



Jersey

# **MATRIMONIAL CAUSES (GENERAL) RULES 1979**

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## MATRIMONIAL CAUSES (GENERAL) RULES 1979

### Arrangement

#### Rule

1	Interpretation.....	7
2	Powers of the Greffier.....	8
3	Application for leave to present a petition .....	8
4	Commencement of proceedings.....	9
5	Form of petition .....	10
6	Co-respondent .....	12
7	Affidavit in support of petition .....	13
8	Discontinuance of cause before service of petition .....	13
9	Notice of proceedings .....	13
10	Service of petition, originating summons and notice of application for ancillary relief .....	13
11	Injunctions.....	15
12	Service out of Jersey .....	15
13	Proof of service .....	16
14	Notice of intention to defend and application to be heard on ancillary matters.....	17
15	Consent to the grant of a decree.....	18
16	Supplemental and amended petitions.....	18
17	Interveners.....	19
18	Answer .....	19
19	Evidence in support of a service of answer .....	20
20	Reply .....	21
21	Amendment of originating summons, etc. ....	21
22	Pleadings out of time .....	21
23	Particulars .....	21
24	Delivery of subsequent pleadings .....	22
25	Discovery and interrogatories .....	22
26	Discovery and inspection of documents .....	22
27	Medical examination in proceedings for nullity .....	23
28	Conduct of medical examination .....	24
29	Evidence.....	24
30	Trial of issue .....	25
31	Striking out.....	25
32	Certificate of the Greffier.....	26
33	Setting down for trial .....	26

34	Listing of causes and fixing date of trial .....	27
35	Hearing of Undefended Causes by the Greffier .....	28
36	Right of respondent or co-respondent to be heard on question of costs, custody and access .....	29
37	Right of respondent to be heard on question of contribution for support, secured provision, lump sum payment, transfer or settlement of property .....	29
38	Arrangements for children .....	30
39	Form of decree .....	30
40	Application for rescission of decree .....	30
41	Application under Article 11(3) of the Law .....	31
42	Intervention by Attorney General .....	31
43	Intervention by person other than Attorney General .....	32
44	Rescission of decree nisi by consent .....	33
45	Decree absolute .....	33
46	Reversal of decree of judicial separation .....	34
47	Contribution for support pending suit .....	34
48	Secured provision, variation of settlements, transfer or settlement of property, lump sum payments .....	35
49	Contribution for support after decree .....	35
50	Evidence on applications for ancillary relief .....	35
51	Hearing of application for ancillary relief .....	36
52	Further evidence .....	37
53	Variation of orders .....	37
54	Custody of and access to children .....	38
55	Maintenance of children .....	38
56	Hearing of summons .....	38
57	Appeals against orders and decisions of the Greffier .....	39
58	Minors and persons of unsound mind .....	40
59	Separate representation of children .....	40
60	Security for wife's costs .....	40
61	Costs .....	41
62	Shorthand notes .....	41
63	Amendment of judgment and orders .....	42
64	Affidavits .....	42
65	Notice of file number .....	42
66	Change of advocate or solicitor .....	42
67	Entries in the public registry .....	42
68	Powers to award relief .....	43
69	Directions .....	43
70	Citation .....	43

---

## **SCHEDULE** **44**

FORMS	44
FORM 1	45
FORM 2	46
FORM 3	47

---

FORM 4	50
FORM 5	52
FORM 6	53
FORM 7	54
FORM 8	55
FORM 9	56
FORM 10	57
FORM 11	58
FORM 12	59
FORM 13	60
FORM 14	61
FORM 15	62
FORM 16	63
FORM 17	64
FORM 18	66
FORM 19	69
FORM 20	72

---

## Supporting Documents

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<b>ENDNOTES</b>	<b>75</b>
Table of Legislation History.....	75
Table of Renumbered Provisions .....	75
Table of Endnote References .....	77





Jersey

## MATRIMONIAL CAUSES (GENERAL) RULES 1979

**THE SUPERIOR NUMBER OF THE ROYAL COURT** in pursuance of Article 13 of the Royal Court (Jersey) Law 1948,<sup>1</sup> and of Article 43 of the Matrimonial Causes (Jersey) Law 1949<sup>2</sup> and of all other powers enabling it in this behalf has made the following Rules –

Commencement [[see endnotes](#)]

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### 1 Interpretation

- (1) In these Rules, the following expressions have the meaning hereinafter respectively assigned to them, that is to say –

“advocate” means an advocate of the Royal Court;

“ancillary relief” means any relief mentioned in Rule 4(3) or (4);

“child of the marriage” includes a child in relation to whom Article 25 of the Law applies by virtue of Article 24 of the Children (Jersey) Law 1969,<sup>3</sup> and “children of the marriage” has a corresponding meaning;

“competent witness” means a person who, under Article 3 of, and Schedule 1 to, the Powers of Attorney (Jersey) Law 1995<sup>4</sup> would be competent to attest the document if it were an instrument creating a power of attorney;<sup>5</sup>

“contribution for support after decree” has the meaning assigned by Rule 4(3)(c);

“contribution for support pending suit” has the meaning assigned by Rule 4(3)(a);

“Court” means the Family Division of the Royal Court;<sup>6</sup>

“defended cause” means a matrimonial cause not being an undefended cause;

“filed” means filed in the Judicial Greffe;

“Greffier” means the Judicial Greffier;

“Law” means the Matrimonial Causes (Jersey) Law 1949;<sup>7</sup>

“lump sum payment” has the meaning assigned by Rule 4(3)(e);<sup>8</sup>

“maintenance of the children” has the meaning assigned by Rule 4(3)(b);

“matter” includes every proceeding in the Court not in a cause;

“matrimonial cause” means any action for divorce, nullity of marriage, or judicial separation;<sup>9</sup>

“modification order” has the meaning assigned by Rule 4(4)(b);

“notary public” means a notary public duly admitted and sworn and practising in Jersey;

“person named” includes a person described as “passing under the name of A.B.”;

“secured provision” has the meaning assigned by Rule 4(3)(f);

“solicitor” means a solicitor of the Royal Court;

“transfer or settlement of property” has the meaning assigned by Rule 4(3)(d);

“undefended cause” means a matrimonial cause in which no answer has been filed or in which all the answers filed have been struck out, but does not include a cause in which relief is sought under Article 7(1)(d) or 18(1)(f) of the Law;

“variation of settlements” has the meaning assigned by Rule 4(4)(a);

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

## **2 Powers of the Greffier<sup>10</sup>**

- (1) The hearing of applications and the exercise of powers and the discharge of functions of the Court under the provisions of the Law and of the Separation and Maintenance Orders (Jersey) Law 1953,<sup>11</sup> (hereafter called the “1953 Law”) listed in paragraph (2) of this Rule may be undertaken by the Greffier, subject to the provisions of Article 3(5) of the Law.
- (2) The provisions of the Law and of the 1953 Law referred to in paragraph (1) are –
- The Law
- Articles 25, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36
- The 1953 Law
- The proviso to Article 3.

## **3 Application for leave to present a petition**

- (1) An application for leave to present a petition for divorce before 3 years have passed since the date of the marriage shall be made by originating summons in accordance with Form 1.



- (2) There shall be filed in support of the summons an affidavit by the applicant stating the grounds on which the application is made, particulars of the hardship or depravity alleged, whether there has been any previous application under this Rule, whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children, where and with whom they are residing, whether any, and if so, what attempts at reconciliation have been made, and any circumstances which may assist the Court to determine the question whether there is reasonable probability of a reconciliation between the parties. A copy of the intended petition shall be exhibited with the affidavit.
- (3) The application shall be heard before the Court on a date to be fixed by the Greffier after consultation with the Bailiff.
- (4) Unless otherwise directed, the summons shall be served on the respondent at least 4 clear days before the date of the hearing and shall be accompanied by a form of acknowledgment in accordance with Form 4, so far as such form is applicable.
- (5) The intended respondent may be heard without giving notice of intention to defend.

#### **4 Commencement of proceedings**

- (1) Every matrimonial cause shall be commenced by filing a petition addressed to the Court.
- (2) A petition shall not be filed without leave 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 for ancillary relief being an application for –
  - (a) the payment, on a petition for divorce, judicial separation or nullity of marriage, of a contribution by the husband for the maintenance and support of his wife pending suit or by the wife for the maintenance and support of her husband pending suit (in these Rules referred to as a “contribution for support pending suit”);
  - (b) the maintenance of any children of the marriage (in these Rules referred to as “maintenance of the children”);
  - (c) the payment, on a decree of divorce, judicial separation or nullity of marriage of an annual or other periodic sum by the husband for the maintenance and support of his wife or by the wife for the maintenance and support of her husband (in these Rules referred to as a “contribution for support after decree”);
  - (d) the transfer or settlement of property under Article 28 of the Law (in these Rules referred to as a “transfer or settlement of property”);
  - (e) the payment of a lump sum or the securing thereof under Article 29(1)(b) or (c) of the Law (in these Rules referred to as a “lump sum payment”);

- (f) the securing of an annual or other periodic sum of money –
  - (i) on a decree of divorce or nullity of marriage, to the wife by the husband, or to the husband by the wife,
  - (ii) on a decree of divorce, judicial separation or nullity of marriage, for the benefit of the children either by the husband or by the wife,(in these Rules referred to as a “secured provision”),

may be made in the petition or, where an answer claiming relief is filed, in the answer.<sup>12</sup>

- (4) Every application for ancillary relief being an application for –
  - (a) the cancellation, variation or modification, or termination of the trusts of any marriage contract, marriage settlement, post-nuptial settlement or terms of separation (in these Rules referred to as “variation of settlements”);
  - (b) the discharge or variation of any order made under Article 27, 28, 29, or 31 of the Law, or the temporary suspension or the revival of any of the provisions thereof (in these Rules referred to as a “modification order”);
  - (c) any relief mentioned in paragraph (3) which has not been made in the petition or answer,

shall, unless the terms of any proposed order are agreed between the parties, be made by notice in accordance with Form 2.<sup>13</sup>

- (5) Unless these Rules otherwise provide, every other application in a matrimonial cause or matter shall be made, and any leave or directions shall be obtained, by summons to the Greffier or, if the Law or these Rules so require, by summons to the Court.

## **5 Form of petition**

- (1) Unless otherwise directed, the petition shall state –
  - (a) the place and date of the marriage, the status of the husband and the name and status of the wife before the marriage;
  - (b) the principal addresses where the parties have cohabited in Jersey or, if it be the case, that there has been no address of cohabitation in Jersey;
  - (c) the occupation of the husband and the wife and the residence and domicile of the parties to the marriage at the date of the institution of the cause;
  - (d) if at the date of the institution of the case by a wife the husband has deserted the wife or has been deported from the British Islands under any enactment for the time being in force relating to deportation, and there is reason to believe that the husband has changed his domicile since the date of the desertion or deportation, the domicile of the husband immediately before the desertion or deportation, and the date when, and the circumstances in which, the alleged desertion began, or the date of the deportation order;

- (e) whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children and, if it be the case, that the parentage of any living child of the wife born during the marriage is in dispute;
  - (f) where there is a dispute as to whether a living child of one of the parties to the marriage (including an illegitimate or adopted child) has been accepted as one of the family by the other party, full particulars of the facts relied on by the petitioner in support of the petitioner's allegation that the child has, or, as the case may be, has not, been accepted as one of the family by the other party;
  - (g) whether there have been in Jersey or elsewhere any, and if so what, previous proceedings with reference to the marriage or the children of the marriage by or on behalf of either of the parties to the marriage, the date and effect of any decree or order made in such proceedings, and, in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making thereof;
  - (h) the matrimonial offences alleged or other grounds upon which relief is sought, setting out with sufficient particularity the individual facts relied on, but not the evidence by which they are to be proved, and, if it be the case, that any person with whom adultery or sodomy is alleged to have been committed has died before the presentation of the petition;
  - (i) in the case of a petition for presumption of death and dissolution of the marriage, the last place of cohabitation of the parties, the circumstances in which the parties ceased to cohabit, the date when and the place where the respondent was last seen or heard of, and the steps which have been taken to trace the respondent;
  - (j) where adultery is alleged, whether the petitioner has in any way been accessory to or connived at or condoned the adultery, and, where the ground is cruelty, whether the petitioner has condoned the cruelty;
  - (k) in the case of a petition for a decree of nullity under Article 18(1)(d), (e) or (f) 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 of the grounds for a decree;
  - (l) whether, except in the case of a petition for divorce on the ground of one year's or 2 years' separation, the petition is presented or prosecuted in collusion with the respondent or any of the co-respondents; and
  - (m) in the case of a petition for divorce on the grounds of one year's or 2 years' separation, whether the petitioner proposes, if a decree nisi is granted, to make financial provisions for the respondent and, if so, what provisions are proposed.<sup>14</sup>
- (2) In the case of a petition for divorce, nullity or judicial separation which discloses that there is a minor child of the marriage who is under 18 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 containing the information required by Form 5.

- (3) Where an application for ancillary relief of the kind mentioned in Rule 4(3) is made in a petition there shall be included therein a statement in general terms of the respondent's income and property in so far as they are within the petitioner's knowledge and belief.
- (4) The petition shall conclude with a prayer setting out particulars of the relief claimed including –
  - (a) any claim for custody and or care and control of the children of the marriage;
  - (b) any claim for maintenance of the children;
  - (c) any claim for a contribution for support pending suit;
  - (d) any claim for a contribution for support after decree or a secured provision;
  - (e) any claims for transfer or settlement of property, or for lump sum payment or the securing thereof; and
  - (f) any claim for costs.<sup>15</sup>
- (5) Every petition if settled by an advocate or solicitor shall be signed by the advocate or solicitor and, if not so settled, shall be signed by the petitioner.
- (6) The advocate or solicitor for a petitioner represented by an advocate or solicitor shall endorse on the petition the advocate's or solicitor's name and address within Jersey, which shall be an address for service.
- (7) A petitioner acting in person shall endorse on the petition an address for service, which shall be the petitioner's place of residence or, if the petitioner has no place of residence within Jersey, an address for service within Jersey.
- (8) Unless otherwise directed by the Greffier on application being made to the Greffier *ex parte* a certificate of marriage to which the petition relates shall be filed with the petition.

