words in square brackets in paragraph (6) were inserted by the Matrimonial Causes (Amendment) Rules, 2017, rule 15, with effect from 22nd May, 2017.

- (iv) access (state any arrangements which have been agreed for access by either of the parties and the extent to which access is and has been afforded).

The arrangements proposed for the children in the event of a decree being granted are as follows: –

- (i) residence,
- (ii) education, etc.,
- (iii) financial provision,
- (iv) access.

(In each of these paragraphs state whether the grant of a decree will affect the present arrangement set out above, whether it is proposed that those arrangements should continue, and if not, and to the extent that they are likely to alter, state what alteration is anticipated and what proposals in substitution are proposed. In the case of residence, where it is proposed that for any period a child should be in the immediate care of a person other than the Petitioner, give details of that person's willingness and ability to care for the child. In the case of education state, if possible, any long-term proposals for further education or training. In the case of financial provision give details of any application which will be made for ancillary relief in respect of the children and, where applicable, state the object of any application which is other than for the day-to-day support of the child).

The said child(ren) is (are) (not) suffering from (any) serious disability or chronic illness or from the effects of (any) serious illness (namely (state, in respect of each child so suffering, the nature of the disability or illness and attach a copy of any up-to-date medical report which is available)).

TO (the Petitioner (or the Respondent) or his advocate).

REVOKED

Do you wish to be heard as to other claims made in the Petition, namely: – Do you wish to make any application on your own account, namely: –

- | | |
|----------------------------------|----------------------------------|
| (1) Costs. | (1) Access to the children. |
| (2) Custody of the children. | (2) Custody of the children. |
| (3) Maintenance of the children. | (3) Maintenance of the children. |
| (4) Contributions for Support. | (4) Contributions for Support. |
| (5) Maintenance. | (5) Maintenance. |
| (6) A secured provision. | |

(Answer "Yes" or "No" against each item).

6. *(Delete if not applicable). (In the case of a petition alleging any such fact as is mentioned in sub-paragraph (d) or paragraph (1) of Article 16A of the Matrimonial Causes Law (Guernsey), 1939, as amended, (two years' separation and consent of the Respondent)).* Do you consent to a decree being granted? (Answer "Yes" or "No").

7. *(Delete if not applicable). (In the case of a petition asking for divorce and alleging any such fact as is mentioned in sub-paragraph (e) of paragraph (1) of Article 16A of the Matrimonial Causes Law (Guernsey), 1939, as amended, (five years' separation)).* Do you intend to oppose the grant of a decree on the ground that the divorce will result in grave financial or other hardship to you and that in all the circumstances it would be wrong to dissolve the marriage? (Answer "Yes" or "No").

8. *(Delete if not applicable)*. In the event of the grant of a decree of divorce and the Court holding that the only fact on which the Petitioner was entitled to rely in support of the Petition was any such fact as is mentioned in sub-paragraph (d) of sub-paragraph (e) of paragraph (1) of Article 16A of the Matrimonial Causes Law (Guernsey), 1939, as amended (two years' separation and the consent of the Respondent or five years' separation), do you intend to apply to the Court to consider your financial position as it will be after the divorce? (Answer "Yes" or "No").

9. What is your Address for Service to which communications should be sent?

(It must be an address within the Island of Guernsey).

Note – If you intend to instruct an Advocate to act for you in these proceedings, give this form to him, he will sign below on your behalf but if the answer to Question 6 is Yes, you must also sign here.

Dated this day of , 19 .

(Signed)

The Respondent.

To be completed only by the Respondent's Advocate.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum, for the Respondent in this cause.

(Signed)

Advocate for the Respondent

(Address for Service)

Note – If this Form is used, *both* copies must be completed and sent to Her Majesty's Greffier, Royal Court House, Guernsey.]

NOTE

Form 4 was substituted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(c)(ii), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules.

you, proceed to hear the Petition⁽³⁾ and pronounce judgment, notwithstanding your absence.

If you wish to be heard on any matter in connection with the Petition⁽³⁾, you (or your advocate) must complete the accompanying Memorandum of Appearance *in duplicate* and send or deliver *both* copies (without fee) so as to reach Her Majesty's Greffier within fourteen days⁽³⁾ after you received this Notice.

