

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
2010/156**

Subsidiary Legislation made under s. 61 of the Matrimonial Causes Act, s. 38 of the Supreme Court Act and s. 68 of the Maintenance Act.

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

(LN. 2010/156)

Commencement **21.10.2010** *Except r. 73 see r.1(2)*

Amending enactments	Relevant current provisions	Commencement date
LN. 2011/097 r. 35		23.6.2011

EU Legislation/International Agreements involved:

Regulation (EC) No 1347/2000

Regulation (EC) No. 2201/2003

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1962-09

Matrimonial Causes

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In exercise of the powers conferred by section 61 of the Matrimonial Causes Act, section 38 of the Supreme Court Act and section 68 of the Maintenance Act, the Chief Justice has made the following Rules—

PART I

Preliminary

Title and commencement.

1.(1) These Rules may be cited as the Family Proceedings (Matrimonial Causes) Rules 2010 and, except rule 73, come into force on the day of publication.

(2) Rule 73 shall come into force on the date of publication of the Pension on Divorce etc Regulations 2010.

Interpretation.

2.(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Matrimonial Causes Act;

“Council Regulation” means Council Regulation (EC) No 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility;

“Civil Procedure Rules” means the Civil Procedure Rules 1998 as made applicable to Gibraltar by virtue of section 38A of the Supreme Court Act;

“Court” means the Supreme Court;

“Lawyer” means a Barrister or a Solicitor within the meaning of rule 2 of the Barristers and Solicitors Rules;

“Registry” means the Supreme Court Registry.

(2) Any word or phrase used in these Rules but not defined, shall have the same meaning as is given by the Act

Construction and effect of these Rules.

3. Any party may apply to the Chief Justice to resolve any question as to the construction and effect of these Rules.

The overriding objective of these Rules.

4.(1) The overriding objective of these Rules is to assist the Court in dealing with cases justly.

(2) Dealing with a case justly includes, so far as is practicable—

- (a) ensuring that it is dealt with expeditiously and fairly;
- (b) ensuring that the parties are on an equal footing;
- (c) dealing with the cases in ways which are proportionate—
 - (i) to the amount of money involved;
 - (ii) to the importance of the case;
 - (iii) to the complexity of the issues; and
 - (iv) to the financial position of each party;
- (d) saving expense; and
- (e) allotting to it an appropriate share of the Court's resources, while taking into account the need to allot resources to other cases.

(3) The Court shall seek to give effect to the overriding objective when it exercises any power given to it by these Rules or interprets any rule.

(4) The parties must help the Court to further the overriding objective.

(5) The Court shall further the overriding objective by actively managing cases.

(6) Active case management includes—

- (a) encouraging the parties to co-operate with each other in the conduct of the proceedings;
- (b) encouraging the parties to settle their disputes through mediation, where appropriate;
- (c) identifying the issues at an early date;
- (d) regulating the extent of disclosure of documents and expert evidence so that they are proportionate to the issues in question;

- (e) helping the parties to settle the whole or part of the case;
- (f) fixing timetables or otherwise controlling the progress of the case;
- (g) making use of technology; and
- (h) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

Computation of time.

5.(1) Any period of time fixed by these Rules, or by any rules applied by these Rules, or by any decree, judgment, order or direction for doing any act shall be reckoned in accordance with the provisions of sub-rules (2) to (6).

(2) Where the act is required to be done not less than a specified period before a specified date, the period starts immediately after the date on which the act is done and ends immediately before the specified date.

(3) Where the act is required to be done within a specified period after or from a specified date, the period starts immediately after that date.

(4) Where, apart from this rule, the period in question, being a period of seven days or less, would include a day which is not a business day, that day shall be excluded.

(5) Where the time so fixed for doing an act in the Court office expires on a day on which the office is closed, and for that reason the act cannot be done on that day, the act shall be in time if done on the next day on which the office is open.

(6) In these Rules “business day” means any day other than—

- (a) a Saturday, Sunday, Christmas Day or Good Friday; or
- (b) a bank holiday in Gibraltar under the Banking and Financial Dealings Act or the Interpretation and General Clauses Act.

PART II

General procedure and initiation of proceedings

Applications for leave to present a petition for divorce before three years.

6.(1) An application for leave to present a petition for divorce before the expiration of three years from the date of the marriage under section 18(2) of the Act shall be made to the Court by originating summons in accordance with FORM -M1 accompanied by–

- (a) an affidavit in support of the application;
- (b) a copy of the draft petition; and
- (c) a copy of the marriage certificate and any birth certificate of a child of the family.

(2) The affidavit in support of the application shall state–

- (a) the grounds on which the application is made;
- (b) particulars of the exceptional hardship or exceptional depravity alleged;
- (c) whether there have been any previous applications under this rule;
- (d) whether there are any children of the family and, if so–
 - (i) their names and dates of birth; and
 - (ii) with whom and where they are residing;
- (e) whether any attempts at reconciliation have been made and, if so, what attempts have been made; and
- (f) any information or circumstances which may assist the Court in determining whether there is a reasonable probability of a reconciliation between the parties.

(3) A copy of the intended petition must be exhibited with the affidavit.

(4) The application shall be heard before the Court on a date not less than 28 days from the filing of the original summons and that date to be fixed by the Supreme Court Registry as soon as practicable after the filing of the application.

(5) Unless otherwise directed, the summons and the affidavit must be served on the intended respondent at least 28 clear days before the date of the hearing and must be accompanied by a form of Acknowledgement of Service in accordance with FORM-M3.

(6) If the respondent wishes to oppose the application, he must file in the Court and serve on the applicant–

- (a) an Acknowledgement of Service in FORM-M3 and a notice of intention to defend within 7 days of service in accordance with sub-rule (5); and
- (b) an affidavit setting out the grounds on which it will be opposed within 14 days of service in accordance with sub-rule (5).

(7) The respondent may be heard without giving notice of intention to defend, but only with leave of the Court.

Commencement of proceedings.

7.(1) Every matrimonial cause shall begin by petition addressed to the Supreme Court.

(2) A petition must not be filed without leave of the Court if there is before the Court another petition by the same petitioner that has not been dismissed or disposed of by final order.

(3) On the filing of a petition for divorce, judicial separation or nullity, the petitioner shall annex to the copy of the petition for service a Notice of Petition or Proceedings in FORM–M2 with the Acknowledgement of Service in FORM–M3 attached.

(4) Where a petition for divorce, nullity of marriage or judicial separation discloses that there is a child of the family who is under 16 years of age 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 when filed or served be accompanied by a statement (“Statement of Arrangements for Children”), signed by the petitioner personally containing the information required in accordance with FORM–M4.

(5) An application for financial relief must be made in accordance with PART V of these Rules.

Contents of petition.

8.(1) Unless otherwise directed, every petition shall state–

- (a) the names of the parties to the marriage and the date and place of the marriage;

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- (b) the last address at which the parties to the marriage have lived together as husband and wife;
- (c) the occupation and residence of the petitioner and the respondent;
- (d) if it alleged the Court has jurisdiction based on domicile in Gibraltar of either of the parties to the marriage or under the Council Regulation the basis of such jurisdiction and details regarding which of the parties is domiciled in Gibraltar as at the date of presentation of the petition;
- (e) if it is alleged that jurisdiction is based on the habitual residence of either of the parties to the marriage throughout the period of one year prior to when proceedings are begun, the relevant details including the addresses of the places of residence and the length of residence in each place;
- (f) whether there are any living children of the family and, if so—
 - (i) the number of such children and the full names (including surname) of each and his date of birth or (if it be the case) that he is over 18, and
 - (ii) in the case of each minor child over the age of 16, whether he is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation;
- (g) if it be the case, that there is a dispute whether a living child is a child of the family;
- (h) whether (to the knowledge of the petitioner in the case of a husband's petition), any other child now living has been born to the wife during the marriage and, if so, the full names (including surname) of the child and his date of birth or, if it be the case, that he is over 18;
- (i) whether or not there are, or have been, any other proceedings in any court in Gibraltar or elsewhere with reference to the marriage or to any child of the family or between the petitioner and the respondent with reference to any property of either or both of them and, if so—
 - (i) the nature of the proceedings;
 - (ii) the date and effect of any decree or order; and

- (iii) in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the decree or order.

- (j) whether there are any proceedings continuing in any country outside Gibraltar which relate to the marriage or are capable of affecting its validity or subsistence and, if so—
 - (i) particulars of the proceedings, including the Court in or tribunal or authority before which they were begun;
 - (ii) the date when they were begun;
 - (iii) the names of the parties;
 - (iv) the date or expected date of any trial in the proceedings; and
 - (v) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under the Schedule to the Act;

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

- (k) where the facts on which the petition is filed is two years separation with consent or three years separation, whether any, and if so what, agreement or arrangement has been made or is proposed to be made between the parties for the support of the respondent or, as the case may be, the petitioner or any child of the family;

- (l) in the case of a petition for divorce that the marriage has broken down irretrievably;

- (m) the facts alleged by the petitioner for the purposes of section 16(2) of the Act or, where the petition is not for divorce or judicial separation, the ground on which relief is sought, together in any case with brief particulars of the individual facts relied on but not the evidence by which they are to be proved; and

- (n) any further or other information required by such of the provisions of this rule as may be applicable.