## **6 Co-respondent**

- (1) Subject to the provisions of Article 17 of the Law, where in a petition by a husband or a wife there is a charge of adultery, the alleged adulterer shall, if living at the date of the filing of the petition, be made a co-respondent in the cause.
- (2) An application for leave to proceed without making an unknown adulterer a co-respondent shall be made *ex parte* to the Greffier by affidavit at the time that the petition is filed.

**7 Affidavit in support of petition**

- (1) Every petition shall be supported by an affidavit by the petitioner verifying the facts of which the deponent has personal cognisance and deposing as to belief in the truth of the other facts.
- (2) Where the petition contains an allegation of desertion without cause for a period of at least 2 years immediately preceding the presentation of the petition or contains an allegation of separation for one year or 2 years, this Rule shall be deemed to be complied with if the affidavit is sworn not more than 14 days before the petition is filed, or such longer time as may be allowed by the Greffier having regard to the circumstances of the case.<sup>16</sup>
- (3) The affidavit in support of the petition shall be contained in the same document as the petition and shall follow at the foot or end thereof.

**8 Discontinuance of cause before service of petition**

Before a petition is served on any person, the petitioner may file a notice of discontinuance and the cause shall thereupon stand dismissed.

**9 Notice of proceedings**

- (1) Every copy of a petition for service on a respondent or co-respondent shall be accompanied by a notice of proceedings in accordance with Form 3 and a form of acknowledgement of service in accordance with Form 4.
- (2) If the respondent to an application for ancillary relief (not being the petitioner in the matrimonial cause in which the application is made) has not given notice of intention to defend, notice of the application shall be given in accordance with Form 2 and shall be accompanied by a form of acknowledgement of service in accordance with Form 4 so far as such form is applicable.

**10 Service of petition, originating summons and notice of application for ancillary relief**

- (1) Unless otherwise directed –
  - (a) a copy of every petition shall be served personally or by registered post or recorded delivery upon every respondent and co-respondent named therein;
  - (b) a copy of every originating summons shall be served personally or by registered post or recorded delivery upon the respondent thereto; and
  - (c) a copy of every notice of an application for ancillary relief shall be served personally or by registered post or recorded delivery upon the respondent thereto, unless the respondent is the petitioner or, being respondent in the cause, has given notice of intention to defend 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.

- (2) Personal service on any person within Jersey shall be effected through the medium of the Viscount's Department.
- (3) Personal service shall in no case be effected by the petitioner or the intended petitioner.
- (4) For the purposes of paragraph (1), a document shall be deemed to have been duly served by registered post if the document is sent by prepaid registered post to the party to be served, and an acknowledgement, in accordance with Form 4, of the party's identity and of the party's receipt of the document is signed by the party and returned to the Greffier:

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

- (5) When an acknowledgement of service is returned to the Greffier, the Greffier shall send a photographic copy to the petitioner or the petitioner's advocate within 48 hours of its receipt.
- (6) Where a copy of the petition has been sent to a party and no acknowledgement of service has been returned to the Judicial Greffe, the Greffier, if satisfied by affidavit or otherwise that the party has nevertheless received the document, may direct that the document shall be deemed to have been duly served on the party.
- (7) An application for leave to substitute for the modes of service prescribed by the foregoing paragraphs of this Rule some other mode of service, or to substitute for service notice of the proceedings by advertisement or otherwise, shall be made *ex parte* by lodging with the Greffier an affidavit setting out the grounds on which the application is made, provided that no order giving leave to substitute notice of proceedings by advertisement shall be made unless it appears to the Greffier that there is a reasonable probability that the advertisement will come to the knowledge of the person concerned.
- (8) Where leave is given to substitute for service notice of the proceedings by advertisement, the form of advertisement shall be approved by the Greffier and copies of the newspapers containing the advertisement together with any notice to appear shall be filed.
- (9) Service may be dispensed with altogether in any case in which it may appear necessary or expedient to do so. An application for leave to dispense with service shall be made *ex parte* to the Greffier supported by an affidavit setting out the grounds of the application.
- (10) Unless otherwise directed, service or delivery of any summons, 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 given notice of intention to defend or has applied to be heard on ancillary matters by leaving the notice or document at or by sending it by prepaid 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 by prepaid registered post to, the party's last known address:

Provided that, where such address for service or such last known address is in Jersey, service or delivery may, if so desired, be effected through the Viscount.

(11)

- (a) A copy of the affidavit filed in support of an application under Rule 3 shall be served on the respondent with the summons.
- (b) 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 the party is the petitioner or has given notice of intention to defend or has applied to be heard on ancillary matters within 24 hours after the affidavit has been filed, or if the opposite party has not given notice of intention to defend and the time for giving such notice has not expired, a copy of such affidavit shall be served upon the party with the notice in support of which the affidavit is filed.
- (c) A copy of every affidavit filed in pursuance of an order for interrogatories or discovery shall be delivered to the opposite party within 24 hours after the affidavit has been filed.

## **11 Injunctions<sup>17</sup>**

- (1) Where an injunction is sought the application shall be made by order of justice.
- (2) An application for an injunction in the Family Division may only be made if substantive proceedings have already been commenced by filing a petition.<sup>18</sup>
- (3) Personal service in accordance with Rule 5/4(a) of the Royal Court Rules 1992<sup>19</sup> is required in the case of a summons to witness the confirmation of an order of justice.
- (4) Any injunction may be varied by the Greffier in the terms agreed by the parties in the cause in which the injunction has been obtained.

## **12 Service out of Jersey**

- (1) A petition, originating summons, notice or other document in a matrimonial cause or matter may be served out of Jersey without leave in manner provided by these Rules.
- (2) Where a petition or notice of an application for ancillary relief is to be served out of Jersey, the time limited for giving notice of intention to defend in the notice accompanying the petition or contained in the notice shall be fixed having regard to the place or country where or within which the petition or notice is to be served.

- (3) Where an originating summons is to be served out of Jersey, the date of the hearing shall be fixed having regard to the place or country where or within which the summons is to be served.
- (4) Where it is desired to serve any petition, originating summons, notice or other document in a foreign country the following procedure may, subject to the provisions of any relevant convention between Her Majesty and the Government of a foreign country, be adopted –
  - (a) the party bespeaking such service shall lodge with the Greffier a request in accordance with Form 11 which form may be varied as may be necessary to meet the circumstances of the particular case in which it is used;
  - (b) such request shall be accompanied by the original document and a translation thereof in the language of the country in which service is to be effected, certified by or on behalf of the person making the request, and a copy of each for every person to be served and any further copies which the Greffier may deem necessary;
  - (c) the documents to be served shall be sealed with the seal of the Court and shall be forwarded by the Greffier to the Bailiff for transmission through official channels;
  - (d) an official certificate, transmitted through official channels to the Bailiff, establishing the fact and the date of the service of the documents shall, provided that the official certificate, in the case of a document to be served personally, shows the server's means of knowledge as to the identity of the person served, be deemed to be sufficient proof of such service and shall be filed as, and be equivalent to, a record by the Viscount or an affidavit of service within the requirements of these Rules in that behalf;
  - (e) where an official certificate, transmitted to the Bailiff through official channels, certifies that efforts to serve a document have been without effect, the Court may, upon the *ex parte* application of the person desiring to cause the document to be served, order that such person be at liberty to bespeak from the Greffier a request for substituted service of such document.

### **13 Proof of service**

Unless otherwise directed, save where the provisions of Rule 10(8) have been complied with, a petition shall not proceed to trial or hearing unless the respondent and every correspondent thereto and every person named therein –

- (a) has given notice of intention to defend;
- (b) is shown by record of the Viscount or by affidavit in accordance with Form 6 (which record or affidavit shall be filed) to have been served with the petition personally or in accordance with an order for substituted service; or
- (c) has returned to the Greffier an acknowledgement of service in accordance with Form 4.



**14 Notice of intention to defend and application to be heard on ancillary matters**

- (1) In these rules any reference to a notice of intention to defend is a reference to an acknowledgement of service in Form 4 containing a statement to the effect that the person by whom it is signed intends to defend the proceedings to which the acknowledgement relates, and any reference to giving notice of intention to defend is a reference to returning such a notice to the Greffier.
- (2) In relation to any person on whom there is served a document requiring or authorizing an acknowledgement of service to be returned to the Judicial Greffe, reference in these rules to the time limited for giving notice of intention to defend are references to 8 days after service of the document, exclusive of the day of service, or such other time as may be fixed.
- (3) Notice of intention to defend a cause begun by petition may be given at any time before the issue of the Greffier's certificate, notwithstanding that the time limited for giving the notice has expired.
- (4) Subject to paragraphs (2) and (3) a person may give notice of intention to defend notwithstanding that the person has already returned to the Judicial Greffe an acknowledgement of service not constituting such a notice.
- (5) Notice of intention to defend may be under protest, may be either general or limited to any claim made in the petition or by subsequent application or to making an application under these rules and, subject to the provisions of Rules 17(2) and 36, may be given at any time.
- (6) Any notice of intention to defend under protest shall state concisely the grounds of the protest and the party so giving notice of intention to defend under protest shall, before the expiration of the time allowed for filing an answer, apply for directions as to the determination of any question arising by reason of such notice of intention to defend under protest and, in default of making such application shall be deemed to have given an unconditional notice of intention to defend. Any such directions may provide for the trial of a preliminary issue, with or without a stay of proceedings, or for the determination of the matters in question at the hearing of the cause for any interlocutory matters incidental thereto.
- (7) In these Rules any reference to an application to be heard on ancillary matters is a reference to an acknowledgement of service in Form 4 containing a statement to the effect that the person by whom or on whose behalf it is signed applies to be heard on any of the claims set out in section 9 of Form 4 or makes application on the person's own account in respect of any of the matters set out in section 10 of Form 4.
- (8) An application to be heard on ancillary matters may be made at any time before the issue of the Greffier's certificate notwithstanding that an acknowledgement of service not containing such an application has been returned to the Greffier.

- (9) After the issue of the Greffier's certificate an application to be heard on ancillary matters may only be made by leave such leave to be obtained by summons.

## **15 Consent to the grant of a decree**

- (1) When, before the hearing of a petition on the ground of one year's separation coupled with the respondent's consent to a decree being granted, the respondent wishes to indicate to the Court that the respondent consents to the grant of a decree, the respondent must do so by giving the Greffier a notice to that effect signed by the respondent personally. For the purposes of this paragraph an acknowledgement of service containing a statement that the respondent consents to the grant of a decree shall be treated as such a notice if the acknowledgement is signed personally by the respondent and attested by a competent witness.<sup>20</sup>
- (2) A respondent to a petition based upon one year's separation may give notice to the Court either that the respondent does not consent to a decree being granted or that the respondent withdraws any consent the respondent has already given.

Where any such notice is given and none of the other grounds mentioned in Article 7 of the Law is alleged, the proceedings on the petition shall be stayed and the Greffier shall thereupon give notice of the stay to all parties.<sup>21</sup>

## **16 Supplemental and amended petitions**

- (1) No supplemental petition shall be filed without leave or before service of the original proceedings.
- (2) A petition may be amended without leave before it is served but only with leave after it has been served.
- (3) An application for leave under this Rule –
- (a) shall, where no notice of intention to defend has been given by any opposite party be made *ex parte* by filing an affidavit;
  - (b) may, if every opposite party who has given notice of intention to defend consents in writing to the supplemental petition being filed or the petition being amended, be made *ex parte* by lodging at the Judicial Greffe the supplemental petition or a copy of the petition as proposed to be amended together with such consents in writing; and
  - (c) shall, in any other case, be made by summons, to be served, unless otherwise directed, on every opposite party.
- (4) The Greffier may, if the Greffier thinks fit, require an application for leave under paragraphs (3)(b) and (c) to be supported by an affidavit.
- (5) Any affidavit required to be filed in pursuance of paragraph (3) shall verify the new facts of which the deponent has personal cognisance and depose as to belief in the truth of the other new facts alleged, and shall, in

so far as these new facts are concerned, contain the information required by Rule 5(1)(j) and (l) in the case of the original petition.

- (6) An order made under this Rule shall –
  - (a) in cases where no notice of intention to defend has been given in respect of the original proceedings fix the time within which the acknowledgement of service must be amended or the answer must be filed or amended;
  - (b) if made after the Greffier has given the Greffier's certificate under Rule 32, provide for a stay of the hearing until that certificate has been renewed.
- (7) Unless otherwise directed, a copy of the supplemental petition or of the amended petition, together with a copy of the order (if any) made under this Rule and a form of acknowledgement of service in accordance with Form 4 so far as such form is applicable, shall be served upon the respondent, co-respondent or person named therein and, in the case of a respondent, co-respondent or person not named in the original petition, the supplemental petition or amended petition shall be accompanied by a notice of proceedings in accordance with Form 3 or, as the case may be, Form 7, and a form of acknowledgement of service in accordance with Form 4, so far as such form is applicable, and the provisions of Rules 10 to 13 apply to the supplemental and amended petitions as they apply to the original petitions.

## **17 Interveners**

- (1) Unless otherwise directed, where a person charged in a petition with adultery or sodomy is not made either a respondent or a co-respondent under Rule 6, a copy of the petition containing such charge shall be served on the person with whom adultery or sodomy is alleged to have been committed, accompanied, in lieu of a notice of proceedings by a notice in accordance with Form 7, and a form of acknowledgement of service in accordance with Form 4, so far as such form is applicable.

