



J. TORODE
HIS MAJESTY'S
GREFFIER

REGISTRAR-GENERAL
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PRACTICE DIRECTION NO 1 OF 2024

Issued 18th July, 2024

PRACTICE DIRECTION 1 OF 2024

ROYAL COURT

THE MATRIMONIAL CAUSES (BAILIWICK OF GUERNSEY) LAW, 2022 AND THE MATRIMONIAL CAUSES RULES, 2024

1. I am directed to issue the following practice direction to take effect on and from 19 July, 2024.
2. The purpose of this Practice Direction is to facilitate the introduction of the Matrimonial Causes (Bailiwick of Guernsey) Law, 2022 (“the MCL 2022”) and the Matrimonial Causes Rules, 2024 (“the MCR 2024”). It replaces Practice Direction 7 of 2004, which is revoked, save that it shall continue to apply to proceedings commenced before 19 July, 2024.
3. The MCR 2024 and the application forms for matrimonial orders set out the documents which must accompany the application.
4. All applications must be served in accordance with the MCR 2024 and filed with the Court in the prescribed form and manner. A list of prescribed forms is set out at the end of this practice direction. Costs applications for matrimonial orders must be made by way of a separate application, and the application listed for a hearing in the Matrimonial Interlocutory Court (“MIC”) where directions may be given for witness statements to be filed for the parties to set out their respective positions.
5. Applications for provisional orders or judicial separation orders will be dealt with on specified Tuesdays set out in the Court Calendar in the MIC not less than 60 days from



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the date on which the application for a divorce order or a judicial separation order (as the case may be) was filed. Parties or counsel will not be required to attend unless the matter is disputed or unless directed to attend by the Court. Applications with all necessary accompanying documents must be filed by noon seven days before the date on which the matter is to be dealt with.

6. Applications for final orders will continue to be dealt with each Monday. Parties or counsel are not required to attend unless directed to attend by the Court. Applications must be filed by noon, seven days before the date on which the matter is to be dealt with.
7. Judicial separations by consent will continue to be dealt with in camera at 10am on specified Tuesdays before MIC. Applications must be filed by noon on the preceding Friday. If parties are represented, they are not required to attend. The MCR 2024 prescribes which documents must accompany the application.
8. All other applications under the MCL 2022 (and relevant matters under the Children (Guernsey and Alderney) Law 2008) will be dealt with in the first instance on specified Tuesdays in the MIC at 10.30am. Applications with relevant supporting documentation must be filed by noon on the preceding Friday.
9. All matters in MIC are in camera unless otherwise advised. Where possible matters will be listed in the MIC by a not before time and parties and counsel will remain outside the courtroom until they are called in.
10. Parties and legal representatives must always bear in mind the court's overriding objective as set out in the MCR 2024 to resolve cases justly, as quickly and fairly as possible, in ways that are proportionate to the nature, importance and complexity of the issues, and without costs being unreasonably incurred. By rule 2(4), the parties are



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required to help the court further the overriding objective. These obligations apply equally to conduct before as well as after proceedings have started.

11. It is not acceptable for the costs of any case to be disproportionate to the financial value of the subject matter of the dispute. The principle of proportionality must therefore always be borne in mind. Proportionality is a factor the court will take into account when considering whether, and if so to what extent, to make an order for one party to pay the costs of the other party.
12. Proceedings for divorce, nullity of marriage or judicial separation or for presumption of death and dissolution of marriage where the application was made before commencement of this Law will continue to apply the Matrimonial Causes Law (Guernsey), 1939 (as amended) and the Matrimonial Causes Rules, 1952 (as amended).
13. A failure to comply with the MCR 2024, this Practice Direction and any directions of the Court (including to correct any errors in documents filed with the Court) may result in the application being dismissed or stayed.

ANCILLARY RELIEF APPLICATIONS

Pre-application protocol

14. The pre-application protocol attached to this Practice Direction (as appendix 1) outlines the steps the parties should take so seek and provide information from and to each other prior to the commencement of any ancillary relief application. It is in identical terms to the pre-application protocol that was appended to Practice Direction 7 of 2004. The court will expect the parties to comply with the terms of the protocol.