(2) A petition for a decree of nullity under section 25A(d) of the Act shall state 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 the decree.

(3) A petition for a decree of presumption of death and dissolution of marriage shall state—

- (a) the last place at which the parties to the marriage cohabited;
- (b) the circumstances in which the parties ceased to cohabit;
- (c) the date when and the place where the respondent was last seen or heard of; and
- (d) the steps which have been taken to trace the respondent.

(4) If the petitioner, whether for his or her own protection or otherwise, wishes to omit from the petition any information required by sub-rule (1)—

- (a) the petition may be filed without such information; and
- (b) before service is effected the petitioner must make an ex parte application to the Court for leave for the petition to stand,

and if leave is refused, the Court shall make an order requiring the petition to be amended to comply with sub-rule (1).

(5) In the case of a petition for divorce, nullity or judicial separation that discloses that there is a child of the family, the petition must be accompanied by a separate written statement signed by the petitioner personally containing the information required by FORM-M4, if practicable, agreed with the respondent.

(6) If an application for financial relief is made in a petition, it must contain 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.

(7) Every petition shall conclude with a prayer setting out particulars of the relief claimed, including—

- (a) any application for residence order or contact order in respect of a child of the family;

- (b) any claim for financial relief;
- (c) any claim for maintenance of a child; and
- (d) any claim for costs.

(8) Every petition, if settled by lawyer, must be signed by that person and, if not so settled, must be signed by the petitioner.

(9) If a petitioner is legally represented, the petitioner's lawyer must endorse on the petition his or her name and address in Gibraltar, which shall be an address for service.

(10) A petitioner acting in person must endorse on the petition an address for service, which must be the petitioner's place of residence or, if he or she has no place of residence in Gibraltar, an address for service in Gibraltar.

Presentation of the petition.

9. The petition shall be presented by filing it with the Registry together with—

- (a) a certificate of the marriage to which the cause relates, unless otherwise directed by the Court on an application made ex parte;
- (b) where the petition is for divorce, nullity or judicial separation any Statement of Arrangements for Children in FORM-M4 as required by rule 7(4);
- (c) where a Lawyer is acting for a petitioner for divorce or judicial separation, a statement signed by that Lawyer stating whether he has advised the petitioner to consider the possibility of reconciliation with his or her spouse in accordance with section 13 of the Act; and
- (d) a statement signed in writing by the petitioner stating whether he or she wishes to see a conciliator in accordance with section 15 of the Act; and
- (e) an affidavit verifying the contents of the petition as true.

Co-respondent.

10.(1) Subject to sub-rule (2), where a petition alleges that the respondent has committed adultery the person with whom the adultery is alleged to

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have been committed shall be named as a co-respondent in the cause unless the Court otherwise directs pursuant to section 10 of the Act.

(2) Where a petition alleges that the respondent has been guilty of rape upon a person named, then, notwithstanding anything in sub-rule (1) that person shall not be made a co-respondent in the cause unless the Court so directs.

(3) An application for directions under sub-rule (1) may be made ex parte if no notice of intention to defend has been given.

(4) Sub-rule (1) does not apply where the person named has died before the filing of the petition.

Discontinuance of cause before service of petition.

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

Notice of petition and the proceedings.

12. Every copy of the petition for service on a respondent or co-respondent must be accompanied by a Notice of Petition or Proceedings in FORM-M2 and an Acknowledgement of Service in FORM-M3 and served in the manner provided for in rules 13 and 14.

Service of petition and originating summons.

13.(1) Unless otherwise directed—

- (a) a copy of every petition must be served personally or by post upon every respondent and co-respondent named in the petition accompanied by a Statement of Arrangements (if applicable) in FORM-M4 and the affidavit filed in support of the petition; and
- (b) a copy of every originating summons in FORM-M1 must be served personally or by post upon the respondent to the petition together with any evidence filed in support of the application.

(2) Personal service shall in no case be effected by the petitioner or intended petitioner.

(3) For the purpose of sub-rule (1), a copy of the petition shall be deemed to have been duly served if an Acknowledgement of Service in FORM-M3 has been signed by the party to be served and has been returned to the Registry.

(4) When an Acknowledgement of Service is returned to the Court, it shall send a copy to the petitioner or the petitioner's Lawyer within 48 hours of its receipt.

(5) If a copy of the petition has been sent to a party and no Acknowledgement of Service has been returned to the Court, the Registrar, if satisfied by affidavit or otherwise that the party has nevertheless received the document, may direct that the document be deemed to have been duly served on that party for the purpose of sub-rule (1).

(6) An application for leave to substitute for the modes of service prescribed by this rule some other mode of service, or to substitute for service notice of the proceedings by advertisement or otherwise, must be made ex parte by lodging with the Court an affidavit, sworn by the petitioner or respondent, as the case may be, personally, setting out the grounds on which the application is made and the facts relied on.

(7) No order giving leave to substitute notice of the petition or proceedings by advertisement shall be made unless it appears to the Judge that there is a reasonable probability that the advertisement will come to the knowledge of the person concerned.

(8) If leave is given to substitute for service notice of the petition or proceedings by advertisement, the form of advertisement must be approved by the Judge and copies of the newspapers containing the advertisement together with any notice to appear must be filed.

(9) An application for leave to dispense with service altogether must be made ex parte to the Judge supported by an affidavit setting out the grounds of the application and, if it appears necessary or expedient to do so, the Judge may grant such leave.

(10) Unless otherwise directed, service or delivery of any summons, notice or other document in a cause may, if no other mode of service or delivery is prescribed, be effected—

- (a) where the party to be served—
 - (i) is the petitioner,
 - (ii) has given notice of intention to defend, or
 - (iii) has applied to be heard on financial matters,

by leaving the notice or document at or by sending it by post to, the address for service; and

- (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 post to, the party's last known address.

Service out of Gibraltar.

14.(1) A petition, originating summons, notice or other document in a cause or matter may be served out of Gibraltar without leave in the manner provided by this rule.

(2) When a petition or originating summons is to be served out of Gibraltar, the time limit 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 in which the petition or notice is to be served with reference to the time fixed for filing an acknowledgement of service or equivalent for the time being prescribed in England plus seven days and provided that where the service is to be effected in the United Kingdom the time shall be twenty-one days.

(3) When an originating summons is to be served out of Gibraltar, the date of the hearing shall be fixed having regard to the place or country where or in which the summons is to be served.

Proof of Service.

15. Unless otherwise directed or leave has been given to dispense with service altogether, a petition shall not proceed to trial or hearing unless the respondent and every co-respondent to the petition and every person named in it—

- (a) has given notice of intention to defend; and
- (b) is shown by record of the Registrar to have been served with the petition personally or in accordance with an order for substituted service; or
- (c) has returned to the Lawyer for the petitioner, or to the petitioner if he is acting in person, an Acknowledgement of Service in accordance with FORM-M3, which shall be lodged with a registrar.

Notice of intention to defend.

16.(1) In these Rules any reference to a notice of intention to defend is a reference to an Acknowledgement of Service in FORM-M3 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 notices to the Registry.

(2) In relation to any person on whom there is served a document requiring or authorising an acknowledgement of service to be returned to the Registry, references in these Rules to the time limit 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 Registrar's certificate, notwithstanding that the time limited for giving the notice has expired.

Consent to grant of decree.

17.(1) Where, before the hearing of a petition on the ground of two years' separation with the respondent's consent to a decree being granted, the respondent wishes to indicate to the Court that he consents to the grant of a decree, the respondent shall do so by filing a notice to that effect signed by the respondent personally.

(2) For the purpose of sub-rule (1) an acknowledgement of service containing a statement that the respondent consents to the grant of a decree shall be treated as such notice if the acknowledgement is signed by the respondent and witnessed by a Lawyer of the Supreme Court or a Commissioner for Oaths in Gibraltar or, if signed abroad and sworn as an affidavit in accordance with the law of the place where the deponent makes such affidavit.

Supplemental and amended petitions.

18.(1) A supplemental petition may be filed or amended without leave at any time before an answer is filed but thereafter only with leave.

(2) Subject to sub-rule (3) an application for leave under this rule—

- (a) must, if no notice of intention to defend is given by an opposite party, be made ex parte by summons supported by 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 by lodging in the Registry the supplemental petition or a copy of the petition as proposed to be amended; and
- (c) in any other case, shall be made by summons to be served, unless otherwise directed, on every opposite party.