Service of a copy of the petition under this paragraph shall be effected and proof of service shall be given in the manner provided for by Rules 10, 12 and 13 in the case of service of a copy of a petition on a co-respondent.

- (2) Unless otherwise directed, a party intervening shall join in the proceedings at the stage which those proceedings have reached at the time the party appears, and the party's name shall appear thereafter in the title to the cause.

## **18 Answer**

- (1) Subject to paragraph (2) and to Rules 15 and 22, a respondent, co-respondent or person named who –
  - (a) wishes to defend the petition or to dispute any of the facts alleged in it; or

- (b) being the respondent to a petition to which Article 10(1) of the Law applies, wishes to oppose the grant of a decree on the ground mentioned therein –

shall, within 14 days after the expiration of the time allowed for giving notice of intention to defend, file an answer to the petition by sending it by prepaid post to, or by leaving it at, the Judicial Greffe.

- (2) Where the time limited for giving notice of intention to defend has expired, then, if the Greffier's certificate is granted under Rule 32, the time for filing an answer shall be deemed to have expired, notwithstanding that the said period of 14 days has not elapsed.

## **19 Evidence in support of a service of answer**

- (1) Every answer or subsequent pleading which contains other 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 and, if the person filing the answer or subsequent pleading is the husband or wife, shall state, in so far as such other matter is concerned, the existence or otherwise of collusion, connivance and condonation, and whether that person was an accessory to any adultery alleged, in the manner required by Rule 5(1)(j) and (l) in the case of a petition, and shall contain at the foot or end an affidavit supporting it in the manner required by Rule 7.
- (2) Where the answer contains a claim for relief –
  - (a) the copy of the answer which is required by Rule 24 to be delivered to the petitioner shall be accompanied by a notice to file evidence in accordance with Form 13;
  - (b) a copy of the Notice in Form 13 to be delivered to the petitioner shall be lodged at the Judicial Greffe at the time that the answer is filed.
- (3) Where the answer of a husband or a wife alleges adultery and prays for relief, the alleged adulterer shall be added to the title of the cause as "A.B. cited" and shall, unless otherwise directed, be served with a copy of the answer accompanied by a notice of proceedings in accordance with Form 3 and a form of acknowledgement of service in accordance with Form 4, so far as such form is applicable.
- (4) Where the answer of a husband or a wife alleges adultery, but does not pray for relief, or where the answer of a wife alleges sodomy with a person named, a copy of the answer shall be served on the alleged adulterer or person named accompanied by a notice in accordance with Form 7 that such person is entitled within the time thereby limited to give notice of intention to defend and intervene and a form of acknowledgement of service in accordance with Form 4, so far as such form is applicable.
- (5) Service of a copy of an answer under either paragraph (3) or (4) shall be effected and proof of service shall be given in the manner provided for by Rules 10, 12 and 13 in the case of service of a copy of a petition on a co-respondent.

- (6) Every answer by a husband or wife who disputes any statement in the petition that a child is or is not a child of the marriage or who alleges that there is a living child of the marriage who is not mentioned in the petition shall contain full particulars of the facts relied on by the respondent.
- (7) An answer containing a claim for custody of every child of the marriage who has not attained the age of 18 years or who is over that age and is receiving instruction at an educational establishment or undergoing training for a trade or profession shall be accompanied by a separate written statement containing the information required by Form 5.
- (8) A party cited or person named in an answer who has given notice of intention to defend the answer and wishes to defend all, or any of the charges made therein shall, within 14 days after the expiration of the time limited for giving notice of intention to defend, file an answer to the charges by sending it by prepaid post to, or by leaving it at, the Judicial Greffe.
- (9) Rule 5(3) and (4) shall, where appropriate, apply with the necessary modifications to a respondent's answer as they apply to a petition.
- (10) Every answer or subsequent pleading, if settled by an advocate or solicitor, shall be signed by the advocate or solicitor and, if not so settled, shall be signed by the party filing the same.
- (11) Rule 16 shall apply with the necessary modifications to the filing of a supplemental or amended answer as they apply to the filing of a supplemental or amended petition.

## **20 Reply**

- (1) No reply shall be filed without leave except where relief is claimed in the answer, in which case a reply may be filed within 14 days from the delivery of the answer.
- (2) No subsequent pleading shall be filed except by leave.

## **21 Amendment of originating summons, etc.**

Any originating summons, notice of an application for ancillary relief, summons, pleading or other document, may be amended without leave before service, or with leave after service, subject to any directions as to re-service and as to consequential amendment of pleadings already filed.

## **22 Pleadings out of time**

No pleading shall be filed out of time without leave after the Greffier's certificate has been granted under Rule 32.

## **23 Particulars**

- (1) Any party may by letter require any other party to furnish particulars of any allegation or other matter pleaded and, if such 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 within 24 hours of being furnished to the party requiring them.

## **24 Delivery of subsequent pleadings**

A copy of every answer (other than an answer which is required to be served in the same manner as a copy of a petition), reply, and subsequent pleading shall within 24 hours after it is filed be delivered to the opposite parties or their advocates or solicitors.

## **25 Discovery and interrogatories**

- (1) A party to a matrimonial cause may by leave deliver interrogatories in writing for the examination of an opposite party.
- (2) A copy of the interrogatories proposed to be delivered shall be filed when the summons is issued and a further copy shall be served with the summons.
- (3) Interrogatories shall, unless otherwise ordered, be answered by affidavit to be filed within 14 days.

## **26 Discovery and inspection of documents<sup>22</sup>**

- (1) The Court may order any party to a matrimonial cause or matter to furnish any opposite party with a list of the documents which are or have been in the party's possession, custody or power relating to any matter in question in the cause or matter, and to verify such list by affidavit.
- (2) An order under paragraph (1) may be limited to such documents or classes of documents only, or to such only of the matters in question in the cause or matter, as may be specified in the order.
- (3) If it is desired to claim that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of the privilege.
- (4) A party who has furnished any opposite party with a list of documents in compliance with paragraph (1) must allow the other party to inspect the documents referred to in the list (other than any which the party objects to produce) and to take copies thereof and, accordingly, must give the other party notice in writing stating a time within 7 days after furnishing the list at which the said documents may be inspected at a place specified in the notice.
- (5) The Court may order any party to a matrimonial cause or matter in whose pleadings or affidavits reference is made to any document to produce that document for the inspection of any other party and to permit the other party to take copies thereof.

**27 Medical examination in proceedings for nullity**

- (1) In proceedings for nullity on the ground of impotence or incapacity to consummate the marriage the petitioner shall, subject to paragraph (2), apply to the Greffier to determine whether medical inspectors should be appointed to examine the parties.
- (2) An application under paragraph (1) shall not be made in an undefended cause –
  - (a) if the husband is the petitioner; or
  - (b) if the wife is the petitioner and –
    - (i) it appears from the petition that she was either a widow or divorced at the time of the marriage in question,
    - (ii) it appears from the petition or otherwise that she has borne a child, or
    - (iii) a statement by the wife that she is not a virgin is filed,unless, in any such case, the petitioner is alleging his or her own impotence or incapacity.
- (3) Reference in paragraphs (1) and (2) to the petitioner shall, where the cause is proceeding only on the respondent's answer or where the allegation of impotence or incapacity is made only in the respondent's answer, be construed as references to the respondent.
- (4) An application under paragraph (1) by the petitioner shall be made –
  - (a) where the respondent has not given notice of intention to defend, after the time limited for giving such notice has expired; or
  - (b) where the respondent has given notice of intention to defend, after the time allowed for filing the respondent's answer, or, if the respondent has filed an answer, after it has been filed,and an application under paragraph (1) by the respondent shall be made after the respondent has filed an answer.
- (5) Where the party required to make an application under paragraph (1) fails to do so within a reasonable time, the other party may, if he or she is prosecuting or defending the cause, make an application under that paragraph.
- (6) In proceedings for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent, either party may apply to the Greffier for the appointment of medical inspectors to examine the parties.
- (7) If the respondent has not given notice of intention to defend an application by the petitioner under paragraph (1) or (6) may be made *ex parte*.
- (8) The provisions of paragraphs (1) to (5) shall be deemed to apply in proceedings for nullity where the grounds of impotence or incapacity and wilful refusal are pleaded in the alternative.
- (9) If the Greffier, on hearing an application under paragraph (1) or (6), considers it expedient to do so, the Greffier shall appoint a medical

inspector or, if the Greffier thinks it necessary, 2 medical inspectors to examine the parties and to report to the Court the result of the examination.

- (10) At the hearing of any such proceedings as are referred to in paragraph (1) the Court may, if it thinks fit, appoint a medical inspector or 2 medical inspectors to examine any party who has not been examined or to examine further any party who has been examined.
- (11) Every medical inspector shall, on being appointed, be sworn by the Greffier or the Court, as the case may be.
- (12) The party on whose application an order under paragraph (9) is made or who has the conduct of proceedings in which an order under paragraph (10) has been made for the examination of the other party, shall serve on the other party notice of the time and place appointed for his or her examination, and service of such notice shall be effected and proof of service shall be given in the manner provided for by Rules 10 and 13 in the case of service of a copy of a petition on a respondent:

Provided that, where the respondent is represented by an advocate or solicitor, service may be effected on such advocate or solicitor, as the case may be, in the manner provided for by Rule 14.

## **28 Conduct of medical examination**

- (1) Every medical examination under Rule 27 shall be held at the consulting room of the medical inspector or, as the case may be, of one of the medical inspectors appointed to conduct the examination:

Provided that the Greffier may, on the application of a party, direct that the examination of that party shall be held at such other place as the Greffier thinks convenient.

- (2) Every party presenting himself or herself for examination shall sign, in the presence of the inspector or inspectors, a statement that the party is the person referred to as the petitioner or respondent, as the case may be, in the order for the examination, and at the conclusion of the examination the inspector or inspectors shall certify on the statement that it was signed in the inspector's or their presence by the person who has been examined.
- (3) Every report made in pursuance of Rule 27 shall be filed and either party shall be entitled to be supplied with a copy on payment of the prescribed fee.

## **29 Evidence**

- (1) Subject to the provisions of the Law and of this Rule, the witnesses at the trial or hearing of any matrimonial cause shall be examined *viva voce* and in open court:

Provided that the Court or Greffier may –

- (a) subject to the provisions of paragraph (2), order that any particular facts to be specified may be proved by affidavit;



- (b) order that the affidavit of any witness may be read at the trial or hearing on such conditions as the Court or Greffier may think reasonable;
  - (c) order that evidence of any particular fact to be specified shall be given at the trial or hearing by statement on oath of information and belief or by production of tape recordings or by copies of documents or entries or otherwise as the Court or Greffier may direct; and
  - (d) order that not more than a specified number of expert witnesses may be called.<sup>23</sup>
- (2) Where it appears to the Court or Greffier 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 authorizing the evidence of such witness to be given by affidavit.
- (3) Subject to the provisions of paragraph (4), any party may apply to the Greffier –
  - (a) for an order authorizing the Viscount to take in writing, on oath or affirmation, the evidence of any person who is a party or witness in any matrimonial cause and who is in Jersey at the time of the application;
  - (b) for a commission or for letters of request to examine a person who is a party or witness in any matrimonial cause and who is not in Jersey at the time of the application.
- (4) Unless otherwise directed, evidence taken in accordance with paragraph (3) shall not be admissible at the trial or hearing unless the Court is satisfied that the deponent is dead, or out of Jersey or unable from sickness or other infirmity to attend Court, in any of which cases the depositions duly certified shall be admissible in evidence, saving all just exceptions.
- (5) The Court shall have full discretionary power at any time before the pronouncement of decree nisi in a suit to receive such further evidence as in the opinion of the Court the justice of the case may require.

### **30 Trial of issue**

The Court may direct, and a petitioner and any party to a cause who has given notice of intention to defend may apply to the Court for directions for, the separate trial of any issue of fact or any question as to the jurisdiction of the Court.

### **31 Striking out<sup>24</sup>**

- (1) The Court may at any stage of the proceedings order to be struck out or amended in any petition, answer, reply, affidavit, interrogatory or other document or pleading to which these Rules apply any matter which –
  - (a) discloses no reasonable cause or defence, as the case may be;

- (b) is unnecessary, scandalous, frivolous or vexatious;
  - (c) may prejudice, embarrass or delay the fair trial of any cause or matter; or
  - (d) is otherwise an abuse of the process of the Court,
- and may, in any such case, if the Court thinks fit, make such consequential order as the justice of the case may require and order the costs of any application in that behalf to be paid as between solicitor and client.<sup>25</sup>
- (2) No evidence shall be admissible on an application under paragraph (1)(a).<sup>26</sup>

### **32 Certificate of the Greffier**

- (1) The petitioner or any party who is defending a matrimonial cause shall, before setting down the cause for trial or hearing, refer the pleadings and proceedings in the cause to the Greffier for a certificate stating –
- (a) that a copy of the petition, and any document required to be served in the same manner as a copy of a petition, has been duly served;
  - (b) if no notice of intention to defend has been given by any party entitled to give it, that the time limited for giving such notice has expired;
  - (c) if notice of intention to defend has been given by any party, that the time allowed for filing an answer or any subsequent pleading has expired;
  - (d) in proceedings for nullity on the ground of impotence, that a report by a medical inspector or by medical inspectors, as the case may be, under Rule 27 has been filed, or an order made that there shall be no medical inspector;
  - (e) in proceedings for nullity on the ground that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage, that the report of any medical inspector or inspectors, as the case may be, appointed under Rule 27 has been filed.
- (2) The application for the Greffier's certificate shall be made on, or in accordance with, a form which shall be supplied by the Greffier.
- (3) The petitioner who has obtained the Greffier's certificate shall, within 24 hours of having done so, give notice of the fact to any party defending the cause. Any party defending the cause who has obtained the Greffier's certificate shall, within 24 hours of having done so, give notice of the fact to the petitioner and to any other party defending the cause.