Procedure



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15. Parties are encouraged to follow the below procedure in respect of applications for Ancillary Relief:

- (1) Notice of the application must be given in accordance with the MCR 2024 and by using the form "Notice of Application".
- (2) Thereafter, both parties must exchange (on a date to be agreed between the parties) a form setting out the material information and attaching relevant documentation as set out in Form 12 ("Financial Statement") no later than six weeks after service of the application.
- (3) The Judge that hears the Financial Dispute Resolution ("FDR") appointment will not be the Judge that hears the application at the final hearing.
- (4) Where necessary the matter can be listed for a First Appointment by either party or the Court prior to a FDR Appointment.
- (5) The FDR appointment is to be treated as a meeting held for the purposes of discussion and negotiations. It is intended that the FDR will facilitate settlement of the application, and thereby reduce the tension which inevitably arises in matrimonial and family disputes.
- (6) In order for the FDR to be effective, parties must approach the occasion openly and without reserve. Therefore, there is an expectation that the parties' respective Advocates will clearly explain the relevant procedure and the intention behind the procedure. Non-disclosure of the content of such meetings is vital and is an essential prerequisite for the fruitful discussions directed to the settlement of the dispute between the parties. The FDR appointment is an important part of the settlement process. Therefore, evidence of anything said and or of any admission made in the course of an FDR appointment will not be admissible in evidence



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(7) except at the trial of a person for an offence committed at the appointment or in very exceptional circumstances.

(8) At the FDR, the court will therefore expect:

- The parties to make offers and proposals
- Recipients of offers and proposals to give them proper consideration
- That parties, whether separately or together, will not seek to exclude from consideration at the appointment any such offer or proposal.

(9) It is the responsibility of the applicant (if acting in person) or their Advocate to ensure that at least 1 week before the FDR hearing a bundle is lodged with the court to include inter alia:

- a. An agreed joint schedule of assets, income and liabilities, this document should identify which figures are agreed and which figures are in dispute and should also include a summary of each parties' costs to date.
- b. A statement from each party which firstly sets out orders sought and, subject to any direction by the Judge, should also include:
 - i. A brief factual background;
 - ii. The statement should define what the party considers the available 'pot' of assets to be divided and identify any assets that are said to fall outside of the 'pot' and why;



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- iii. A summary of the key issues as they appear to each party and indicating what, if any, such issues are agreed;
 - iv. A summary or schedule showing the financial effect on each party of their proposed orders.
- c. In the event that a case has a complicated and relevant history, a separate chronology, to be agreed if at all possible.
- d. A schedule setting out all offers, and counteroffers made in the case both before and after issue of proceedings, to include all without prejudice offers, or copies of the offer letters.
- e. All applications both in the ancillary relief matters but also any applications relating to the children of the family.
- f. Any court orders (in relation to any aspect of the marriage and the children of the family).
- g. Copies of the financial statements and attached documentation served (exchanged) by both parties.
- h. Copies of any questions either party has raised of the other party in relation to the financial statements filed (it is not expected that full answers to such questions be filed by the date of the FDR).
- i. Information in relation to costs incurred to date set out on the costs form. Further such detailed information in relation to costs incurred to date



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j. should be available for each hearing in the application including the First Hearing, the FDR and the final hearing.

(10) In order to make the most effective use of the FDR appointment, the Advocates attending those appointments will be expected to have full knowledge of the case.

(11) Where the parties come to an agreement which is to be recorded in a proposed consent order, then a "Form 13" must be completed.

EXPERT EVIDENCE

16. Seeking to introduce expert evidence is likely to increase costs substantially and consequentially the court will use its powers to restrict unnecessary use of experts. Accordingly, where expert evidence is sought to be relied upon, parties should if possible agree upon a single expert whom they can jointly instruct. If there is no agreement between the parties as to which expert to instruct, the court will expect to see evidence of reasonable attempts being made between the parties to agree such an expert. If the parties agree on the use of an expert for example an estate agent, accountant, that expert can be instructed forthwith by the parties if it is considered necessary prior to the first appointment but if there is no agreement between the parties as to which expert should be used this is a matter that can be dealt with at the first appointment or at any other directions hearing.

17. If the parties are seeking directions from the court in relation to the instruction of an expert then it is expected that the party seeking such a direction will provide the court with a list of suitable experts and their relevant qualifications or be ready to make submissions as to the method by which an expert is to be instructed.



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18. No actuaries are to be instructed without leave of the court.

PRESCRIBED FORMS

19. The following forms are prescribed and are appended to this Practice Direction:

- Form 1 - Application for a Divorce Order - Sole Applicant
- Form 2 - Application for a Judicial Separation Order - Sole Applicant
- Form 3 - Application for an Order of Nullity
- Form 4 - Application for a Divorce Order - Joint Applicants
- Form 5 - Application for a Judicial Separation Order - Joint Applicants
- Form 6 - Application: Presumption of Death
- Form 7 - Notice of Application
- Form 8 - Acknowledgment of Service
- Form 9 - Statement of Arrangements for Children
- Form 10 - Application for a Provisional Order
- Form 11 - Application for a Final Order
- Form 12 - Financial Statement
- Form 13 - Statement of Information for a Consent Order

FURTHER APPENDIX

- Pre-application protocol (appendix 1)

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