

APPLICATION: PRESUMPTION OF DEATH

IN THE ROYAL COURT OF GUERNSEY (Matrimonial Causes Division)

BETWEEN Name of Applicant:
AND Name of the missing person:

JURISDICTION

Note: The usual basis for the court to have jurisdiction is where one or both parties are habitually resident in Guernsey.

Habitual Residence

Your habitual residence is the place in which your life is mainly based. You must be settled there and intend to stay settled there. Some of the following may apply: you work there, own property, have your children in school there, and your main family life takes place there.

Domicile

Your domicile is the place of your permanent home in which you live, or to which you intend to return. When you were born you will have acquired your parents' domicile (for example, your father's if they were married, or your mother's if they weren't married or if your father died before you were born). If you have since moved to another jurisdiction and made that your permanent home then your domicile may have moved there. If you were born in Guernsey, lived your entire life here, and intend to stay here, then it is very likely that you'll be both habitually resident and domiciled here.

More information on domicile is in Part V of the Matrimonial Causes Law, 2022.

Same sex couples

There is a further basis for the court to have jurisdiction that applies only to a marriage of a same sex couple. This can apply where the parties married each other under the law of the Bailiwick, and it appears to the Court to be in the interests of justice to assume jurisdiction.

The usual basis for the court to have jurisdiction in respect of the marriage of a same sex couple is habitual residence.

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1. On what basis does the Court have jurisdiction? Please tick all that apply:
- I have been *habitually resident* in the Bailiwick throughout the previous year
 - On the day on which the missing person was last known to be alive, the missing person had been *habitually resident* in the Bailiwick throughout the previous year
 - I am *domiciled* in the Bailiwick.
 - On the day on which the missing person was last known to be alive, the missing person was *domiciled* in the Bailiwick.
 - The missing person and I are of the same sex and married each other under the law of the Bailiwick
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YOU AND THE MARRIAGE

2. What are the full names of the parties to the marriage?

Applicant:

The missing person:

Note:

If these names are not the parties' married names or the name shown on the marriage certificate, please provide details of when and how the name changed and provide copies of relevant documentary evidence.

3. When did you get married?

DD/MM/YYYY

4. Where did you get married?

- Guernsey (including Herm and Jethou)
 - Alderney
 - Sark
 - Somewhere else (please specify where below)
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EXISTING OR PREVIOUS COURT PROCEEDINGS

6. Are there any existing or previous court proceedings about the marriage (this includes in relation to money) or the children of the marriage? This includes proceedings outside the Bailiwick of Guernsey.
- Yes (If yes, please provide details and enclose a copy of any orders made in relation to the marriage)
- No
-

INFORMATION

7. Where did you and the missing person last cohabit?
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8. When did you and the missing person last cohabit?

DD/MM/YYYY

9. The circumstances in which we stopped living together were:

Provide details

10. When was the missing person last heard of?

On or around:

11. What steps have you taken to find the missing person?

Provide details

ASSETS

12. Please set out below, as fully as you can, information about the missing person's property, including an estimate of the total value, and details of any other person's interest in such property:
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REPRESENTATION BY AN ADVOCATE

13. Are you represented by an Advocate?

- No
- Yes. Please provide the Advocate's details below.
Advocate's name:
Firm:
Address:
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ADDRESS FOR SERVICE

14. What is your address for service? **Please tick one box only.**

- My advocate's address
- The following address:

Note:

An address for service means an address in the Bailiwick at which any document can validly be served.

If a document is served there, the Court will assume you have received it.

ACCOMPANYING DOCUMENTS

15. Included with this form is (please tick all that apply):

- A certified copy of the marriage certificate
- (Where the marriage certificate is not in English) A translation of the marriage certificate certified as a true and accurate translation of the original document
- Copies of any orders made about the marriage or the children.
- Documents in connection with any change of name

Note:

The Court may ask for further documents at any time.

Note:

This includes orders made in proceedings outside the Bailiwick

Note: Notice of this application must be published at least 14 days before this application is filed. Rule 22 of the Matrimonial Causes Rules contains further information.

I APPLY FOR AN ORDER FOR PRESUMPTION OF DEATH.

SWORN STATEMENT OF TRUTH

*Note to the Applicant: **DO NOT write anything in this part of the form.** When you have completed this form, you will need to take it to a person authorised to administer oaths or take sworn declarations in the place that you are, and to swear or affirm before that person that the facts stated in this form are true. The Court will generally accept a statement of truth sworn or affirmed:*

(a) anywhere in the Bailiwick, before a notary public or Advocate of the Royal Court of Guernsey of 5 years' standing or more,

(b) in Guernsey, Herm or Jethou, before a Jurat of the Royal Court of Guernsey,

(c) in Alderney, before a Jurat of the Court of Alderney,

(d) in Sark, before the Seneschal,

(e) in a place outside the Bailiwick –

(i) before a person empowered to administer oaths or take sworn declarations in that place, or

(ii) in accordance with the rules in force in that place governing the swearing of statements of truth.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a sworn statement of truth without an honest belief in its truth.

I swear and promise on the faith and truth that I owe to God/Affirm that the facts stated in this form are true.

TO BE COMPLETED BY THE PERSON BEFORE WHOM THE STATEMENT OF TRUTH IS SWORN OR AFFIRMED:

SWORN/AFFIRMED (delete as appropriate)

by the said

at

this day of 20

You should consider the following when completing this form:

- *the Matrimonial Causes Law, 2022, and especially section 16,*
- *the Matrimonial Causes Rules, 2024, and especially rule 22.*

Copies can be found at www.guernseylegalresources.gg