(3) The Court may, if it thinks fit, require an application for leave to be supported by an affidavit.

(4) An order granting leave shall—

- (a) where any party has given notice of intention to defend, fix the time within which his answer must be filed or amended; and
- (b) where the order is made after directions for trial have been given, provide for a stay of the hearing until after the directions have been renewed.

(5) Any affidavit required to be filed in pursuance of sub-rule (2) must verify the new facts of which the deponent has direct personal knowledge and depose as to belief of any other new facts alleged.

(6) Unless otherwise directed, a copy of a supplemental or amended petition, together with a copy of the order, if any, made under this rule shall be served on every respondent and co-respondent named in the original petition or in the supplemental or amended petition.

Filing and service of answer to petition, etc.

19.(1) Subject to sub-rule (2) a respondent or co-respondent who—

- (a) wishes to defend the petition or to dispute any of the facts alleged in it; and
- (b) being the respondent wishes to make in the proceedings any charge against the petitioner in respect of which the respondent prays for relief;

shall, within 14 days after the expiration of the time limited for giving notice of intention to defend, file an answer to the petition.

(2) An answer may be filed notwithstanding that the person filing the answer has not given notice of intention to defend.

(3) A party who files an answer, reply or subsequent pleading shall at the same time file a copy for service on every opposite party, and thereupon the Registrar shall annex to every copy for service on a party cited in the pleading a notice in FORM–M2 with FORM–M3 attached, with necessary modifications, if any, and shall send a copy to every other opposite party.

Pleadings out of time.

20. No pleading shall be filed out of time without leave of the Court after the Registrar's certificate has been issued under rule 29.

Contents of answer and subsequent pleadings.

21.(1) If an answer, reply or subsequent pleading contains more than a simple denial of the facts stated in the petition, answer or reply, the pleading must set out with sufficient particularity the facts relied on but not the evidence by which they are to be proved.

(2) The answer must conclude with a prayer setting out the particulars of the relief claimed including any application for residence, contact or parental responsibility in respect of a child or ancillary relief including child maintenance or costs.

(3) If an answer to any petition contains a prayer for relief, it must contain the information required by rule 8(7) in the case of the petition in so far as it has not been given by the petitioner.

(4) An answer containing a claim for residence, contact or parental responsibility in respect of any child of the family must be accompanied by a separate written statement containing the information required by FORM-M4.

(5) 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 must, within 14 days after the expiration of the time limited for giving notice of intention to defend, file an answer to the petition at the Registry and serve a copy on the petitioner.

(6) Every answer or subsequent pleading, if settled by a Lawyer, must be signed by that person and, if not so settled, must be signed by the party filing it.

Filing of reply and subsequent pleadings.

22.(1) A petitioner may file a reply to an answer within 14 days after he has received a copy of the answer.

(2) If the petitioner does not file a reply to an answer, he shall, unless the answer prays for a decree, be deemed, on making a request for directions for trial, to have denied every material allegation of fact made in the answer.

(3) No pleading subsequent to a reply shall be filed without leave.

(4) No pleading shall be filed or amended without leave after directions for trial have been given.

(5) Rule 18 shall apply, with the necessary modifications, to the filing of a supplemental answer, and the amendment of a pleading or other document not being a petition, as it applies to the filing of a supplemental petition and the amendment of a petition.

Particulars of allegations or other matters pleaded.

23.(1) A party on whom a pleading has been served may in writing request the party whose pleading it is to give particulars of any allegation or other matter pleaded and, if that party fails to give the particulars within a reasonable time the party requiring them may apply for an order that the particulars be given.

(2) The request or order in pursuance of which particulars are given shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.

(3) A party giving particulars, whether in pursuance of an order or otherwise, shall at the same time file a copy of them with the Registry.

Preliminary appointment.

24.(1) Within 7 days after the expiry of the date for the filing of any answer, the Court shall fix a date for a preliminary appointment.

(2) The parties shall—

- (a) file and exchange a Statement of Financial Information in FORM-M5 at least 7 days prior to the date fixed for the preliminary hearing; and
- (b) file and exchange the requirements for FORM-M5.

(3) The requirements to file and exchange under sub-rule (2) can be dispensed with by agreement between the parties or by an order of the Court and in the event of any such agreement by the parties, they shall inform the Court accordingly.

(4) At the preliminary appointment the Court shall take any steps considered necessary by the Court for the purpose of the furtherance of the overriding objective and to actively case manage the matter including the steps set out in sub-rules (5) to (9).

(5) The Court of its own initiative or otherwise may make any interim order in respect of the residence, contact or maintenance of any child of the family where the Court considers it necessary and for the welfare and best interest of the child in accordance with the Children Act 2009.

(6) The Court may give directions for the future progression of the cause to include a direction if satisfied that the petition has been served to the effect that the petition be allocated by the Registrar to the undefended list and that the filing of a notice pursuant to rule 29 for the issue of the Registrar's Certificate be dispensed with.

(7) The Court may make such orders and give such other directions as necessary and as are considered expedient for the resolution of any interim matters in relation to interim maintenance of a spouse or child of the family or in relation to any interim orders for residence, contact or maintenance of a child of the family.

(8) The Court may give directions for further disclosure of any matters arising in relation to the proceedings.

(9) The Court may stay any cause for the purpose of conciliation or mediation if appropriate.

Discovery by interrogatories.

25.(1) A party to a 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 must be filed when the summons is issued and a further copy must be served with the summons.

(3) Interrogatories must, unless otherwise ordered, be answered by affidavit to be filed within 14 days.

Discovery and inspection of documents.

26.(1) The Court may order any party to a cause 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, and to verify such list by affidavit.

(2) An order under sub-rule (1) may be limited to such documents or classes of documents only, or to such only of the matters in question in the cause, 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 sub-rule (1) must allow the other party to inspect the documents referred to in the list (other than any which the furnishing 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 cause 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 that party to take copies thereof.

Medical examination in proceedings for nullity of marriage.

27.(1) In proceedings for nullity on the ground of permanent impotence or incapacity to consummate the marriage the petitioner shall, subject to sub-rule (2), apply to the Court to determine whether a medical practitioner should be appointed to examine the parties.

(2) An application under sub-rule (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 incapacity.

(3) References in sub-rules (1) and (2) to the petitioner shall, where the cause is proceeding only on the respondent's answer or where the allegation of incapacity is made only in the respondent's answer, be construed as references to the respondent.

(4) An application under sub-rule (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 the notice has expired;

- (b) where the respondent has given notice of intention to defend, after the expiration of the time allowed for filing his answer or, if he has filed an answer, after it has been filed;

and an application under sub-rule (1) by the respondent shall be made after he has filed an answer.

(5) Where the party required to make an application under sub-rule (1) fails to do so within a reasonable time, the other party may, if he is prosecuting or defending the cause, make an application under that sub-rule.

(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 Court for the appointment of a medical practitioner to examine the parties.

(7) If the respondent has not given notice of intention to defend, an application by the petitioner under sub-rule (1) or (6) may be made ex parte.

(8) If the Court hearing an application under sub-rule (1) or (6) considers it expedient to do so, it shall appoint a medical practitioner or, if it thinks it necessary, two medical practitioners to examine the parties and report to the Court the result of the examination.

(9) At the hearing of any such proceedings as are referred to in sub-rule (1) the Court may, if it thinks fit, appoint a medical practitioner or two medical practitioners to examine any party who has not been examined or to examine further any party who has been examined.

(10) The party on whose application an order under sub-rule (8) is made or who has the conduct of proceedings in which an order under sub-rule (9) has been made for the examination of the other party, shall serve on the other party notice of the date, time and place appointed for his or her examination.

Conduct of medical examination.

28.(1) Every medical examination under rule 27 shall be held at the consulting room of the medical practitioner or, as the case may be, of one of the medical practitioners appointed to conduct the examination, but the Court may, on the application of a party, direct that the examination of that party shall be held at the Court office or at such other place as the Court thinks convenient.

(2) Every party presenting himself for examination shall sign, in the presence of the doctor, a statement that he is the person referred to as the

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petitioner or respondent, as the case may be, in the order for the examination, and at the conclusion of the examination the doctor shall certify on the statement that it was signed in his presence by the person who has been examined.

(3) Every report made under rule 27 shall be filed and either party shall be entitled to be supplied with a copy on payment of the fee of £50.00.

(4) In an undefended cause it shall not be necessary for the doctor to attend and give evidence at the trial unless so directed.

(5) In a defended cause, if the report made under rule 27 is accepted by both parties, notice to that effect shall be given by the parties to the Court and to the doctor not less than seven clear days before the date fixed for the trial; and where such notice is given, it shall not be necessary for the doctor to attend and give evidence at the trial.

(6) Where pursuant to sub-rule (4) or (5) the evidence of the doctor is not given at the trial, his report shall be treated as information furnished to the Court by an expert of the court and be given such weight as the Court thinks fit.