### **33 Setting down for trial**

- (1) The petitioner, after the Greffier's certificate has been obtained, shall set down the cause for trial or hearing at the Judicial Greffe, and, within 24 hours of having done so, shall give notice of the fact to each party in the cause who has given notice of intention to defend or has applied to be

heard on ancillary matters, and, if the petitioner fails so to set the cause down within 14 days after the granting of the Greffier's certificate, any party defending the cause may set the cause down for trial or hearing and, within 24 hours of having done so, shall give notice of the fact to the petitioner and all other parties in the cause who have given notice of intention to defend, or have applied to be heard on ancillary matters.

- (2) If an undefended cause is not set down within 28 days after the granting of the Greffier's certificate, the cause shall not be set down unless the Greffier's certificate has been renewed.

### **34 Listing of causes and fixing date of trial**

- (1) The Greffier shall prepare, and keep up to date, 2 numbered lists to be known as the "undefended list" and the "defended list" showing respectively the undefended causes and the defended causes which are for the time being set down for trial or hearing. The causes shall be entered in each list in the order in which they were set down for trial or hearing. A copy of each list shall be displayed in the lobby of the Royal Court.
- (2) Save with the consent of all parties and by leave of the Court, no cause shall be tried or heard until after the expiration of 10 days from the date of setting down.
- (3) The Court may from time to time fix a day or days for the trial or hearing of the causes for the time being entered in the undefended list. The first of the days so fixed shall not be less than 10 days from the date on which it is fixed.
- (4) The Greffier shall, with the least possible delay, cause notice of the day or days so fixed to be made public in such manner as the Court shall direct.
- (5) The petitioner, or the petitioner's advocate or solicitor if the petitioner is not acting in person, shall give not less than 8 clear days' notice to any party who has given notice of intention to defend or has applied to be heard on ancillary matters, of the day or days so fixed.
- (6)
  - (a) Where a cause has been entered in the defended list, the petitioner may apply to the Bailiff in Chambers for a day to be fixed for the trial or hearing of the cause.
  - (b) The petitioner shall, not less than 4 days before making an application under sub-paragraph (a), notify in writing the other parties to the cause of the petitioner's intention to make the application and when the petitioner intends to make it.
  - (c) Save with the consent of all parties, the day fixed for the trial or hearing shall not be less than 10 days from the date of the application.
  - (d) When a date has been fixed for the trial or hearing of a cause the petitioner shall, within 4 days, notify that date to every party who was not present at the hearing of the application.<sup>27</sup>

- (7) The petitioner in a defended cause, or the petitioner's advocate or solicitor if the petitioner is not acting in person, shall give not less than 8 clear days' notice of the date of trial or hearing to any person who has given notice of intention to defend. Such notice, personal service of which shall not be necessary, shall be served by the Viscount at the address for service.
- (8) Save by leave of the Court, no undefended or defended cause shall be tried or heard out of term.<sup>28</sup>
- (9)
  - (a) In all undefended and defended causes the petitioner shall, at least 2 days before the day fixed for the trial or hearing, lodge with the Greffier a "billet" containing the full and correct names of all parties to the cause and of all witnesses whom the petitioner proposes to call.
  - (b) Any party who is defending a cause shall, at least 2 days before the day fixed for the trial or hearing, lodge with the Greffier a list containing the full and correct names of all witnesses whom that party proposes to call.
- (10) For the purposes of this Rule, the expression "petitioner" includes, where the context so permits, a party who is defending a cause and who has set the cause down for trial or hearing in accordance with Rule 33(1).
- (11) Where the cause is an undefended matrimonial cause and, in a case to which Article 7(2)(a) of the Law applies, the respondent has filed a notice under Rule 15(1) that the respondent consents to the grant of a decree, then, unless otherwise directed there shall be filed with the application for a Greffier's Certificate an affidavit by the petitioner –
  - (a) containing the information required by Form 17, 18, 19 or 20 (whichever is appropriate) as near as may be in the order there set out, together with any corroborative evidence on which the petitioner intends to rely; and
  - (b) verifying, with such amendments as the circumstances may require, the contents of any statement of arrangements filed by the petitioner in Form 5,and the Greffier shall enter the cause on the next undefended list.<sup>29</sup>

### **35 Hearing of Undefended Causes by the Greffier<sup>30</sup>**

- (1) The Greffier shall have jurisdiction to hear and determine undefended matrimonial causes in accordance with the provisions of this Rule.
- (2) As soon as practicable after a matrimonial cause has been entered on the undefended list, the Greffier shall consider the evidence filed by the petitioner and –
  - (a) if satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a decree, shall so certify; or
  - (b) if not so satisfied, may give the petitioner an opportunity of filing further evidence or remove the cause from the undefended list.

- (3) On the making of a certificate under paragraph (2), a date shall be fixed pursuant to Rule 34(3) for the pronouncement of a decree by the Greffier in open court and the Greffier shall send to the petitioner or the petitioner's advocate notice of the date and place so fixed and a copy of the certificate but, subject to paragraph (4), it shall not be necessary for any party to appear on that occasion, and Rule 34(9)(a) shall not apply.
- (4) Where the petition contains a prayer for costs, the Greffier may –
  - (a) if satisfied that the petitioner is entitled to such costs, include in his or her certificate a statement to that effect;
  - (b) if not so satisfied, give to any party who objects to paying such costs notice that, if the party wishes to proceed with his or her objection, the party must attend before the Court on the date fixed in accordance with paragraph (3).
- (5) Within 14 days of the pronouncement of a decree in accordance with a certificate under paragraph (2), any person may inspect the certificate and the evidence filed in support of the petition at the Judicial Greffe by appointment during working hours.
- (6) A respondent, co-respondent or party cited may, without filing an answer, be heard on any question as to costs, but the Greffier may at any time order any party objecting to a claim for costs to file and serve on the party making the claim a written statement setting out the reasons for the party's objection.
- (7) A party shall be entitled to be heard on any question pursuant to paragraph (6) whether or not the party has returned to the Judicial Greffe an acknowledgement of service stating the party's wish to be heard on that question.
- (8) In proceedings after a decree nisi of divorce or a decree of judicial separation, no order the effect of which would be to make a co-respondent or party cited liable for costs which are not directly referable to the decree shall be made unless the co-respondent or party cited is a party to such proceedings or has been given notice of the intention to apply for such an order.

**36 Right of respondent or co-respondent to be heard on question of costs, custody and access**

After giving notice of intention to defend or making application to be heard on ancillary matters, a respondent or co-respondent may, without filing an answer, be heard in respect of any question as to costs and a respondent spouse may, without filing an answer, be heard as to any question of custody, or access to any children of the marriage and may call evidence relative thereto.<sup>31</sup>

**37 Right of respondent to be heard on question of contribution for support, secured provision, lump sum payment, transfer or settlement of property**

After giving notice of intention to defend or making application to be heard on ancillary matters, a respondent may, without filing an answer, be heard as to the

conduct of the parties in so far as such conduct is relevant to a claim for contribution for support after decree, a secured provision, a lump sum payment, transfer or settlement of property or variation of settlements, and may call evidence relative thereto.

### **38 Arrangements for children**

Where at the hearing of proceedings for divorce, nullity of marriage or judicial separation it appears that there is a child of the marriage who has not attained the age of 18 years and –

- (a) the Court is satisfied as respects every such child that arrangements have been made for the care and upbringing of the child and that those arrangements are satisfactory; or
- (b) it appears to the Court that there are circumstances making it desirable that the decree nisi should be made absolute or, as the case may be, that the decree for judicial separation should be pronounced without delay and the Court has obtained a satisfactory undertaking from either or both of the parties to bring the question of the arrangements for the children before the Court within a specified time,

there shall be entered in the Court minutes a statement recording the matters in regard to which the Court is satisfied under paragraph (a) or, as the case may be, a statement that the conditions mentioned in paragraph (b) have been fulfilled.

### **39 Form of decree**

- (1) Where in any case there has been a finding of adultery against one of the parties to the cause, but the Court has refused to exercise its discretion under Article 9 of the Law, that finding and the refusal shall be set out in the decree and where in such a case the Court exercises its discretion, the decree shall state that it is made in the exercise of the discretion conferred on the Court by the said Article.
- (2) A sealed or other copy of any decree of the Court may be issued to any person on payment of the appropriate fee.

### **40 Application for rescission of decree**

- (1) An application by a respondent under Article 11(2) of the Law for the rescission of a decree of divorce shall be made by Notice to the Court.
- (2) Unless otherwise directed, the notice of application shall be served on the petitioner not less than 14 days before the day fixed for the hearing of the application.
- (3) The application shall be supported by an affidavit setting out the allegations on which the applicant relies and a copy of the affidavit shall be served on the petitioner.

**41 Application under Article 11(3) of the Law**

- (1) An application by the respondent to a petition for divorce for the Court to consider the financial position of the respondent after the divorce shall be made by notice in Form 14.
- (2) Where a petitioner is served with a notice in Form 14, then, unless the petitioner has already filed an affidavit under Rule 50 the petitioner shall, within 14 days after the service of the notice, file an affidavit in answer to the application containing full particulars of the petitioner's property and income, and if the petitioner does not do so, the Court may order the petitioner to file an affidavit containing such particulars.
- (3) Within 14 days after service of any affidavit under paragraph (2), or within such time as the Greffier may direct, the respondent shall file an affidavit in reply containing full particulars of the respondent's property and income unless already given in an affidavit filed by the respondent under Rule 50.
- (4) The powers of the Court on the hearing of the application may be exercised by the Greffier or by any officer of the Judicial Greffe appointed by the Superior Number of the Royal Court pursuant to Article 3(4) of the Law, and the provisions of Rule 56(3) shall be deemed to apply in relation to any order made upon the application by the Greffier.

**42 Intervention by Attorney General**

- (1)
  - (a) When the Attorney General desires to show cause against making absolute a decree nisi, the Attorney General shall give notice to that effect to the Greffier and to the party in whose favour it was pronounced, and shall, within 14 days thereafter, file his or her plea setting forth the grounds upon which the Attorney General desires to show cause, and, within 24 hours of filing the plea, shall deliver a copy thereof to the party in whose favour such decree has been pronounced or to the party's advocate or solicitor and, if the plea alleges collusion, to the other party or parties to the alleged collusion or to the advocate or solicitor of such other party or parties.
  - (b) Where such plea alleges a petitioner's adultery with any named person, the Attorney General shall, unless otherwise directed, serve each such person with a copy of his or her plea omitting such part thereof as contains any allegation in which the person so served is not named. Such copy shall be accompanied by a notice in accordance with Form 7 and a form of acknowledgement of service in accordance with Form 4 so far as the same is applicable, and shall be served and service shall be effected in the manner provided for in the case of a copy of a petition on a co-respondent by Rules 10, 12 and 13.

- (c) Except as hereinafter provided, these Rules shall apply to all subsequent pleadings and proceedings in respect of such plea as if the plea were an original petition.
- (2) If no answer to the plea of the Attorney General is filed within the time limited or if an answer is filed and has been struck out or not proceeded with, the Attorney General may move the Court forthwith to rescind the decree nisi and dismiss the petition.
- (3) If any of the charges contained in the plea of the Attorney General are not denied in the answer thereto, the party in whose favour the decree nisi has been pronounced shall apply for the Greffier's certificate under Rule 32 (1) and, within 14 days after obtaining it, set down the intervention for trial or hearing and, within 24 hours after setting down the intervention, shall give to the Attorney General notice of the party's having done so. If default is made in setting down and giving notice to the Attorney General as aforesaid, the Attorney General may move the Court forthwith to rescind the decree nisi and dismiss the petition.
- (4) If all the charges contained in the plea of the Attorney General are denied in the answer thereto, the Attorney General shall apply for the Greffier's certificate and, within 14 days after obtaining it, set down the intervention for trial or hearing and, within 24 hours after setting down the intervention, shall give to the other parties to the intervention notice of having done so.
- (5)
  - (a) Unless otherwise directed by the Court, where the Attorney General has been granted leave to intervene in any cause for divorce or for nullity of marriage or for presumption of death before any decree has been pronounced the Attorney General shall give notice to that effect to the Greffier and shall, within 14 days thereafter, file the plea setting forth the grounds for the Attorney General's intervention and, within 24 hours of filing the plea, shall deliver a copy thereof to each party in the cause or to the party's advocate or solicitor.
  - (b) Paragraph (1)(b) shall, where appropriate, apply to such plea as if it were a plea filed under paragraph (1)(a).

#### **43 Intervention by person other than Attorney General**

- (1) When any person other than the Attorney General desires to show cause against making absolute a decree nisi, the person shall give notice to that effect to the Greffier and shall, within 14 days thereafter, file an affidavit setting forth the facts upon which the person relies and, within 24 hours of filing such affidavit, deliver a copy thereof to the party or the advocate or solicitor of the party in whose favour the decree has been pronounced and, if the affidavit alleges collusion, to the other party or parties to the alleged collusion or to the advocate or solicitor of such other party or parties.
- (2) Any party to whom a copy of the affidavit has been delivered as aforesaid may, within 14 days thereafter file an affidavit in answer, and shall, within 24 hours after filing, deliver a copy thereof to the person showing



cause or to the person's advocate or solicitor; whereupon the person showing cause may, within a further 14 days, file an affidavit in reply, and shall, within 24 hours thereafter, deliver a copy thereof to each party to whom the party delivered a copy of the party's original affidavit.