If you wish to defend the case only by denying the charges of adultery, [...] or if you wish to be heard only as to costs⁽⁴⁾, you need take no further step after sending the Memorandum of Appearance until the case is heard, when you must attend the hearing. You (or your advocate) will receive notice of the case being set down for hearing. ⁽⁴⁾Delete if not applicable.

If you wish to defend the case at the hearing on some other ground, you (or your advocate) must, in addition to sending the Memorandum of Appearance, send or deliver an Answer in writing, [together with a fee (*insert prescribed fee*)] so as to reach Her Majesty's Greffier, Guernsey, within fourteen days after the time allowed for sending the Memorandum of Appearance. You (or your advocate) must at the same time send a copy of your Answer to (the advocate for)⁽⁴⁾ the Petitioner⁽⁵⁾.

⁽⁵⁾Or as the case may be.

Note – If you intend to instruct an advocate to act for you in these proceedings you should at once complete and sign the Form of Acknowledgment of Service and then give him all the documents which have been served upon you, so that he may take the necessary steps on your behalf within the times specified.

Dated the _____ day of _____, 19 ____.

.....
Her Majesty's Sergeant,
Guernsey.

NOTES

In Form 5,

the words omitted in the first pair of square brackets were repealed by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(p)(ii), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules;

the words in the second pair of square brackets were substituted by the Matrimonial Causes (Amendment) (No. 2) Rules, 1973, rule 1(c)(iii), with effect from 1st January, 1974, subject to the savings in rule 3 of the 1973 Rules.

than a denial of the charges of adultery made against you? (Answer "Yes" or "No").

6. ...

(2)...

[6]. ⁽³⁾If you do not intend to defend the case, do you wish to be heard as to costs? (Answer "Yes" or "No").

(3)Not

applicable if no claim for costs.

[7]. What is your current address to which communications should be sent?

(It must be in Guernsey).

Dated this day of , 19 .

(Signed)⁽⁴⁾

⁽⁴⁾To be signed by the party appearing only if an advocate is not being instructed.

Note – If you intend to instruct an advocate to act for you in these proceedings, give this form to him. In any event, leave the space below blank.

To be completed only by the advocate for the party appearing.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum for the in this cause.

(Signed)

(Address for Service)

Note – If this Form is used, *both* copies must be completed and sent to the Greffe.

NOTE

In Form 6, first, paragraph 6 (and the corresponding note (2) thereto) were repealed and, second, paragraph 7 and paragraph 8 were renumbered as, respectively, "6" and "7" by the Matrimonial Causes (Amendment) Rules, 1973, respectively rule 1(p)(iv)(a) and rule 1(p)(iv)(b), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

FORM 7

Rule 7(1)

*Additional Notice to be included in Form 1 only if there has been
no appearance to the petition*

AND FURTHER TAKE NOTICE that you must complete the accompanying Form of Acknowledgment of Service and send it to (the advocate for)⁽¹⁾ the applicant,
at (address)

⁽¹⁾Delete if not applicable.

If you do not intend to oppose the application, you need not do anything more than send the Form of Acknowledgment of Service to the above address. The Court may then, without further notice to you, proceed to hear the application and make such order as it may think fit notwithstanding your absence.

If you do wish to be heard on the application you (or your advocate) must complete the accompanying Memorandum of Appearance *in duplicate* and send or deliver *both* copies (without fee) so as to reach the Greffe within fourteen days after you receive this notice.

signed by the
Respondent
only if an
advocate is not
being
instructed.

Note – If you intend to instruct an advocate to act for you in these proceedings, give this form to him. In any event, leave the space below blank.

To be completed only by the Respondent's advocate.

On the instructions of my/our client, enter an appearance in the terms of the above Memorandum, for the Respondent in this cause.

(Signed)

(Address for Service)

Note – If this Form is used, both copies must be completed and sent to the Greffe.

NOTICE TO FILE EVIDENCE

And further take notice that, if you wish to oppose the application, and unless at the time of the service hereof upon you, the applicant (or the applicant's advocate)⁽¹⁾ gives notice to you dispensing with this requirement, you (or your advocate)⁽¹⁾ must (in addition to sending the Memorandum of Appearance)⁽²⁾ send or deliver to Her Majesty's Greffier within fourteen days an affidavit giving full particulars of your property and income, and that, in default of your so doing, the Court may make such order against you as it deems fit.