Registrar's certificate and directions for trial.

29.(1) The petitioner or any party who is defending a matrimonial cause shall, before setting down the cause for trial, refer the pleadings and proceedings in the cause to the Registrar, who shall give a certificate that the cause is fit to be set down for trial if he is satisfied—

- (a) that a copy of the petition (including any supplemental or amended petition) and any subsequent pleading has been duly served on every party required to be served;
- (b) that the time limited for giving notice of intention to defend has expired if no such notice has been given by any party entitled to give it;
- (c) that the time allowed for filing an answer has expired if notice of intention to defend has been given by any party;
- (d) that the time allowed for filing any subsequent pleading has expired if any answer has been filed; and
- (e) in proceedings for nullity—
 - (i) that any application for a medical examination has been made; and

- (ii) if an order for the examination of the parties has been made, that any notice required has been served and that the report of the doctor or doctors has been filed,

shall issue a certificate (the Registrar's certificate) to that effect.

(2) If the cause is an undefended cause for divorce or judicial separation the Registrar shall enter the cause on the next undefended list.

(3) In the case of a defended cause the Registrar shall allocate the case to the next defended list and give directions for trial.

Listing of causes and fixing date of trial.

30.(1) The Registrar shall prepare and maintain two 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.

(2) The causes shall be entered in each list in the order in which they were set down for trial or hearing and a copy of each list shall be displayed in a public place in the vicinity of the Court.

(3) Save with the consent of all parties and by leave of the Court no undefended cause shall be heard until after the expiration of seven days from the date on which it was set down for hearing.

(4) 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 and the first of the days so fixed shall not be less than seven days from the date on which it was fixed.

(5) The Registrar 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.

(6) When a cause has been entered in the defended list, either party may apply to the Registrar for a day to be fixed for the trial or hearing of the cause.

(7) The party applying must, not less than four days before making an application under sub-rule (6), notify in writing the other parties to the cause of the intention to make the application and when it is intended to make it.

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(8) Save with the consent of all parties, the day fixed for the trial or hearing of the cause must be not less than ten days from the date of the application.

(9) In all defended causes the petitioner must, at least two days before the day fixed for the trial or hearing, lodge with the Registry a trial bundle to be agreed with the opposing party and a list of all witnesses whom the petitioner proposes to call.

(10) Any party who is defending or to be heard in a cause must, at least two days before the day fixed for the trial or hearing, file with the Registry a list of all witnesses whom that party proposes to call.

PART III*Trial, evidence, etc***Evidence at trial of cause.**

31.(1) Subject to the provisions of these Rules and the Evidence Act or any other enactment on civil evidence, any fact required to be proved by the evidence of witnesses at the trial of a cause begun by petition shall be proved by the examination of the witnesses orally and in open Court.

(2) Nothing in these Rules shall affect the power of the Court at the trial to refuse to admit any evidence if in the interest of justice the Court thinks fit to do so.

(3) The Court may order—

- (a) that the evidence of any witness may be referred in writing and continued in an affidavit which may be read at the trial on such conditions as the Court thinks reasonable;
- (b) that the evidence of any particular fact shall be given at the trial in such manner as may be specified in the order and in particular—
 - (i) by statement on oath of information or belief,
 - (ii) by the production of documents or entries in books,
 - (iii) by copies of documents or entries in books, or
 - (iv) in the case of a fact which is or was a matter of common knowledge either generally or in a particular way, by the production of a specified newspaper containing a statement of that fact; and

(c) that not more than a specified number of expert witnesses may be called.

(4) An application to the Court for an order under sub-rule (3) shall, if–

- (a) no notice of intention to defend has been given;
- (b) the petitioner and every party who has given notice of intention to defend consents to the order sought; or
- (c) the cause is undefended and directions for trial have been given,

be made ex parte by filing an affidavit stating the grounds on which the application is made.

(5) Where an application is made before the trial for an order that the affidavit of a witness may be read at the trial or that evidence of a particular fact may be given at the trial by affidavit, the proposed affidavit or a draft thereof shall be submitted with the application; and where the affidavit is sworn before the hearing of the application and sufficiently states the ground on which the application is made, no other affidavit shall be required under sub-rule (4).

(6) Where it appears to the Court that any party reasonably desires the production of a witness for cross examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

(7) The Court may of its own motion or on the application of any party give such further directions in relation to evidence for the expeditious and efficient trial of the cause as it thinks fit.

Evidence by deposition.

32. The Court may, on the application of any party to a cause begun by petition, make an order under rule 34.8 of the Civil Procedure Rules for the examination on oath of any person and rules 34.8 to 34.13 of the Civil Procedure Rules shall have effect accordingly with the appropriate modifications.

Evidence by affidavit.

33. On any application made by originating summons, notice or motion, evidence may be given by affidavit unless these Rules otherwise provide or the court otherwise directs, but the court may, on the application of any

party, order the attendance for cross-examination of the person making any such affidavit; and where, after such an order has been made, that person does not attend, his affidavit shall not be used as evidence without the leave of the court.

Evidence of marriage outside Gibraltar.

34.(1) The celebration of a marriage outside Gibraltar and its validity under the law of the country where it was celebrated may, in any family proceedings in which the existence and validity of the marriage is not disputed, be proved by the evidence of one of the parties to the marriage and the production of a document purporting to be—

- (a) a marriage certificate or similar document issued under the law in force in that country; or
- (b) a certified copy of an entry in a register of marriages kept under the law in force in that country.

(2) Where a document produced by virtue of sub-rule (1) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.

(3) This rule shall not be construed as precluding the proof of marriage in any other manner authorised apart from this rule.

Record of proceedings.

35.(1) Unless the Judge otherwise directs, the proceedings at the trial in open court of every cause pending in the Supreme Court shall be tape recorded.

(2) An official shorthand note may be taken of any such proceedings before the Judge if directions for the taking of such a note are given by the Judge.

Copies of decrees and orders.

36.(1) A copy of every decree shall be sent by the proper officer to every party to the cause.

(2) A sealed or other copy of a decree or other order made in open court shall be issued to any person requiring it on payment of the prescribed fee.

Service of order.

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37.(1) Where an order made in family proceedings has been drawn up, a copy of the order shall be made available to every party affected by it.

(2) Where a party against whom the order is made is acting by a solicitor, a copy may, if the Judge thinks fit, be sent to that party as if he were acting in person, as well as to his solicitor.

(3) It shall not be necessary for the person in whose favour the order was made to prove that a copy of the order has reached any other party to whom it is required to be made available.

Inspection etc of documents retained in court.

38.(1) A party to any family proceedings or his lawyer or the Queen's Proctor or a person appointed under rule 58 to be the guardian ad litem of a child in any family proceedings may have a search made for, and may inspect and bespeak a copy of, any document filed or lodged in the court office in those proceedings.

(2) Except as provided by sub-rule (1) of this rule, no document filed or lodged in the court office other than a decree or other order made in open court shall be open to inspection by any person without the leave of the Judge, and no copy of any such document, or of an extract from any such document, shall be taken by, or issued to, any person without such leave.

Hearing of undefended causes by the Court.

39.(1) The Court shall have jurisdiction to hear and determine undefended causes in accordance with this rule.

(2) As soon as practicable after a cause has been entered on the undefended list, the Court shall, if—

- (a) satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a decree, shall so certify; or
- (b) not 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 sub-rule (2), a date shall be fixed for the pronouncement of a decree in open Court and the Court shall send to the petitioner or his or her Lawyer a notice of the date and place so fixed and a copy of the certificate but, subject to sub-rule (4), it shall not be necessary for any party to appear on that occasion.

(4) Where the petition contains a prayer for costs, the Court may, if—

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- (a) satisfied that the petitioner is entitled to such costs, include in the certificate a statement to that effect; and
- (b) not so satisfied, give to any party who objects to paying such costs notice that, if that party wishes to proceed with his or her objection, the party must attend before the Court on the date fixed in accordance with sub-rule (3).

Right of respondent, co-respondent or party cited to be heard on question of costs.

40.(1) A respondent, co-respondent or party cited may, without filing an answer, be heard on any question as to costs, but the Court 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 his or her objection.

(2) A party shall be entitled to be heard on any question pursuant to sub-rule (1) whether or not the party has filed an acknowledgement of service stating his or her wish to be heard on that question.

(3) 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 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.

PART IV*Arrangements for children***Respondent's statement as to arrangements for children.**

41.(1) A respondent on whom there is served a Statement of Arrangements in FORM-M4 under rule 13(1)(a) shall file in the Court a written statement of his views on the present and proposed arrangements for the children, and the respondent, upon filing any such statement, must send a copy of it to the petitioner.

(2) Any such statement of the respondent's views shall be filed in the Registry and served on the petitioner or his Lawyers by no later than seven days before the date fixed for the preliminary appointment.

Applications relating to children of the family.