- (3) No affidavit shall be filed in rejoinder to the affidavits in reply without leave of the Court.
- (4) A person showing cause shall apply to the Greffier for directions within 14 days after expiry of the time allowed for filing an affidavit in reply or, where no affidavit in answer has been filed, within 14 days after expiry of the time allowed for filing such an affidavit.
- (5) If the person showing cause does not apply under paragraph (4) within the time limited, the person in whose favour the decree was pronounced may do so.

#### **44 Rescission of decree nisi by consent**

Where, after a decree nisi has been pronounced but before it has been made absolute, a reconciliation has been effected between the petitioner and the respondent, either party may apply to the Greffier by summons for an order rescinding the decree by consent.<sup>32</sup>

#### **45 Decree absolute**

- (1) An application by a spouse to make absolute a decree nisi pronounced in the spouse's favour shall be made by lodging with the Greffier a notice of application in accordance with Form 8 on any day after the expiration of the period prescribed for making such decree absolute. The Greffier having searched the Court minutes and being satisfied –

- (a) that no appeal against the said decree is pending;
  - (b) that no intervention under Rule 42 or 43 is pending,

the notice shall be filed:

Provided that –

- (i) if the application to make the decree absolute is made after the expiration of one year from the date of the decree nisi the Greffier may require that the notice be supported by an affidavit sworn by the applicant or by the applicant's advocate or solicitor accounting for the delay and may make such order on the application as the Greffier thinks fit or refer the application to the Court,
  - (ii) if the Court minutes do not contain such a statement as is mentioned in Rule 38, the notice shall not be filed without the leave of the Court unless at the date of the application there are no children of the marriage below the age of 18 years.<sup>33</sup>
- (2) On the filing of the said notice the decree shall become absolute.
- (3)

- (a) An application by a spouse to make absolute a decree nisi pronounced against the spouse shall be made by summons and shall be accompanied by a notice of application in accordance with Form 8:

Provided that if the application to make the decree absolute is made after the expiration of one year from the date of the decree nisi the Greffier may require that the summons and notice be supported by an affidavit sworn by the applicant or by the applicant's advocate or solicitor accounting for the delay and may make such order on the application as the Greffier thinks fit or refer the application to the Court.

- (b) If the Court minutes do not contain such a statement as is mentioned in Rule 38 and at the date of the application there is a child of the marriage who has not attained the age of 18 years, the application shall be made by summons to the Court and in any other case it shall be made to the Greffier who may make such order thereon as the Greffier thinks fit or may refer the application to the Court.<sup>34</sup>
- (4) A certificate in accordance with Form 9 or Form 10 whichever is appropriate, that the decree has been made absolute, shall be prepared and filed by the Greffier. The certificate shall be authenticated by fixing thereto the seal of the Court.
- (5) No decree nisi shall be made absolute until after the expiration of 6 weeks from the pronouncing thereof, unless the Court by special order from time to time fixes a shorter time.

#### **46 Reversal of decree of judicial separation**

- (1) A petition to the Court for the reversal of a decree of judicial separation shall set out particulars of the decree which the Court will be prayed to reverse and the grounds on which the petitioner relies.
- (2) The party in whose favour the decree was pronounced may file an answer within 14 days after service of a copy of the petition on the party.
- (3) Except as provided in paragraph (2), all proceedings on the petition shall be carried on in the same manner, so far as practicable, as proceedings on a petition for judicial separation.

#### **47 Contribution for support pending suit**

- (1) An application for a contribution for support pending suit, where a prayer for the same is not included in the petition or answer, as the case may be, may be made by a petitioner at any time after filing the petition and by a respondent spouse at any time after giving notice of intention to defend, or making application to be heard on ancillary matters.
- (2) An application under this Rule shall be heard before the Greffier who may make such order thereon as the Greffier thinks fit or may refer the application to the Court.

**48 Secured provision, variation of settlements, transfer or settlement of property, lump sum payments**

- (1) An application for a secured provision or lump sum payment where a prayer for the same is not included in the petition or answer, as the case may be, and an application for variation of settlements or for the transfer or settlement of property may be made on Form 2 by the petitioner at any time after the time for giving notice of intention to defend has expired, and by a respondent spouse at any time after giving notice of intention to defend or after making application to be heard on ancillary matters but no application shall be made later than 2 months after final decree except by leave of the Court. Application for leave shall be made by summons to the Greffier supported by an affidavit accounting for the delay.
- (2) Upon an application for variation of settlements, transfer or settlement of property, secured provision or lump sum payments, the Court shall, unless it is satisfied that the proposed variation does not adversely affect the rights or interests of any children of the marriage or that the settlement, secured provision or lump sum payment makes adequate provision for any children of the marriage, direct that the children be separately represented on the application by an advocate, and in such cases shall order that a guardian or guardian *ad litem* be appointed to such infant children.
- (3) Where in accordance with Article 29(1)(d) of the Law, it is desired by one party to charge the payment of any sum against the real property of the other party as a judicial hypothec, then, where such payment is other than the payment of a lump sum or sums, it shall be expressed as an appropriate capital sum and such capital sum shall be charged against the real property of the other party as a judicial hypothec.

**49 Contribution for support after decree**

An application for a contribution for support after decree, where a prayer for the same is not included in the petition or answer, as the case may be, may be made on Form 2 by the petitioner at any time after the time for giving notice of intention to defend has expired, and by a respondent spouse after giving notice of intention to defend, or after making application to be heard on ancillary matters.

**50 Evidence on applications for ancillary relief**

- (1) Where a respondent spouse or a petitioner is served –
  - (a) with a petition or answer, as the case may be, in which ancillary relief is claimed; or
  - (b) with notice of an application for a contribution for support pending suit, maintenance of the children, a contribution for support after decree, secured provision or a lump sum payment,

the respondent spouse or petitioner shall file an affidavit containing a detailed declaration of his or her assets and liabilities and particulars of all charges against such assets – in the case of a petitioner or a respondent

who has already given notice of intention to defend, or has applied to be heard on ancillary matters, within 14 days after service of the answer or notice, as the case may be:

Provided that no affidavit need be filed –

- (a) if the party claiming relief has given notice that he or she intends to proceed on evidence already filed in the proceedings; or
  - (b) that the parties are agreed upon the terms of the proposed order.
- (2) An application for variation of settlements shall state the nature of the order which the Court will be prayed to make and shall, unless otherwise directed, be supported by an affidavit of the petitioner stating the facts relied on and full particulars of the marriage, any children of the marriage, the marriage contract, settlement or terms of separation and of the funds brought in to the same by the husband and wife. The application shall, in addition to being served on the respondent, be served on the trustees of any contract, settlement or deed of separation and upon such other persons as the Court may direct, and any party so served may, within 14 days after service, file an affidavit in answer.
- (3) A prayer or application for transfer or settlement of property shall state the nature of the order which the Court will be prayed to make and shall, unless otherwise directed, be supported by an affidavit stating the facts relied on in support of the application and, so far as is known to the applicant, a statement of any hypothecary or other charge to which the property is subject. The application and any supporting affidavit shall, in addition to being served on the respondent, be served on any person in whose favour any hypothecary or other charge has been subscribed and upon such other persons as the Court may direct and any party so served may, within 14 days after service, file an affidavit in answer.<sup>35</sup>
- (4) Any affidavit or other document filed in connection with an application for ancillary relief must be lodged with the Greffier not less than 4 clear days before the day fixed for the hearing of the application.<sup>36</sup>

## **51 Hearing of application for ancillary relief<sup>37</sup>**

- (1) The Greffier shall inform both the applicant for ancillary relief and every other party to the application who has given notice of intention to defend or has applied to be heard on ancillary matters of the day fixed for the hearing of the application and, in the case of an application for or including the transfer or settlement of a property subject to any hypothecary or other charge, notification of the day fixed for the hearing shall also be given by the Greffier to any person in whose favour such hypothecary or other charge has been subscribed and such person shall be entitled to be heard.
- (2) The Greffier may, at any time, refer an application for ancillary relief or any question arising from the application to the Court for its decision and, pending the final determination of the application, may make an interim order upon such terms as the Greffier may think fit.
- (3) When, in the opinion of the Court or the Greffier, as the case may be, an application for ancillary relief gives rise to a contested issue of conduct of

a nature which is likely materially to affect the question whether any, or what, order should be made thereon, applications shall be made to the Greffier by summons for directions as to the filing and service of pleadings relative thereto and as to the further conduct of the proceedings.

(4)

- (a) At least 2 days before the day fixed for the hearing of an application for ancillary relief, the applicant shall lodge with the Greffier a “billet” containing the full and correct names of all witnesses whom the applicant proposes to call.
- (b) Any other party to the application shall, at least 2 days before the day fixed for the hearing of the application, lodge with the Greffier a list containing the full and correct names of all witnesses whom that party proposes to call.<sup>38</sup>

## **52 Further evidence**

- (1) If, in pursuance of Rule 50, an affidavit is filed by a husband, the wife, and if, in pursuance of Rule 50, an affidavit is filed by a wife, the husband, may within 14 days after delivery of the affidavit file an affidavit in reply thereto.
- (2) No subsequent affidavits shall be filed except by leave.<sup>39</sup>

## **53 Variation of orders**

- (1) A petitioner or a respondent if he or she has given notice of intention to defend or has applied to be heard on ancillary matters may at any time apply for a modification order.
- (2) An application for a modification order shall be supported by an affidavit of the applicant containing a detailed declaration of the applicant’s assets and liabilities and particulars of all charges against such assets, together with full particulars of the grounds on which the application is made.
- (3) The respondent to the application may within 14 days after delivery of the affidavit to the respondent or the respondent’s advocate or solicitor, file an affidavit in answer, but no further evidence shall be filed by any party without leave.
- (4) Notwithstanding anything in paragraphs (2) and (3), no affidavits need to be filed if the parties are agreed upon the terms of the proposed modification order.
- (5) Rule 51(3) shall apply with the necessary modifications to an application under this Rule as it applies to an application for ancillary relief.<sup>40</sup>
- (6) If on an application for a modification order the parties are agreed upon the terms of the proposed order, the application shall be heard before the Greffier and the provisions of Rule 56(3) shall be deemed to apply in relation to any order made by the Greffier.

**54 Custody of and access to children**

- (1) Application may be made to the Court at any time either before or after final decree by –
  - (a) the petitioner;
  - (b) the respondent spouse; or
  - (c) any person who has obtained leave to intervene in the suit for the purpose of applying for custody, or who has the custody or control of any children under an order of the Court, after giving notice to the Greffier for this purpose,for an order relating to the custody or education of such children, or for directions that proper proceedings be taken for placing such children under the protection of the Court.<sup>41</sup>
- (2) A petitioner may, at any time after filing a petition in a matrimonial cause, and a respondent spouse may, at any time after giving notice of intention to defend or after applying to be heard on ancillary matters, apply to the Court for access to any children of the marriage.

**55 Maintenance of children**

An application for maintenance of the children may be made by notice in Form 2 –

- (a) by a petitioner who has not included in the petition a prayer for maintenance of the children, at any time after service of a petition in which custody of any children of the marriage is claimed or after making a subsequent application for custody;
- (b) by a respondent spouse after giving notice of intention to defend or after making application to be heard on ancillary matters; and
- (c) by any person who has obtained leave to intervene in the suit for the purpose of applying for custody or who has the custody or control of any children of the marriage under an order of the Court.

**56 Hearing of summons**

- (1) A summons shall be in accordance with Form 12, and shall be served on the party to whom it is addressed 4 clear days at least before the day fixed for hearing, which day shall be fixed by the Greffier, in consultation, in the case of a summons which is to be heard before the Court, with the Bailiff.<sup>42</sup>
- (2) On the day and at the hour named in the summons, the party taking out the same shall attend before the Court or the Greffier, as the case may be. If any party to the summons does not appear, the Court or Greffier, as the case may be, may proceed in the party's absence upon being satisfied by the record of the Viscount, by affidavit or otherwise, that any party not in attendance had due notice of the time appointed.
- (3) If the summons is heard before the Greffier, the Greffier may make such order as he or she thinks fit, or may adjourn the summons or any question arising therefrom to the Court for its decision and, pending the final

determination of the summons, may make an interim order upon such terms as the Greffier may think just.

- (4) If the summons is heard before the Court, the Court may make such order as it thinks fit.

**57 Appeals against orders and decisions of the Greffier<sup>43</sup>**

- (1) An appeal shall lie to the Court from any order or decision of the Greffier.
- (2) The appeal shall be brought by serving on every other party to the proceedings before the Greffier a Notice in Forms 15 and 16, a copy whereof shall also be delivered to the Greffier.
- (3) The Notice shall be served within 10 days after the order or decision appealed against was given or made or, having regard to the nature of the order or decision, within such delay as the Greffier may allow.
- (4) Upon receipt of the Notice the Greffier shall deliver to the appellant and to any other party to the proceedings before the Greffier a statement setting out the reasons for the order or decision.
- (5) Within 14 days of service of the Notice of Appeal, every other party to the proceedings before the Greffier shall deliver to the Greffier and to the appellant a statement of submissions to be made on the hearing of the appeal.
- (6) The Greffier shall, after the expiration of the 14 day period referred to in paragraph (5) and after consultation with the Bailiff, fix the day for the hearing of the appeal, notification of which shall be sent by the Greffier to each of the parties to the proceedings at their respective addresses for service.
- (7) Not later than 5 clear days before the date fixed for the hearing of the appeal, each party to the proceedings shall lodge with the Greffier the affidavits (with any exhibits thereto) or other pleadings which that party proposes to use.
- (8) Within 48 hours of receiving the affidavits and other pleadings from the parties, the Greffier shall deliver to the Bailiff a copy of the statement setting out the reasons for the order or decision together with copies of the affidavits, pleadings and submissions lodged by the parties.
- (9) Save with the leave of the Court, no document may be adduced in evidence or relied on unless it has been lodged in accordance with paragraph (7) and no submissions may be made unless they conform to the statement of submissions delivered in accordance with paragraph (5).
- (10) Except so far as the Court may otherwise direct, an appeal under this Rule shall not operate as a stay of the order or decision appealed against.