⁽¹⁾Delete if not applicable.

⁽²⁾Delete if an appearance has been entered.

You (or your advocate) must also send a copy of your affidavit to (the advocate for)⁽³⁾ the applicant. If you wish to allege that the applicant has property or income, you should say so in your affidavit.

⁽³⁾Delete if not applicable.

AFFIDAVIT OF SERVICE

(Heading in the Cause)

I, _____ of _____
make oath and say: –

That a copy of the _____ (petition or
notice) bearing date the _____ day of _____
19 _____ filed in this Court together with a Memorandum of
Appearance in duplicate, Notice of Petition/Proceedings⁽¹⁾ and Form ⁽¹⁾Delete
of Acknowledgment of Service was duly served by me on the _____ whichever is
_____ in this Cause at _____ not applicable.
_____ on the _____ day of _____ 19 _____, by
delivering to the said _____ personally a copy thereof.

(Means of knowledge of identity of the person served must
be inserted here)

SWORN etc.

CERTIFICATE OF PERSONAL SERVICE

(Heading in the Cause)

A 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 .

I identified by
(set out means of identification, e.g. personal knowledge, photo etc.).

Dated this day of , 19 .

(Signed)
Her Majesty's Sergeant

MEMORANDUM OF APPEARANCE.

(Heading as in Cause)

Enter an appearance (in person)⁽¹⁾ for the respondent⁽²⁾ in this Cause. ⁽¹⁾If such is the case.

⁽²⁾Or as the case may be.

(Signed)

whose address for service is
⁽³⁾ agent for of

⁽³⁾The address must be in Guernsey.

Dated the day of , 19 .

APPLICATION FOR EXCUSAL OF CITATION OF CO-RESPONDENT

[...]

(Heading in the Cause)

TO THE COURT FOR MATRIMONIAL CAUSES:

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 under-mentioned 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 .

(Signed) , the petitioner.

OR

(Signed) , Advocate for
the petitioner.

NOTE

In Form 14, the words omitted in the heading thereto were revoked by the Matrimonial Causes (Amendment) Rules, 2017, rule 16, with effect from 22nd May, 2017.

REVOKED

Advocate for the Petitioner.

REVOKED

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

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, pursuant to order, out of the Royal Court of Guernsey, for transmission, through Her Majesty's Principal Secretary of State for 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.

NOTE

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law,

1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.

REVOKED

NOTE

The date in square brackets shown, incorrectly in the printed version of this Form as "1951" should read "1952".

REVOKED

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

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
_____ 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 Her 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

NOTE

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.

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.

]

NOTE

Form 19 was substituted by the Matrimonial Causes (Amendment) Rules, 2017, rule 17, with effect from 22nd May, 2017.⁸

REVOKED

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,

from 1st June, 1983; the Matrimonial Causes (Amendment) Rules, 1986, rule 3, with effect from 20th January, 1986.

² Prior to its substitution, Rule 3 was amended by the Matrimonial Causes (Amendment) Rules, 1973, rule 1(b), with effect from 6th March, 1973, subject to the savings in rule 2 of the 1973 Rules.

³ Paragraph (3) and paragraph (4) were previously substituted by the Matrimonial Causes (Amendment) Rules, 1983, rule 1(b), with effect from 1st June, 1983, subject to the savings in rule 2 of the 1983 Rules.

⁴ The corresponding entry in the reference to rule 40 in the Arrangement of Rules was amended by the Matrimonial Causes (Amendment) Rules, 2017, rule 2(a), with effect from 22nd May, 2017.

⁵ Recueil d'Ordonnances Tome VIII, p. 307; the Ordinance was made on 8th February, 1936 and became permanent on 1st January, 1950.

⁶ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

⁷ The functions, rights and liabilities of the States Health and Social Services Department and its Minister arising under or by virtue of these Rules were previously transferred to and vested in them, respectively, from the States Children Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 8, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁸ The corresponding entry in the reference to Form 19 in the Arrangement of Rules was amended by the Matrimonial Causes (Amendment) Rules, 2017, rule 2(b), with effect from 22nd May, 2017.

⁹ The corresponding entry in the reference to Form 19 in the Arrangement of Rules was amended by the Matrimonial Causes (Amendment) Rules, 2017, rule 2(b), with effect from 22nd May, 2017.