42.(1) Where a cause is pending, an application by a party to the cause or by any other person for an order for financial relief in relation to a child of the family shall be made in the cause; and where the applicant is not a party

and has obtained such leave as is required under any relevant enactment to make the application, no leave to intervene in the cause shall be necessary.

(2) If, while a cause is pending, proceedings relating to any child of the family are begun in any other Court, a concise statement of the nature of the proceedings shall forthwith be filed by the person beginning the proceedings or, if he is not a party to the cause, by the petitioner.

(3) A cause shall be treated as pending for the purposes of this rule for a period of one year after the last hearing or judicial intervention in the cause.

Procedure for complying with section 49 of the Matrimonial Causes Act.

43.(1) If no application under rule 42(1) is pending, the Court shall, after making a certificate under rule 39(2), proceed to consider the matters specified in section 49 of the Act in accordance with this rule.

(2) If, on consideration of the relevant evidence, the Court is satisfied that—

- (a) there are no children of the family to whom section 49 of the Act applies; or
- (b) that there are such children and an appropriately worded direction under section 49 of the Act should be made,

the Court shall issue directions accordingly and, in a case to which paragraph (b) applies, the petitioner and the respondent shall each be sent a copy of the direction by the Registry.

(3) The Court, if not satisfied as mentioned in sub-rule (2), may give one or more of the following directions—

- (a) that the parties, or any of them, file further evidence relating to the arrangements for the children and the direction must specify the matters to be dealt with in the further evidence;
- (b) that a welfare report on the children, or any of them, be prepared; and
- (c) that the parties, or any of them, attend before the Court at the date, time and place specified in the direction.

(4) When a direction is given under section 49 of the Act, notice of the direction must be given to the parties.

(5) In this rule “parties” means the petitioner, the respondent and any person who appears to the Court to have the care of the child.

Decrees and orders.

44.(1) Every decree of the Court shall be signed by the Registrar.

(2) Every order that is made in open Court shall be signed by the Registrar as directed by the judge who made the order.

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

Application for rescission of decree.

45.(1) An application by a respondent under section 26A of the Act for the rescission of a decree of divorce shall be made to the Court and shall be heard in open Court.

(2) Unless otherwise directed, the notice of the 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.

Intervention to show cause by Attorney General.

46.(1) If the Attorney General wishes to show cause against a decree nisi being made absolute, he shall give notice to that effect to the Court and to the party in whose favour it was pronounced.

(2) Within 21 days after giving notice under sub-rule (1), the Attorney General shall—

- (a) file his plea setting out the grounds on which he desires to show cause; and
- (b) serve a copy on the party in whose favour the decree was pronounced and every other party affected by the decree.

(3) The Registrar shall serve a copy of the plea on each of the persons mentioned in sub-rule (2).

(4) If no answer to the plea is filed within the time limited or, if an answer is filed and struck out or not proceeded with, the Attorney General may

apply forthwith by summons for an order rescinding the decree and dismissing the petition.

(5) This rule shall apply to all subsequent pleadings and proceedings in respect of the plea as if it were a petition by which a cause is begun.

Intervention to show cause by person other than Attorney General.

47.(1) If any person other than the Attorney General wishes to show cause under section 26 of the Act against a decree nisi being made absolute, he shall file an affidavit stating the facts on which he relies and serve a copy on the party in whose favour the decree was pronounced.

(2) A party on whom a copy of the affidavit has been served under sub-rule (1) may, within 14 days after service, file an affidavit in answer and, if he does so, shall serve a copy on the person showing cause.

(3) The person showing cause may file an affidavit in reply within 14 days after service of the affidavit in answer and, if he does so, shall serve a copy on each party who was served with a copy of his original affidavit.

(4) No affidavit after an affidavit in reply shall be served without leave.

(5) A person showing cause shall apply to the Court for directions within 14 days after expiry of the time allowed for filing an affidavit in reply or, where an affidavit in answer has been filed, within 14 days after the expiry of the time allowed for filing such an affidavit.

(6) If the person showing cause does not apply under sub-rule (5) within the time allowed, the person in whose favour the decree was pronounced may do so.

Rescission of decree nisi by consent.

48. Where a reconciliation has been effected in a matrimonial cause between the petitioner and the respondent—

- (a) after a decree nisi has been pronounced but before it has been made absolute; or
- (b) after a decree of judicial separation has been pronounced,

either party may apply for an order rescinding the decree by consent.

Decree absolute on lodging notice.

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49.(1) An application by a spouse to make absolute a decree nisi pronounced in his favour may be made by lodging with the Court a Notice in FORM- M6.

(2) As soon as practicable after the lodging of the notice referred to in sub-rule (1), the Registrar shall cause the records of the Court to be searched, and if he is satisfied—

- (a) that no application for rescission of the decree or for re-hearing of the cause and no appeal against the decree or the dismissal of an application for re-hearing of the cause is pending;
- (b) that no order has been made by the Court extending the time for making an application for re-hearing of the cause or by the Court of Appeal extending the time for appealing against the decree or the dismissal of an application for re-hearing of the cause or, if any such order has been made, that the time so extended has expired;
- (c) that no application for such an order as is mentioned in subparagraph (b) is pending;
- (d) that no intervention is pending; or
- (e) that the Court has issued direction under section 49 of the Act and after taking making necessary arrangements for children makes an order otherwise,

the Registrar shall make the decree absolute.

(3) If the notice is lodged more than 12 months after the decree nisi there shall be lodged with the notice an explanation in writing—

- (a) giving reasons for the delay;
- (b) stating whether the parties have lived with each other since the decree nisi and, if so, between what dates; and
- (c) stating whether the applicant being the wife has, or being the husband has reason to believe that his wife has given, birth to any child since the decree nisi and, if so, stating the relevant facts and whether or not it is alleged that the child is or may be a child of the family;

and the Registrar may require the applicant to file an affidavit verifying the said explanation and may make such order on the application as he thinks fit.

Decree absolute on application.

50.(1) An application for a decree nisi to be made absolute shall be made to the Court—

- (a) where the Attorney General gives to the Court and to the party in whose favour the decree was pronounced a notice that he requires more time to decide whether to show cause against the decree being made absolute and the notice has not been withdrawn; or
- (b) where there are other circumstances which ought to be brought to the attention of the Court before the decree nisi is made absolute.

(2) Unless otherwise directed, a copy of the summons by which the application is made shall be served on every party to the cause by the applicant and, in a case to which sub-rule (1)(a) applies, on the Attorney General.

(3) An application by a spouse for a decree nisi pronounced against him to be made absolute may be made to the Court, and the applicant shall serve a copy of the summons by which the application is made on the other spouse not less than four clear days before the day on which the application is heard.

(4) An order granting an application under this rule shall not take effect until the Registrar has caused the records of the Court to be searched and is satisfied as to the matters mentioned in rule 49(2).

Expedition of decree absolute.

51.(1) No decree nisi may be made absolute until after the expiration of six weeks from the pronouncing of the decree.

(2) Notwithstanding sub-rule (1), an application to expedite the grant of a decree absolute may be made—

- (a) to the Court at the hearing of the case or pronouncement of decree nisi; or
- (b) if some matter arises after the decree nisi making it desirable that the decree absolute should be expedited, to the Court by summons supported by an affidavit.

Endorsement and certificate of decree absolute.

52.(1) Where a decree nisi is made absolute, the Registrar shall make an endorsement to that effect on the decree, stating the precise time and date at which it was made absolute.

(2) On a decree nisi being made absolute, the Registrar shall send to the petitioner and the respondent a certificate authenticated by the seal of the Supreme Court—

(a) in the case of divorce in FORM–M7; and

(b) in the case of nullity in FORM–M8.

(2) A central index of decrees absolute shall be kept in the Registry and any person shall be entitled to require a search to be made therein, and to be furnished with a certificate of the result of the search, on payment of the prescribed fee.

(3) A certificate that a decree nisi has been made absolute shall be issued to any person requiring it on payment of the prescribed fee.

Application under section 26A(2) of the Matrimonial Causes Act.

53.(1) An application by a respondent to a petition for divorce for the Court to consider the financial position of the respondent after that divorce shall be made by notice in FORM–M9.

(2) Where the petitioner has relied on the fact of two or three years' separation and the Court has granted a decree nisi without making any finding as to any other fact mentioned in section 16(2) of the Act, rules 4 and Rules 55 to 74 of these Rules shall apply as if the application were an application for financial relief and, unless the context otherwise requires, those rules shall be read as if all references to FORM–M10 were references to FORM–M9.

(3) A statement of any of the matters mentioned in section 26A(3) of the Act with respect to which the Court is satisfied, or, where the Court has proceeded under section 26A(4), a statement that the conditions for which that subsection provides have been fulfilled, shall be entered in the records of the Court.

PART V

Financial relief, etc

Procedures for application of financial relief.