**58 Minors and persons of unsound mind**

- (1) The guardian of a minor, acting with the advice and counsel of the guardian's electors, or the curator of a person under curatorship may commence, prosecute, defend, intervene or make any application in, any cause to which these Rules relate.
- (2) A minor who has no guardian and a person of unsound mind who has no curator may apply to the Court *ex parte* through his or her next friend, for the appointment of a guardian *ad litem*, by whom he or she may commence, prosecute, defend, intervene or make any application in, any cause to which these Rules relate.<sup>44</sup>
- (3) When in any cause to which these Rules relate any document is required to be served, and the person on whom service is to be effected is a minor, that document shall, unless otherwise directed, be served on the guardian or guardian *ad litem* of the minor, as the case may be, or, if none, upon the person with whom the minor resides or under whose care the minor is, and service so effected shall be deemed good service on the minor, provided that the Court may order that service made, or to be made, on the minor shall be deemed good service.
- (4) When in any cause to which these Rules relate any document is required to be served and the person on whom service is to be effected is of unsound mind, then, unless otherwise directed, that document shall be served on the curator or guardian *ad litem* of such person, as the case may be, or, if none, upon the person with whom the person of unsound mind resides, or under whose care the person of unsound mind is, and service so effected shall be deemed to be good service upon the person of unsound mind.
- (5) Where a petition or answer has been served on a minor or person of unsound mind, and no notice of intention to defend has been given by or on behalf of the minor or person of unsound mind, or where an originating summons has been served on a minor or person of unsound mind, the party at whose instance the petition, answer or originating summons was served shall, before proceeding further with the cause, apply to the Court for an order that some proper person be appointed guardian *ad litem* of the minor or person of unsound mind.<sup>45</sup>

**59 Separate representation of children**

Without prejudice to Rule 48(2), if in any matrimonial proceedings it appears to the Court that any child ought to be separately represented, the Court may appoint an advocate or solicitor or some other proper person (provided in any case that the person consents) to be the guardian or guardian *ad litem* of the child, with authority to take part in the proceedings on the child's behalf.

**60 Security for wife's costs**

- (1) A wife who is a petitioner or who has given notice of intention to defend a petition may apply to the Court for an order that her husband shall pay into Court or give security for –



- (a) her costs of, and incidental to, the taking of the evidence of a person who is outside the jurisdiction of the Court;
  - (b) her costs of the cause up to the hearing and of, and incidental to, such hearing.<sup>46</sup>
- (2) If, after taking into account all the circumstances, including the means of the husband and the wife, the Court considers that the husband should provide security for all or some of the wife's costs, it may order the husband to pay into Court, or to give security for, such sums as the Court shall deem just and reasonable, and the Court may direct a stay of the proceedings until such order is complied with.

## **61 Costs<sup>47</sup>**

The practice and procedure to be followed in relation to costs with reference to any matrimonial cause shall be those set out in Part IXA of the Royal Court Rules 1992<sup>48</sup>, as amended from time to time.

## **62 Shorthand notes**

- (1) Unless the Court otherwise directs, shorthand notes of the proceedings at the trial or hearing of any matrimonial cause shall be taken.
- (2) The shorthand writer shall sign the shorthand note taken by the shorthand writer of any such proceedings and shall certify it to be a correct shorthand note of those proceedings and shall retain the note unless the shorthand writer is directed by the Court to forward the shorthand note to the Greffier.
- (3) The shorthand writer shall, on being so directed by the Greffier furnish to the Greffier a transcript of the whole or any part of the shorthand note taken by the shorthand writer in pursuance of this Rule.
- (4) The Attorney General, the petitioner and any party who at any time has given notice of intention to defend or intervened in the suit shall be entitled to require from the shorthand writer a transcript of the shorthand note of the proceedings in the suit and the shorthand writer shall, on the request of any person entitled thereto, furnish that person with a transcript of the whole or any part of the shorthand note on payment by that person to the shorthand writer of the shorthand writer's charges on the scale fixed by Rules of Court.
- (5) Save as aforesaid, the shorthand writer shall not, without permission of the Court, furnish the shorthand note or any transcript of the whole or any part thereof to anyone.
- (6) Where, under this Rule, a transcript of the whole or any part of any shorthand note is required, that transcript shall be typewritten and may be made by the shorthand writer who took and certified the shorthand note or by such other competent person as the Greffier may approve.
- (7) The costs of the taking of a shorthand note shall be included in the recoverable costs of the cause.

- (8) In paragraphs (1), (3), (4), (5) and (6), any reference to a shorthand note of any proceedings shall be construed as including a reference to a record of the proceedings made by mechanical means and, in relation to such a record, those paragraphs shall have effect as if for any reference therein to the shorthand writer there were substituted a reference to the person responsible for transcribing the record and as if the words “by the shorthand writer” in paragraph (3) and the words “who took and certified the shorthand note” in paragraph (6) were omitted.

### **63 Amendment of judgment and orders**

Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court on summons without an appeal.

### **64 Affidavits**

Where an affidavit for the purpose of the Law or of these Rules is made in Jersey it shall be made before the Bailiff, one of the Jurats of the Royal Court or a notary public or otherwise in accordance with the Affidavits (Advocates and Solicitors) (Jersey) Law 1992,<sup>49</sup> and, where it is made in any place out of Jersey, shall be made before a person authorized to take affidavits in the place where it is made.<sup>50</sup>

### **65 Notice of file number**

- (1) When an originating summons or a petition is filed at the Judicial Greffe the cause will be allotted a file number which must be indorsed at the top right hand corner of all documents filed subsequently.
- (2) A notice of file number will be sent by the Greffier –
- (a) to the advocate or solicitor, or if the petitioner is acting in person, to the petitioner, who filed the originating summons or the petition; and
  - (b) to the advocate or solicitor acting for a respondent, co-respondent or person named, who has given notice of intention to defend, or has applied to be heard on ancillary matters.

### **66 Change of advocate or solicitor**

Nothing in these Rules shall prevent any party from changing the party's advocate or solicitor at any stage of the proceedings but, until notice of any such change is filed and copies of the notice are served on every party to the cause or matter, the former advocate or solicitor shall be considered to be the advocate or solicitor of the party.

### **67 Entries in the public registry**

The Court shall have power to give directions for the making in the Public Registry of all such entries as the circumstances of the case may require.

**68 Powers to award relief**

In all matters incidental to or arising out of any matrimonial cause or matter, the Family Division shall have power to award such reliefs as may be awarded by other divisions of the Royal Court.<sup>51</sup>

**69 Directions**

The Greffier may, with the concurrence of the Bailiff, issue directions for the purpose of securing due observance of statutory requirements and uniformity of practice in matrimonial proceedings.

**70 Citation**

These Rules may be cited as the Matrimonial Causes (General) Rules 1979.

**SCHEDULE**

(Rule 1(2))

**FORMS**

Form 1–Originating Summons under Rule 3.

Form 2–Notice of Application for Ancillary Relief.

Form 3–Notice of Proceedings.

Form 4–Acknowledgement of Service.

Form 5–Statement as to arrangements for children.

Form 6–Affidavit of service.

Form 7–Notice to a person entitled to intervene.

Form 8–Notice of application for decree nisi to be made absolute.

Form 9–Certificate of making decree nisi absolute (Nullity).

Form 10–Certificate of making decree nisi absolute (Divorce).

Form 11–Request for service in a foreign country.

Form 12–Summons.

Form 13–Notice to petitioner to file evidence under Rule 19(2).

Form 14–Notice of application under Rule 41.

Form 15–Notice of Appeal against order of the Greffier.

Form 16–General grounds of appeal.

Form 17–Affidavit by petitioner in support of petition on the grounds of one year's or 2 years' separation, or on the grounds of nullity.

Form 18–Affidavit by petitioner in support of petition on the grounds of adultery.

Form 19–Affidavit by petitioner in support of petition on the grounds of cruelty.

Form 20–Affidavit by petitioner in support of petition on the grounds of desertion.

**FORM 1**

## ORIGINATING SUMMONS UNDER RULE 3

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION

IN THE MATTER OF A PROPOSED PETITION BY  
A.B. FOR THE DISSOLUTION OF HIS (OR HER)  
MARRIAGE WITH C.D.

LET.....of.....attend the  
Royal Court on ..... day the ..... day of  
....., 20....., at .....o'clock in  
the.....noon on the hearing of an application of  
..... for an order that the said  
..... may be at liberty to file a petition for  
dissolution of his (or her) marriage with the said  
.....solemnized on the.....day  
of....., 19/20....., notwithstanding that 3 years have  
not passed since the date of the said marriage.

A copy of the affidavit to be used in support of the  
application is delivered.

You are required to complete the accompanying form of  
acknowledgement and send it to the Judicial Greffier,  
Royal Square, Jersey, C.I.

If you wish to be heard on the said application, you must  
attend at the time and place above-mentioned and if you  
do not attend, such order will be made and proceedings  
taken as the Court may think just and expedient.

(1)To be signed  
by the applicant  
or the  
applicant's  
advocate or  
solicitor.

.....<sup>(1)</sup>

A copy of this Originating Summons has been filed this  
day.

.....

*Greffier Substitute.*

DATED the ..... day of ....., 20 ....

**FORM 2**NOTICE OF APPLICATION FOR ANCILLARY  
RELIEFIN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY 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 for an order that (here set out the  
ancillary relief claimed)Notice will be given to you of the time fixed for the  
hearing of the application.(1) or as the case  
may be.TAKE NOTICE also that you must send to the Judicial  
Greffier so as to reach the Greffier within 14 days<sup>(1)</sup> after  
you receive this notice, an affidavit giving full particulars  
of your property and income. You must at the same time  
send a copy of your affidavit to the advocate or solicitor  
for the applicant. If you wish to allege that the applicant  
has property or income, you should say so in your  
affidavit.

Dated this.....day of....., 20.....

.....

*Greffier Substitute.*

## File No .....

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION

BETWEEN                      Petitioner

AND                          Respondent

AND                          Co-Respondent

(1) or  
answer.

TAKE NOTICE that a petition<sup>(1)</sup> has been presented to the Royal Court of Jersey by

\* delete if  
inapplicable

A copy of it (and a copy of the petitioner's proposals regarding the child(ren)) (is) (are)\* delivered with this notice.

1. You are required to complete and detach the Acknowledgement of Service and send it to the Registrar, Family Division, Judicial Greffe, St. Helier, Jersey within ..... days of the receipt of this notice.
2. If you intend to instruct an advocate or solicitor to act for you, you should AT ONCE give him or her all the documents which have been served on you, so that he or she may send the Acknowledgement to the Judicial Greffe on your behalf. If you do not intend to instruct an advocate or solicitor, you should nevertheless give an address for service in the Acknowledgement so that any documents affecting your interests which are sent to you will in fact reach you. Change of address should be notified immediately to the Judicial Greffe. It is important to remember that your address for service **MUST** be in Jersey.

\* delete if  
inapplicable

3. If the reply to question No.4 or 7\* in the Acknowledgement is YES, you must, within ..... days after you receive this notice, send

or deliver an answer to the Judicial Greffe and in addition within 24 hours thereafter send a copy thereof to the petitioner's advocate or solicitor or if he or she is not represented by an advocate or solicitor, to the petitioner.

\*delete if  
inapplicable.

- 4.\* If you so wish, you may send to the Judicial Greffe a statement setting out your views on the proposals regarding the child(ren)\*. A copy of your statement should, if practicable, reach the Judicial Greffe within the time allowed for filing an answer.

\*delete if  
inapplicable.

- 5.\* Before you answer YES to Question 6 in the Acknowledgement of Service, you should understand that the Court will grant a decree of divorce if it is satisfied on the evidence that the petitioner and you have lived apart for one year immediately preceding the presentation of the petition and that you consent to a decree being granted. Please see attached notice.

If after consenting you wish to withdraw your consent you must immediately inform the Judicial Greffier and give notice to the petitioner.

6. A decree absolute of divorce will end your marriage so that,

e.g.

(a) you may lose any pension rights which depend on the marriage;

(b) you may lose rights of occupancy of the matrimonial home.

A decree may have other consequences in your case depending on your particular circumstances and if you are in any doubt about these you should immediately consult an advocate or solicitor.

\*delete if in-  
applicable.

- 7.\* In support of the petition the petitioner alleges that the parties to the marriage have lived apart for a continuous period of at least one\*/two\* year(s) immediately preceding the presentation of the petition and you may, therefore, if you so wish, apply to the Court for it to consider your financial position after the divorce. The petition will tell you whether the petitioner proposes to make any financial provision for you. You should consider this information carefully before answering Question 8 in the Acknowledgement of



Service.

\* delete if  
inapplicable

8.\*

If you answer YES to Question 8 you **must** before the decree is made absolute make application to the Court by filing and serving on the petitioner a notice in Form 14.

\*delete if in-  
applicable.

9.\*

In addition to sending the Acknowledgement of Service you are required within ..... days after receiving this notice to send or deliver to the Judicial Greffe an affidavit containing a detailed declaration of your assets and liabilities. If you wish to allege that the petitioner has property or income you should say so in your affidavit. You must, at the same time, send a copy of your affidavit to the petitioner or his (or her) advocate or solicitor.

(1)or answer.