54.(1) The procedures set out in this part apply to any financial relief application.

(2) In this Part, unless the context otherwise requires–

“applicant” means the party applying for financial relief;

“respondent” means the respondent to the application for financial relief.

Right to be heard on financial questions.

55. A respondent may be heard on any question of financial relief without filing an answer and whether or not the respondent has returned to the Registry an acknowledgement of service stating that he or she wishes to be heard on that question.

Application by petitioner or respondent for financial reliefs.

56.(1) Any application by a petitioner, or by a respondent who files an answer claiming relief, for–

- (a) an order for maintenance pending suit;
- (b) an order for maintenance pending outcome of proceedings;
- (c) a financial provision order;
- (d) a property adjustment order; or
- (e) a pension sharing order,

shall be made in the petition or answer, as the case may be.

(2) A notice of intention to proceed with an application for financial relief made in the petition or answers or otherwise shall be made by filing a notice of intention to proceed in accordance with FORM–M10.

(3) Notwithstanding anything in sub-rule (1), an application for financial relief which should have been made in the petition or answer may be made subsequently–

- (a) by leave of the Court granted on application or at the hearing;
or
- (b) where the parties are agreed upon the terms of the proposed order, without leave by filing a copy of the proposed consent order.

(4) An application by a petitioner or respondent for financial relief, not being an application which is required to be made in the petition or answer, shall be made by notice in FORM–M10.

Application by parent, guardian, etc for financial relief in respect of children.

57.(1) Any of the following persons, namely–

- (a) a parent or guardian of any child of the family;
- (b) any person in whose favour a residence order has been made with respect to a child of the family, and any applicant for such an order;
- (c) any other person who is entitled to apply for a residence order with respect to a child;
- (d) any person who has been appointed guardian ad litem of a child of the family; and
- (e) a child of the family who has been given leave to intervene in the cause for the purpose of applying for ancillary relief,

may apply for an order for financial relief in respect of that child by notice in FORM –M10.

(2) In this rule, “residence order” has the meaning assigned to it by section 25 of the Children Act 2009.

Separate representation of children on certain applications.

58.(1) Where an application is made to the Court for an order for variation of settlement, the Court shall, unless it is satisfied that the proposed variation does not adversely affect the rights or interests of any children concerned, direct that the children be separately represented on the application by a Lawyer and may appoint the Attorney General or any other fit person to be guardian *ad litem* of the children for the purpose of the application.

(2) On any other application for financial relief the Court may give such a direction or make such appointment as it is empowered to give or make by sub-rule(1).

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(3) Before a person is appointed guardian *ad litem* under this rule, the Court must be satisfied that that person has no interest in the matter adverse to that of the children and is a proper person to be such guardian.

Evidence on application for property adjustment or avoidance of disposition order.

59.(1) Where an application for a property adjustment order or an avoidance of disposition order relates to land, the notice in Form–M10 shall identify the land and–

- (a) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number; and
- (b) give particulars, so far as known to the applicant, of any mortgage of the land or any interest therein.

(2) Copies of FORM–M10 and of FORM–M5 completed by the applicant, shall be served on the following persons as well as on the respondent to the application–

- (a) in the case of an application for an order for a variation of settlement, the trustees of the settlement and the settlor if living; and
- (b) in the case of an application for an avoidance of disposition order, the person in whose favour the disposition is alleged to have been made;

and such other persons, if any, as the Court may direct.

(3) In the case of an application to which sub-rule (2) refers, a copy of FORM–M10, shall be served on any mortgagee of whom particulars are given pursuant to that sub-rule and any person so served may apply to the Court in writing, within 14 days after service, for a copy of the applicant's FORM–M5.

(4) Any person who–

- (a) is served with copies of FORM–M10 and FORM–M5 pursuant to sub-rule (3); or
- (b) receives a copy of FORM–M5 following an application made in accordance with sub-rule (4),

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may, within 14 days after service or receipt, as the case may be, file a statement in answer.

(5) A statement filed under sub-rule (4) shall be sworn to be true.

Service of statement in answer.

60.(1) Where a form or other document filed with the Court contains an allegation of adultery with a named person, the Court may direct that the party who filed the relevant form or document serve a copy of all or part of that form or document on the named person, together with FORM–M12.

(2) If the Court makes a direction under sub-rule (1), the named person may file a statement in answer to the allegations.

(3) A statement under sub-rule (2) shall be sworn to be true.

Information required on an application for financial relief consent order.

61.(1) Subject to sub-rules (2) and (3), there must be lodged with every application for a consent order under section 34, 35 or 36 of the Act for financial relief two copies of a draft of the order in the terms sought, one of which must be endorsed with a statement signed by the respondent to the application signifying the respondent's agreement, and a statement (which may be made in more than one document) in FORM–M23 including the following information–

- (a) the duration of the marriage, the age of each party and of any child of the family;
- (b) an estimate in summary form of the approximate amount or value of the capital resources and net income of each party and of any child of the family;
- (c) what arrangements are intended for the accommodation of each of the parties and any child of the family;
- (d) whether either party has remarried or is cohabiting with another person, or has any present intention to marry or to cohabit with another person;
- (e) if the terms of the order provide for a transfer of property, a statement confirming that any mortgagee of that property has been served with notice of the application and that no objection to such a transfer has been made by the mortgagee within 14 days from such service; and

(f) any other especially significant matters.

(2) Where an application is made for a consent order varying an order for periodical payments, it shall be sufficient compliance with sub-rule (1) if the statement of information required to be lodged with the application includes only the information in respect of net income mentioned in sub-rule (1)(b), and an application for a consent order for interim periodical payments pending the determination of an application for ancillary relief may be made in like manner.

(3) Where all or any of the parties attend the hearing of an application for financial relief the Court may dispense with the lodging of a statement of information in accordance with sub-rule (1) and give directions for the information which would otherwise be required to be given in such a statement to be given in such a manner as it sees fit.

Application for financial relief.

62.(1) A notice of intention to proceed with an application for financial relief made in the petition or answer or an application for financial relief must be made by notice in FORM–M10 and filed in the Registry.

(2) Where the applicant requests an order for financial relief that includes provision to be made by virtue of section 46B, 46F or 46G of the Act the terms of the order requested must be specified in FORM–M10.

(3) Upon the filing of FORM–M10 the Court must–

- (a) fix a first appointment not less than 12 weeks and not more than 16 weeks after the date of the filing of the notice and give notice of that date in FORM–M11; and
- (b) serve a copy on the respondent within 4 days of the date of the filing of the notice.

(4) The date fixed under sub-rule (4) for the first appointment, or for any subsequent appointment, must not be cancelled except with the Court's permission and, if cancelled, the Court must immediately fix a new date.

Procedure before the first appointment.

63.(1) Both parties must, at the same time, exchange with each other, and each file with the Court, a statement in FORM–M5 which–

- (a) is signed by the party who made the statement;

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- (b) is sworn to be true; and
 - (c) contains the information and has attached to it the documents required by that Form.
- (2) FORM–M5 must be exchanged and filed not less than 35 days before the date of the first appointment.
- (3) FORM–M5 must have attached to it–
- (a) any documents required by FORM–M5; and
 - (b) any other documents necessary to explain or clarify any of the information contained in FORM–M5.
- (4) FORM –M5 must have no documents attached to it other than the documents referred to in sub-rule (3).
- (5) Where a party was unavoidably prevented from sending any document required by FORM–M5, that party must at the earliest opportunity–
- (a) serve copies of that document on the other party; and
 - (b) file a copy of that document with the Court, together with a statement explaining the failure to send it with FORM–M5.
- (6) No disclosure or inspection of documents may be requested or given between the filing of the application for financial relief and the first appointment, except–
- (a) copies sent with FORM–M5, or in accordance with sub-rule (5); or
 - (b) in accordance with sub-rule (7).
- (7) At least 14 days before the hearing of the first appointment, each party must file with the Court and serve on the other party–
- (a) a concise statement of the issues between the parties;
 - (b) a chronology; and
 - (c) a questionnaire setting out by reference to the concise statement of issues any further information and documents requested from the other party or a statement that no information and documents are required.

(8) At least 14 days before the hearing of the first appointment, the applicant must file with the Court and serve on the respondent, confirmation of the names of all persons served in accordance with rule 59(2) and (3), and that there are no other persons who must be served in accordance with those sub-rules.

Expert evidence.

64.(1) Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings and a reference to an “expert” in this rule is a reference to an expert who has been instructed to give or prepare evidence for the purpose of Court proceedings.

(2) It is the duty of an expert to help the Court on the matters within his expertise and this duty overrides any obligation to the person from whom he has received instructions or by whom he is paid.

(3) No party may call an expert or put in evidence an expert’s report without the Court’s permission and when a party applies for permission under this rule he must identify–

- (a) the field in which he wishes to rely on expert evidence; and
- (b) where practicable the expert in that field on whose evidence he wishes to rely.

(4) If permission is granted under this rule it shall be in relation only to the expert named or the field identified under sub-rule (3).

(5) The Court may limit the amount of the expert’s fees and expenses that the party who wishes to rely on the expert may recover from any other party.

(6) Expert evidence is to be given in a written report unless the Court directs otherwise.

(7) A party may put to an expert instructed by another party or a single joint expert appointed under sub-rule (11), written questions about his report.

(8) Written questions under sub-rule (7)–

- (a) may be put once only;
- (b) must be put within 28 days of service of the expert's report; and
- (c) must be for the purpose only of clarification of the report,

unless in any case,

- (i) the Court gives permission; or
- (ii) the other party agrees.

(9) An expert's answers to questions put in accordance with sub-rule (7) shall be treated as part of the expert's report.

(10) Where—

- (a) a party has put a written question to an expert instructed by another party in accordance with this rule; and
- (b) the expert does not answer that question,

the Court may make one or both of the following orders in relation to the party who instructed the expert—

- (i) that the party may not rely on the evidence of that expert; or
- (ii) that the party may not recover the fees and expenses of that expert from any other party.

(11) Where two or more parties wish to submit expert evidence on a particular issue, the Court may direct that the evidence on that issue is to be given by one expert only and the parties wishing to submit the expert evidence are called "the instructing parties".

(12) Where the instructing parties cannot agree who should be the expert, the Court may—

- (a) select the expert from a list prepared or identified by the instructing parties; or
- (b) direct that the expert be selected in such other manner as the Court may direct.

(13) Where the Court gives a direction under sub-rule (11) for a single joint expert to be used, each instructing party may give instructions to the expert.

(14) When an instructing party gives instructions to the expert he must, at the same time, send a copy of the instructions to the other instructing parties.

(15) The Court may–

- (a) give directions about the payment of the expert's fees and expenses;
- (b) before an expert is instructed–
 - (i) limit the amount that can be paid by way of fees and expenses to the expert; and
 - (ii) direct that the instructing parties pay that amount into Court.

(16) Unless the Court otherwise directs, the instructing parties are jointly and severally liable for the payment of the expert's fees and expenses.

(17) Where a party has access to information which is not reasonably available to the other party, the Court may direct the party who has access to the information to–

- (a) prepare and file a document recording the information; and
- (b) serve a copy of that document on the other party.

(18) An expert's report must comply with the requirements set out in the relevant practice direction under the Civil Procedure Rules and at the end of an expert's report there must be a statement that–

- (a) the expert understands his duty to the Court; and
- (b) he has complied with that duty.

(19) The expert's report must state the substance of all material instructions, whether written or oral, on the basis of which the report was written and the instructions referred to in sub-rule (14) shall not be privileged against disclosure but the Court will not, in relation to those instructions–

- (a) order disclosure of any specific document; or
- (b) permit any questioning in Court, other than by the party who instructed the expert,

unless it is satisfied that there are reasonable grounds to consider the statement of instructions given under sub-rule (14) to be inaccurate or incomplete.

(20) Where a party has disclosed an expert's report, any party may use that expert's report as evidence at the trial and the Court may, at any stage, direct a discussion between experts for the purpose of requiring the experts to identify the issues in the proceedings, and where possible, reach agreement on an issue.

(21) The Court may specify the issues which the experts must discuss.

(22) The Court may direct that following a discussion between the experts they must prepare a statement for the Court showing—

- (a) those issues on which they agree; and
- (b) those issues on which they disagree and a summary of their reasons for disagreeing.

(23) The content of the discussion between the experts shall not be referred to at the trial unless the parties agree.

(24) Where experts reach agreement on an issue during their discussions, the agreement shall not bind the parties unless the parties expressly agree to be bound by the agreement.

(25) A party who fails to disclose an expert's report may not use the report at the trial or call the expert to give evidence orally unless the Court gives permission.

(26) An expert may file a written request for directions to assist him in carrying out his function as an expert and request directions under without giving notice to any party.

(27) The Court, when it gives directions, may also direct that a party be served with—

- (a) a copy of the directions; and
- (b) a copy of the request for directions.

The first appointment.

65.(1) The first appointment must be conducted with the objective of defining the issues and saving costs.

(2) At the first appointment the Court—

- (a) must determine—

- (i) the extent to which any questions seeking information under rule 61 must be answered; and
 - (ii) what documents requested under rule 61 must be produced,
- and give directions for the production of such further documents as may be necessary;
- (b) must give directions about–
 - (i) the valuation of assets (including, where appropriate, the joint instruction of joint experts);
 - (ii) obtaining and exchanging expert evidence, if required; and
 - (iii) evidence to be adduced by each party and, where appropriate, about further chronologies or schedules to be filed by each party;
 - (c) must direct one or more of the following–
 - (i) that a further directions appointment be fixed;
 - (ii) that an appointment be fixed for the making of an interim order;
 - (iii) that the case be fixed for final hearing and, where that direction is given, the Court must determine the judicial level at which the case should be heard;
 - (iv) that the case be adjourned for out-of-court mediation or private negotiation or, in exceptional circumstances, generally;
 - (d) in considering whether to make a costs order under rule 74(3), must have particular regard to the extent to which each party has complied with the requirement to send documents with FORM–M5; and
 - (e) may–
 - (i) make an interim order where an application for it has been made in accordance with rule 72 returnable at the first appointment;

- (ii) in a case where an order for financial relief is requested that includes provision to be made under section 46B, 46F or 46G of the Act, direct any party with pension rights to file and serve a Pension Inquiry in form in FORM–M18, completed in full or in part as the Court may direct.

(3) After the first appointment, a party is not entitled to production of any further documents except in accordance with directions given under sub-rule (2)(a) above or with the permission of the Court.

(4) At any stage a party may apply for further directions and the Court may give further directions.

(5) Both parties must personally attend the first appointment unless the Court orders otherwise.

Estimates and particulars of costs.

66.(1) Subject to sub-rule (2), at every court hearing or appointment each party must produce to the Court an estimate of the costs incurred by him up to the date of that hearing or appointment in FORM–M13.

(2) Not less than 14 days before the date fixed for the final hearing of an application for financial relief, each party must (unless the Court directs otherwise) file with the Court and serve on each other party a statement giving the full particulars of all costs in FORM–M14 in respect of the proceedings which he has incurred or expects to incur, to enable the Court to take account of the parties' liabilities for costs when deciding what order (if any) to make for financial relief.

Investigation of application for financial relief.

67.(1) An application for an avoidance of disposition order shall, if practicable, be heard at the same time as any related application for financial relief.

(2) At the hearing of an application for financial relief the Court shall investigate the allegations made in support of and in answer to the application, and may take evidence orally and may at any stage of the proceedings, whether before or during the hearing, order the attendance of any person for the purpose of being examined or cross-examined and order the disclosure and inspection of any document or require further statements.

(3) A statement filed under sub-rule (2) shall be sworn to be true.

(4) Any party may apply to the Court for an order that any person attend an appointment (an “inspection appointment”) before the Court and produce any documents to be specified or described in the order, the inspection of which appears to the Court to be necessary for disposing fairly of the application for financial relief or for saving costs.

(5) No person shall be compelled by an order under sub-rule (4) to produce a document at an inspection appointment which that person could not be compelled to produce at the hearing of the application for financial relief.

(6) The Court shall permit any person attending an inspection appointment pursuant to an order under sub-rule (2) to be represented at the appointment.

Orders on application for financial relief.

68.(1) The Court shall, after completing the investigation under rule 67, make such order as it thinks fit.

(2) Pending the final determination of the application, the Court may make an interim order in such form as it thinks fit.

Request for periodical payments order at same rate as order for maintenance pending suit or outcome of proceedings.

69.(1) Where at or after the date of a decree nisi of divorce or nullity of marriage an order for maintenance pending suit, is in force, the party in whose favour the order was made may, if he has made an application for an order for periodical payments for himself in his petition or answer, request the Court in writing to make such an order (in this rule referred to as a “corresponding order”) providing for payments at the same rate as those provided for by the order for maintenance pending suit.

(2) Where such a request is made, the Registry shall serve on the other spouse, a notice in FORM-M15 requiring him, if he objects to the making of a corresponding order, to give notice to that effect to the Court and to the applicant within 14 days after service of the notice on FORM-M15.

(3) If the other spouse does not give notice of objection within the time aforesaid, the Court may make a corresponding order without further notice to that spouse and without requiring the attendance of the applicant or his Lawyer, and shall in that case serve a copy of the order on the applicant as well as on the other spouse.

Application for order under section 43E(2) (a) of the Matrimonial Causes Act.

70. An application under section 43E(2)(a) of the Matrimonial Causes Act for an order restraining any person from attempting to defeat a claim for financial provision or otherwise for protecting the claim may be made to the Court.