The petition<sup>(1)</sup> is filed and this notice is issued by<sup>(2)</sup>

(2) state  
name and  
address of  
petitioner  
(or  
respondent)  
or advocate  
or solicitor

of

Signed:

Greffier Substitute

Dated this ..... day of ..... 20.....

**FORM 4<sup>53</sup>**

File No.....

**ACKNOWLEDGEMENT OF SERVICE****In the Royal Court of the Island of Jersey  
FAMILY DIVISION**Between  
And  
AndPetitioner  
Respondent  
Co-Respondent

**THIS FORM SHOULD BE HANDED TO YOUR ADVOCATE OR SOLICITOR  
IMMEDIATELY IN THE EVENT OF YOU APPOINTING A LAWYER TO ACT FOR  
YOU.**

(1) originating  
summons, petition,  
answer, or as the  
case may be1. Have you received the .....<sup>(1)</sup>.  
delivered with this form? .....2. On what date and at what address did you receive it?  
.....  
.....(2) respondent, co-  
respondent, party  
cited, or as the case  
may be3. Are you the person named as the .....<sup>(2)</sup>  
in the .....<sup>(1)?</sup>

4. Do you intend to defend the case?.....

5.<sup>(3)</sup>(In the case of a petition alleging adultery)  
Do you admit the adultery alleged in this petition?  
.....(3) delete  
items not  
applicable6.<sup>(3)</sup>(In the case of a petition alleging one year's separation coupled with the  
respondent's consent to a decree being granted)  
Do you consent to a decree being granted? .....7.<sup>(3)</sup>(In the case of a petition asking for divorce and alleging two 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?  
.....8.<sup>(3)</sup> In the event of a decree nisi being granted on the basis of one year's  
separation coupled with the respondent's consent, or two years'  
separation, do you intend to apply to the Court for it to consider your  
financial position as it will be after the divorce?  
.....9. Even if you do not intend to defend the case by filing an answer, do you  
wish to be heard on the claims in the petition for – <sup>(3)</sup>

1. costs .....
2. custody of children .....
3. care and control of children.....
4. maintenance of children .....
5. contribution for support pending suit .....
6. contribution for support after decree .....

7. lump sum payment/secured provision.....
8. transfer or settlement of property .....
9. variation of a settlement .....
10. ratification of an agreement .....

10. Do you wish to make application on your own account for — <sup>(3)(4)</sup>

(4) delete question  
10 except in the case  
of a respondent  
spouse named in  
petition or cross-  
petition

1. access to children .....
2. custody of children .....
3. care and control of children .....
4. maintenance of children .....
5. contribution for support pending suit.....
6. contribution for support after decree.....
7. lump sum payment/secured provision.....
8. transfer or settlement of property .....
9. variation of a settlement .....
10. ratification of an agreement .....

ANSWER YES OR NO AGAINST EACH ITEM IN QUESTION(S) 9  
AND 10

(5) to be signed  
*personally* by the  
respondent, co-  
respondent, or  
party cited, or as  
the case may be

Dated this ..... day of ..... 20....

Signed ..... <sup>(5)</sup>

Address for service (**WHICH MUST BE IN JERSEY**)  
to which any communication for you should be sent

.....  
.....  
.....

(If an advocate or solicitor is instructed)

I am (we are) acting for the ..... <sup>(2)</sup>  
in this cause.

(2) respondent,  
co-respondent,  
party cited, or as  
the case may be

Signed .....

Address for service **in Jersey** .....

.....  
.....  
.....



**FORM 6****AFFIDAVIT OF SERVICE**

**IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION**

BETWEEN	Petitioner
AND	Respondent
AND	Co-respondent <sup>(1)</sup>

(1) In appropriate cases.

(2) Petition originating summons or notice.

I, ..... of .....  
.....make oath and say –  
1. That a copy of the .....<sup>(2)</sup> bearing date the  
..... day of ....., 20 .., filed in this Court  
together with a notice of proceedings and form of  
acknowledgement of service was duly served by me  
on ..... the ..... in this suit at .....  
..... on the ..... day  
of ..... 20 .., by delivering to the said .....  
..... personally a copy thereof.  
(Means of knowledge of identity of the person served  
must be inserted here)

**SWORN** etc.

**FORM 7**

NOTICE TO A PERSON ENTITLED TO INTERVENE

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION

TO

.....

OF

.....

(1) or answer.

TAKE NOTICE that a petition<sup>(1)</sup> has been presented to  
the Royal Court of Jersey by

.....

A copy of it is delivered.

You are required to complete the accompanying form of  
acknowledgement of service and send it to the Judicial  
Greffier, Royal Square, Jersey, C.I. within ..... days  
of the receipt of this notice.Unless you intervene by giving notice of intention to  
defend you are not entitled to be heard.

Dated this ..... day of ....., 20 .....

.....

*Greffier Substitute.*

**FORM 8**NOTICE OF APPLICATION FOR DECREE  
NISI TO BE MADE ABSOLUTEIN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION

BETWEEN                      Petitioner

AND                              Respondent

AND                              Co-respondent

(1) Full names  
and description.  
(2) Or  
respondent.

I<sup>(1)</sup> ..... advocate or solicitor  
for the petitioner<sup>(2)</sup> give notice that application is  
made on behalf of the petitioner<sup>(2)</sup> that the decree  
nisi pronounced in this cause on the ..... day  
of ....., 20 ....., be made absolute.

(Signed) .....





**FORM 10**

**CERTIFICATE OF MAKING DECREE NISI  
ABSOLUTE (DIVORCE)**

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY.

## FAMILY DIVISION

BETWEEN	Petitioner
AND	Respondent
AND	Co-respondent

Referring to the decree made in this cause on the.....  
day of ....., 19/20....., whereby it was  
decreed that the marriage had and solemnized on the  
..... day of ....., 19/20...., at  
..... between ..... the  
petitioner and ..... the respondent  
be dissolved by reason that ..... unless  
sufficient cause be shown to the Court within  
..... weeks from the making thereof why the  
said decree should not be made absolute –and no such  
cause having been shown, it is certified that the said  
decree was on the ..... day of  
....., 20...., made final and absolute and that  
the said marriage was thereby dissolved.

DATED the ..... day of ....., 20....

**FORM 11****REQUEST FOR SERVICE IN A FOREIGN  
COUNTRY**

**IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY.  
FAMILY DIVISION**

**BETWEEN**                      Petitioner  
**AND**                              Respondent  
**AND**                              Co-respondent<sup>(1)</sup>

I (or We) request that<sup>(2)</sup>.....in this  
cause be transmitted through the proper channels  
to<sup>(3)</sup> .....for service<sup>(4)</sup> on  
the respondent<sup>(5)</sup> ..... at

(1)In  
appropriate  
cases.

(2)Describe the  
document.

(3)Name of  
country.

(4)Or substituted  
service.

(5)Or as the case  
may be.

..... or elsewhere

in<sup>(3)</sup> .....

And I (or we) personally undertake to be  
responsible for all expenses incurred by Her  
Majesty's Principal Secretary of State for Foreign  
Affairs in respect of the service requested, and on  
receiving due notification of the amount of such  
expenses I (or we) undertake to pay the same to  
the Judicial Greffier.

DATED this ..... day of ....., 20 .....

.....

(Signature of the applicant or  
of the applicant's advocate or  
solicitor.)

**FORM 12****SUMMONS**

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY.

FAMILY DIVISION

BETWEEN                      Petitioner

AND                              Respondent

(1)In                      AND                      Co-respondent<sup>(1)</sup>  
appropriate  
cases

Let the (party against whom the summons is issued or  
the party's advocate or solicitor) attend the Royal  
Court/Judicial Greffier on ..... day the  
..... day of ..... 20...., at .....  
o'clock in the ..... noon to show cause why –  
.....<sup>(2)</sup>

(2)To be  
signed by the  
applicant or  
the applicant's  
advocate or  
solicitor.

A copy of this Summons has been filed this day.

.....  
*Greffier Substitute.*

DATED the              day of              , 20      .

NOTICE TO PETITIONER TO FILE EVIDENCE  
UNDER RULE 19(2)

BETWEEN Petitioner

AND Respondent

AND Co-respondent<sup>(1)</sup>

A copy of the answer by your wife<sup>(2)</sup> to the petition filed in the cause is delivered.

TAKE NOTICE that, if you desire to be heard as to the claim(s) for<sup>(3)</sup>

unless at the time of service of this notice upon you the respondent or her (or his) advocate or solicitor gives notice to you dispensing with this requirement you are required within 14 days after receiving this notice to send or deliver to the Judicial Greffier an affidavit containing a detailed declaration of your assets and liabilities and particulars of any charges against such assets, together with the prescribed fee (.....), and at the same time to send a copy thereof to the respondent's advocate or solicitor, or if he/she is not represented by an advocate or solicitor, to the respondent. If you allege that the respondent has assets, you should so state in your affidavit.

DATED the ..... day of ....., 20 ....

(Signed)<sup>(4)</sup> .....

**FORM 14**

## NOTICE OF APPLICATION UNDER RULE 41

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY.

## FAMILY DIVISION

BETWEEN                      Petitioner  
AND                              Respondent  
AND                              Co-respondent

TAKE NOTICE that the Respondent intends to apply to the Court under Article 11 of the Matrimonial Causes (Jersey) Law 1949, for the Court to consider the financial position of the respondent after the divorce.

Notice will be given to you of the time fixed for the hearing of the application.

TAKE NOTICE also that you must send to the Judicial Greffier so as to reach the Greffier within ..... days after you receive this notice, an affidavit giving full particulars of your property and income. You must at the same time send a copy of your affidavit to the advocate or solicitor for the applicant. If you wish to allege that the applicant has property or income, you should say so in your affidavit.

DATED this ..... day of ....., 20 ....

*Greffier Substitute.*

**FORM 15**NOTICE OF APPEAL AGAINST ORDER OF  
THE GREFFIER

File No.....

IN THE ROYAL COURT OF THE ISLAND OF  
JERSEY  
FAMILY DIVISION  
BETWEEN

Petitioner

AND

Respondent

\*state in full the  
order appealed  
against.

TAKE NOTICE that the above-named  
petitioner/respondent intends to appeal against the  
decision of the Judicial Greffier/Greffier Substitute,  
given on the ..... day of ....., 20...,  
ordering (or refusing to order) that\*

A Statement of the general grounds of appeal is  
attached hereto.

NOTICE will be given by the Court of the time  
fixed for the hearing of the appeal.

signed .....  
(appellant)

DATED this ..... day of ..... 20....

**FORM 16**

GENERAL GROUNDS OF APPEAL

IN THE ROYAL COURT OF THE ISLAND OF JERSEY.  
FAMILY DIVISION

BETWEEN

Petitioner

AND

Respondent

**GENERAL GROUNDS OF APPEAL**

signed .....

**FORM 17<sup>54</sup>**

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION ON THE GROUNDS  
OF ONE YEAR'S OR TWO YEARS' SEPARATION, OR ON THE GROUNDS OF  
NULLITY, UNDER RULE 34(11) OF THE MATRIMONIAL CAUSES  
RULES 1979

File No.....

**In the Royal Court of the Island of Jersey**  
**FAMILY DIVISION**

Between  
And

Petitioner  
Respondent

QUESTION	ANSWER
<b>About the Divorce petition</b>	
1. Have you read the petition filed in this cause?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State the date on which you and the respondent separated.	
5. Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the address and the period or periods, giving dates, and describe the arrangements for sharing the accommodation.	
<b>About the child(ren) of the marriage/family</b>	
6. Have you read the Statement of Arrangements filed in this cause?	
7. Do you wish to alter or add to anything in the Statement of Arrangements? If so, state the alterations or additions.	
8. Subject to these alterations and additions (if any) is everything stated in the Statement of Arrangements true?	



## AFFIDAVIT

I, ..... (full name)  
 of ..... (full residential address)

.....

.....

..... (occupation)

make oath and say as follows –

1. I am the petitioner in this cause.
2. **The answers to Questions 1 to 8 are true.**
- 3.<sup>(1)</sup> I identify the signature appearing on the copy Acknowledgement of Service now produced to me and marked “A” as the signature of my husband/wife,<sup>(1)</sup> the respondent in this cause.

(1) Delete if not applicable

- 4.<sup>(1)</sup> I identify the signature at the foot of the Statement of Arrangements filed by the respondent dated .....  
 .....  
 now produced to me and marked “B” as the signature of the respondent.

5. <sup>(1)</sup> I claim domicile in the Island of Jersey, because  
 [insert details] .....  
 .....  
 .....

<sup>(1)</sup> Alternatively, (being the wife) I have lived in the Island of Jersey for ..... years, namely since  
 [insert details] .....  
 .....  
 .....

6. I ask the Court to grant a decree dissolving my marriage with the respondent on the grounds stated in my petition [and to order the respondent to pay the costs of this cause]<sup>(1)</sup>.

(1) Delete if not applicable

Sworn at ..... this ..... day of ..... 20.....

Before me.....

Advocate/Solicitor/Notary Public

**FORM 18<sup>55</sup>**

**AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION ON THE GROUNDS  
OF ADULTERY UNDER RULE 34(11) OF THE MATRIMONIAL CAUSES  
RULES 1979**

File No.....

**In the Royal Court of the Island of Jersey  
FAMILY DIVISION**

Between  
And  
And

Petitioner  
Respondent  
Co-Respondent

QUESTION	ANSWER
<b>About the Divorce petition</b>	
1. Have you read the petition filed in this cause?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State briefly your reasons for saying that the respondent has committed the adultery alleged.	
5. On what date did it first become known to you that the respondent had committed the adultery alleged?	
6. Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the address and the period or periods, giving dates, and describe the arrangements for sharing the accommodation.	
<b>About the child(ren) of the marriage/family</b>	
7. Have you read the Statement of Arrangements filed in this cause?	
8. Do you wish to alter or add to anything in	

the Statement of Arrangements? If so, state the alterations or additions.	
9. Subject to these alterations and additions (if any) is everything stated in the Statement of Arrangements true?	

## AFFIDAVIT

I, ..... (full name)  
 of ..... (full residential address)

.....  
 ..... (occupation)

make oath and say as follows –

1. I am the petitioner in this cause.

2. **The answers to Questions 1 to 9 are true.**

(1) Delete if not  
applicable

3.<sup>(1)</sup> I identify the signature appearing on the copy Acknowledgement of Service now produced to me and marked “A” as the signature of my husband/wife,<sup>(1)</sup> the respondent in this cause.

(2) Insert where  
admission statement  
exhibited

4.<sup>(2)</sup> I identify the signature appearing at the foot of the document now produced to me and marked “B” as the signature of the respondent.

5.<sup>(1)</sup> I identify the signature at the foot of the Statement of Arrangements filed by the respondent dated

.....

now produced to me and marked “C” as the signature of the respondent.

(3) Exhibit any other  
document on which  
the petitioner wishes  
to rely

6.<sup>(3)</sup>

7.<sup>(1)</sup> I claim domicile in the Island of Jersey, because

[insert details] .....

.....

Alternatively, (being the wife) I have lived in the Island of Jersey for  
 ..... years, namely since

[insert details] .....

.....

.....

(1) Delete if not  
applicable

8. I ask the Court to grant a decree dissolving my marriage with the respondent/of judicial separation<sup>(1)</sup> on the grounds stated in my petition [and to order the respondent/co-respondent<sup>(1)</sup> to pay the costs of this cause]<sup>(1)</sup>.

Sworn at ..... this ..... day of ..... 20.....

Before me.....

Advocate/Solicitor/Notary Public

**FORM 19<sup>56</sup>**

**AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION ON THE GROUNDS  
OF CRUELTY UNDER RULE 34(11) OF THE MATRIMONIAL CAUSES  
RULES 1979**

File No.....

**In the Royal Court of the Island of Jersey  
FAMILY DIVISION**

Between  
And

Petitioner  
Respondent

QUESTION	ANSWER
<b>About the Divorce petition</b>	
1. Have you read the petition filed in this cause?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any) is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. If you consider that the respondent's behaviour has affected your health, state the effect it has had. (If necessary, exhibit a further statement with your affidavit.)	
5. (i) Is the respondent's behaviour as set out in your petition continuing?	
(ii) If the respondent's behaviour is not continuing, what was the date of the final incident relied upon by you in your petition?	
6. Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the address and the period or periods, giving dates, and describe the arrangements for sharing the accommodation.	
<b>About the child(ren) of the marriage/family</b>	
7. Have you read the Statement of Arrangements filed in this cause?	

8. Do you wish to alter or add to anything in the Statement of Arrangements? If so, state the alterations or additions.	
9. Subject to these alterations and additions (if any) is everything stated in the Statement of Arrangements true?	

## AFFIDAVIT

I, ..... (full name)  
 Of ..... (full residential address)  
 .....  
 .....  
 ..... (occupation)

make oath and say as follows –

1. I am the petitioner in this cause.

2. **The answers to Questions 1 to 9 are true.**

(1) Delete if not  
applicable

3.<sup>(1)</sup> I identify the signature appearing on the copy Acknowledgement of Service now produced to me and marked “A” as the signature of my husband/wife,<sup>(1)</sup> the respondent in this cause.

4.<sup>(1)</sup> I identify the signature at the foot of the Statement of Arrangements filed by the respondent dated

.....

(2) Exhibit any other  
document on which  
the petitioner wishes  
to rely

now produced to me and marked “B” as the signature of the respondent.

5.<sup>(2)</sup>

6.<sup>(1)</sup> I claim domicile in the Island of Jersey, because

[insert details] .....

.....

Alternatively, (being the wife) I have lived in the Island of Jersey for ..... years, namely since

[insert details] .....

.....

7. I ask the Court to grant a decree dissolving my marriage with the respondent/of judicial separation<sup>(1)</sup> on the grounds stated in my petition [and to order the respondent to pay the costs of this cause]<sup>(1)</sup>.

Sworn at ..... this ..... day of ..... 20.....

Before me .....

Advocate/Solicitor/Notary Public

(1) Delete if not  
applicable

**FORM 20<sup>57</sup>**

**AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION ON THE GROUNDS  
OF DESERTION UNDER RULE 34(11) OF THE MATRIMONIAL CAUSES  
RULES 1979**

File No.....

**In the Royal Court of the Island of Jersey  
FAMILY DIVISION**

Between  
And

Petitioner  
Respondent

QUESTION	ANSWER
<b>About the Divorce petition</b>	
1. Have you read the petition filed in this cause?	
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.	
3. Subject to these alterations and additions (if any) is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4. State the date on which you and the respondent separated, and, if different, the date on which the alleged desertion began. Did you agree to the separation?	
5. State briefly the facts you rely on in support of the allegation that the respondent deserted you, and your reason for saying that the desertion continued up to the presentation of the petition.	
6. Did the respondent ever offer to resume cohabitation?	
7. Since the last date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the address and the period or	



periods, giving dates, and describe the arrangements for sharing the accommodation.	
<b>About the child(ren) of the marriage/family</b>	
8. Have you read the Statement of Arrangements filed in this cause?	
9. Do you wish to alter or add to anything in the Statement of Arrangements? If so, state the alterations or additions.	
10. Subject to these alterations and additions (if any) is everything stated in the Statement of Arrangements true?	

**AFFIDAVIT**

I, ..... (full name)

Of ..... (full residential address)

.....

..... (occupation)

make oath and say as follows –

1. I am the petitioner in this cause.

2. **The answers to Questions 1 to 10 are true.**(1) Delete if not  
applicable3.<sup>(1)</sup> I identify the signature appearing on the copy Acknowledgement of Service now produced to me and marked “A” as the signature of my husband/wife,<sup>(1)</sup> the respondent in this cause.4.<sup>(1)</sup> I identify the signature at the foot of the Statement of Arrangements filed by the respondent dated

.....

now produced to me and marked “B” as the signature of the respondent.

(2) Exhibit any other  
document on which  
the petitioner wishes  
to rely5.<sup>(2)</sup>6.<sup>(1)</sup> I claim domicile in the Island of Jersey, because

[insert details] .....

.....

Alternatively, (being the wife) I have lived in the Island of Jersey for  
..... years, namely since

[insert details] .....

.....

(1) Delete if not  
applicable7. I ask the Court to grant a decree dissolving my marriage with the respondent/of judicial separation<sup>(1)</sup> on the grounds stated in my petition [and to order the respondent to pay the costs of this cause]<sup>(1)</sup>.

Sworn at ..... this ..... day of ..... 20.....

Before me.....

Advocate/Solicitor/Notary Public

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Matrimonial Causes (General) (Jersey) Rules 1979	R&O.6619	1 April 1979
Matrimonial Causes (Amendment) (Jersey) Rules, 1979	R&O.6648	26 April 1979
Matrimonial Causes (Amendment No. 2) (Jersey) Rules 1980	R&O.6828	19 June 1980
Matrimonial Causes (Amendment No. 3) (Jersey) Rules 1982	R&O.7025	9 March 1982
Matrimonial Causes (Amendment No. 4) (Jersey) Rules 1987	R&O.7705	1 January 1988
Matrimonial Causes (Amendment No. 5) (Jersey) Rules 1997	R&O.9082	1 May 1997
Matrimonial Causes (Amendment No. 6) (Jersey) Rules 1999	R&O.9379	1 June 1999
Matrimonial Causes (Amendment No. 7) (Jersey) Rules 2001	R&O.128/2001	15 November 2001

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
1(1) definition “discretion statement”	repealed by R&O.9082
1(1) definition “periodical payments”	impliedly repealed by R&O.9082
1A	2
2	3
2(6)	repealed by R&O.7025
3	4
3(4)(a)	repealed by R&O.9082
3(4)(b)	4(4)(a)
3(4)(c)	4(4)(b)
3(4)(d)	4(4)(c)
4	5
4(1)(j)	repealed by R&O.9082
4(1)(k)	5(1)(j)
4(1)(l)	5(1)(k)

<b>Original</b>	<b>Current</b>
4(1)(m)	5((1)(l)
4(1)(n)	5(1)(m)
4(4)(a)	repealed by R&O.9082
4(4)(b)	5(4)(a)
4(4)(c)	5(4)(b)
4(4)(d)	5(4)(c)
4(4)(e)	5(4)(d)
4(4)(f)	5(4)(e)
4(4)(g)	5(4)(f)
4(4)(h)	repealed by R&O.9082
5	6
6	7
7	8
8	9
9	10
9A	11
10	12
11	13
12	14
13	15
14	16
15	17
16	18
17	19
18	20
19	21
20	22
21	23
22	24
23	25
23(4)	repealed by R&O.6828
23A	26
24	27
25	28
26	29
27	repealed by R&O.9082
28	30
29	repealed by R&O.9082
30	31
31	32
32	33
33	34
33A	35
34	36
35	37
36	38
36 (i)	38(a)
36(ii)	38(b)

Original	Current
37	39
38	40
39	41
40	42
41	43
42	44
43	45
44	46
45	47
46	48
47	49
48	repealed by R&O.9082
49	50
50	51
51	52
52	53
53	54
54	55
55	56
55(5)	repealed by R&O.6828
55A	57
56	58
57	59
58	60
59	61
60	62
61	63
62	64
63	65
64	66
65	67
66	68
67	69
68	spent, omitted from this revised edition
69	70
First Schedule	SCHEDULE
Second Schedule	spent, omitted from this revised edition

### Table of Endnote References

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<sup>1</sup> chapter 07.770

<sup>2</sup> chapter 12.650

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- <sup>3</sup> chapter 12.200
- <sup>4</sup> chapter 04.680
- <sup>5</sup> Rule 1(1) definition “competent witness” amended by R&O.9082
- <sup>6</sup> Rule 1(1) definition “Court” amended by R&O.9082
- <sup>7</sup> chapter 12.650
- Rule 1(1) definition “Law” amended by R&O.9082
- <sup>8</sup> Rule 1(1) definition “lump sum payment” amended by R&O.9082
- <sup>9</sup> Rule 1(1) definition “matrimonial cause” amended by R&O.9082
- <sup>10</sup> Rule 2 inserted by R&O.128/2001
- <sup>11</sup> chapter 12.800
- <sup>12</sup> Rule 4(3) amended by R&O.9082
- <sup>13</sup> Rule 4(4) amended by R&O.9082
- <sup>14</sup> Rule 5(1) amended by R&O.6648, R&O.9082
- <sup>15</sup> Rule 5(4) amended by R&O.9082
- <sup>16</sup> Rule 7(2) amended by R&O.9082
- <sup>17</sup> Rule 11 inserted by R&O.7705
- <sup>18</sup> Rule 11(2) amended by R&O.9082
- <sup>19</sup> chapter 07.770.72
- <sup>20</sup> Rule 15(1) amended by R&O.9082
- <sup>21</sup> Rule 15(2) amended by R&O.9082
- <sup>22</sup> Rule 26 inserted by R&O.6828
- <sup>23</sup> Rule 29(1) amended by R&O.9082
- <sup>24</sup> Rule 31 substituted by R&O.7025
- <sup>25</sup> Rule 31(1) amended by R&O.7705
- <sup>26</sup> Rule 31(2) inserted by R&O.7705
- <sup>27</sup> Rule 34(6) substituted by R&O.7025
- <sup>28</sup> Rule 34(8) inserted by R&O.7705; former paragraph repealed by R&O.7025
- <sup>29</sup> Rule 34(11) inserted by R&O.128/2001
- <sup>30</sup> Rule 35 inserted by R&O.128/2001
- <sup>31</sup> Rule 36 and heading, amended by R&O.9082
- <sup>32</sup> Rule 44 amended by R&O.128/2001
- <sup>33</sup> Rule 45(1) amended by R&O.6828
- <sup>34</sup> Rule 45(3) amended by R&O.6828
- <sup>35</sup> Rule 50(3) substituted by R&O.7025
- <sup>36</sup> Rule 50(4) inserted by R&O.7705
- <sup>37</sup> Rule 51 substituted by R&O.7025
- <sup>38</sup> Rule 51(4) inserted by R&O.7705, amended by R&O.9082
- <sup>39</sup> Rule 52(2) inserted by R&O.7025
- <sup>40</sup> Rule 53(5) amended by R&O.7025
- <sup>41</sup> Rule 54(1) amended by R&O.7025
- <sup>42</sup> Rule 56(1) amended by R&O.7025
- <sup>43</sup> Rule 57 substituted by R&O.7705; former Rule inserted by R&O.6828
- <sup>44</sup> Rule 58(2) amended by R&O.7025
- <sup>45</sup> Rule 58(5) amended by R&O.7025
- <sup>46</sup> Rule 60(1) amended by R&O.7025
- <sup>47</sup> Rule 61 substituted by R&O.9379
- <sup>48</sup> chapter 07.770.72
- <sup>49</sup> chapter 07.105
- <sup>50</sup> Rule 64 amended by R&O.9082
- <sup>51</sup> Rule 68 amended by R&O.9082
- <sup>52</sup> Schedule Form 3 substituted by R&O.128/2001; former form amended by R&O.9082
- <sup>53</sup> Schedule Form 4 substituted by R&O.128/2001; former form amended by R&O.9082
- <sup>54</sup> Schedule Form 17 inserted by R&O.128/2001
- <sup>55</sup> Schedule Form 18 inserted by R&O.128/2001
- <sup>56</sup> Schedule Form 19 inserted by R&O.128/2001
- <sup>57</sup> Schedule Form 20 inserted by R&O.128/2001
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