Open proposals.

71.(1) Not less than 14 days before the date fixed for the final hearing of an application for financial relief, the applicant must (unless the Court directs otherwise) file with the Court and serve on the respondent an open statement which sets out concise details, including the amounts involved, of the orders which he proposes to ask the Court to make.

(2) Not more than 7 days after service of a statement under sub-rule (1), the respondent must file with the Court and serve on the applicant an open statement which sets out concise details, including the amounts involved, of the orders which he proposes to ask the Court to make.

Application for interim orders.

72.(1) A party may apply at any stage of the proceedings for an order for maintenance pending suit, interim periodical payments or an interim variation order.

(2) An application for such an order must be made by notice of application and the date fixed for the hearing of the application must be not less than 14 days after the date the notice of application is issued.

(3) The applicant shall forthwith serve the respondent with a copy of the notice of application.

(4) Where an application is made before a party has filed FORM-M5, that party must file with the application and serve on the other party, a draft of the order requested and a short sworn statement explaining why the order is necessary and giving the necessary information about his means.

(5) Not less than 7 days before the date fixed for the hearing, the respondent must file with the Court and serve on the other party, a short sworn statement about his means, unless he has already filed FORM-M5.

(6) A party may apply for any other form of interim order at any stage of the proceedings with or without notice.

(7) Where an application referred to in sub-rule (6) is made with notice, the provisions of sub-rules (1) to (5) apply to it.

(8) Where an application referred to in sub-rule (6) is made without notice, the provisions of sub-rule (1) apply to it.

Pensions.

73.(1) This rule applies where an application for financial relief has been made, or notice of intention to proceed with the application has been given in FORM-M10 and the applicant or respondent has or is likely to have any benefits under a pension arrangement.

(2) When the Court fixes a first appointment as required by rule 62(3)(a) in a matrimonial cause, the party with pension rights shall within seven days after receiving notification of the date of that appointment, request the person responsible for each pension arrangement under which he has or is likely to have benefits to furnish the information referred to in regulation 5(2) of the Pensions on Divorce etc. Regulations 2010.

(3) Within seven days of receiving information under sub-rule (2) the party with pension rights shall send a copy of it to the other party, together with the name and address of the person responsible for each pension arrangement.

(4) A request under sub-rule (2) need not be made where the party with pension rights is in possession of, or has requested, a relevant valuation of the pension rights or benefits accrued under the pension arrangement in question.

(5) In this rule, a relevant valuation means a valuation of pension rights or benefits as at a date not more than twelve months earlier than the date fixed for the first appointment which has been furnished or requested for the purposes of the Pensions on Divorce etc. Regulations 2010.

(6) Upon making or giving notice of intention to proceed with an application for financial relief which includes a request for a pension sharing order, or upon adding a request for such an order to an existing application for financial relief, the applicant shall send to the person responsible for the pension arrangement concerned a copy of FORM-M10.

(7) Upon making or giving notice of intention to proceed with an application for financial relief which includes an application for a pension attachment order, or upon adding a request for such an order to an existing application for financial relief, the applicant shall send to the person responsible for the pension arrangement concerned—

(a) a copy of FORM-M10;

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- (b) *an address to which any notice which the person responsible is required to serve on the applicant under the Pensions on Divorce etc. Regulations 2010, is to be sent;*
- (c) *an address to which any payment which the person responsible is required to make to the applicant is to be sent; and*
- (d) *where the address in paragraph (c) is that of a bank or a building society, sufficient details to enable payment to be made into the account of the applicant.*

(8) *Where the parties have agreed on the terms of an order and the agreement includes a pension attachment order, then unless service has already been effected under sub-rule (7), they shall serve on the person responsible for the pension arrangement concerned—*

- (a) *the notice of application for a consent order under rule 61(1);*
- (b) *a draft of the proposed order under rule 61(1), complying with sub-rule (10); and*
- (c) *the particulars set out in paragraphs (b), (c) and (d) of sub-rule (7).*

(9) *No consent order under sub-rule (8) shall be made unless either—*

- (a) *the person responsible has not made any objection within 21 days after the service on him of such notice; or*
- (b) *the Court has considered any such objection*

and for the purpose of considering any objection the Court may make such direction as it sees fit for the person responsible to attend before it or to furnish written details of his objection.

(10) *An order for financial relief, whether by consent or not, which includes a pension sharing order or a pension attachment order, shall—*

- (a) *in the body of the order, state that there is to be provision by way of pension sharing or pension attachment in accordance with the annex or annexes to the order; and*
- (b) *be accompanied by an annex in FORM–M16 (Pension Sharing annex) or FORM–M17 (Pension Attachment annex) as the case may require; and if provision is made in relation to more than one pension arrangement there shall be one annex for each pension arrangement.*

(11) A Court which makes, varies or discharges a pension sharing order or a pension attachment order, shall send, or direct one of the parties to send, to the person responsible for the pension arrangement concerned—

- (a) a copy of the decree of divorce, nullity of marriage or judicial separation; or*
- (b) in the case of divorce or nullity of marriage, a copy of the certificate under rule 52 that the decree has been made absolute; or*
- (c) a copy of that order, or as the case may be of the order varying or discharging that order, including any annex to that order relating to that pension arrangement but no other annex to that order.*

(12) The documents referred to in sub-rule (11) shall be sent within 7 days after—

- (a) the making of the relevant pension sharing or pension attachment order; or*
- (b) the decree absolute of divorce or nullity or decree of judicial separation,*

whichever is the later.

(13) In this rule—

- (a) all words and phrases defined in section 46H(5) of the Act have the meanings assigned by those subsections;*
- (b) “pension sharing order” means an order making provision under section 46A of the Act; and*
- (c) “pension attachment order” means an order making provision under section 46F or 46G of the Act.*

Costs Orders.

74.(1) Rules 44.3(1) to (5) of the Civil Procedures Rules shall not apply to financial relief proceedings and the remainder of rules 44.3 and 44 of the Civil Procedures Rules apply to financial relief proceedings.

(2) In this rule “costs” has the same meaning as in rule 43.2(1)(a) of the Civil Procedure Rules and includes the costs payable by a client to his Lawyer.

- (3) The general rule in financial relief proceedings is that—
- (a) the Court will not make an order requiring one party to pay the costs of another party; but
 - (b) the Court may make such an order at any stage of the proceedings where it considers it appropriate to do so because of the conduct of a party in relation to the proceedings (whether before or during them).
- (4) In deciding what order, if any, to make under sub-rule (3)(b), the Court must have regard to—
- (a) any failure by a party to comply with these Rules or any order of the Court or any practice direction which the Court considers relevant;
 - (b) any open offers to settle made by a party;
 - (c) whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue;
 - (d) the manner in which a party has pursued or responded to the application or a particular allegation or issue;
 - (e) any other aspect of a party's conduct in relation to the proceedings which the Court considers relevant; and
 - (f) the financial effect on the parties of any costs order.

PART VI

Other Matrimonial etc Proceedings

Application in case of failure to provide reasonable maintenance.

75.(1) Every application under section 40 of the Act shall be made by originating application in FORM–M19.

(2) The application shall be made to the Court and shall be filed with the application an affidavit by the applicant and also a copy of the application and of the affidavit for service on the respondent.

- (3) The affidavit shall state—
- (a) the same particulars regarding the marriage the Court's jurisdiction, the children and the previous proceedings as are

required in the case of a petition by paragraphs (d), (e), (f) and (i) of rule 8(1);

- (b) particulars of the respondent's failure to provide reasonable maintenance for the applicant, or, as the case may be, of the respondent's failure to provide, or to make a proper contribution towards, reasonable maintenance for the children of the family; and
- (c) full particulars of the applicant's property and income and of the respondent's property and income, so far as may be known to the applicant.

(4) A copy of the application and of the affidavit referred to in sub-rule (2) shall be served on the respondent, together with a notice in FORM–M22.

(5) Subject to sub-rule (6), the respondent shall, within 14 days after the time allowed for sending the acknowledgment of service, file an affidavit stating–

- (a) whether the alleged failure to provide, or to make proper contribution towards, reasonable maintenance is admitted or denied, and, if denied, the grounds on which he relies;
- (b) any allegation which he wishes to make against the applicant; and
- (c) full particulars of his property and income, unless otherwise directed.

(6) Where the respondent challenges the jurisdiction of the Court to hear the application he shall, within 14 days after the time allowed for sending the acknowledgment of service, file an affidavit setting out the grounds of the challenge; and the obligation to file an affidavit under sub-rule (5) shall not arise until 14 days after the question of jurisdiction has been determined and the Court has decided that the necessary jurisdiction exists.

(7) Where the respondent's affidavit contains an allegation of adultery with a person named (the named person), the court may direct that the part who filed the affidavit serve a copy of all or part of it on the named person together with FORM–M12 (the references to financial relief in that form being substituted by references to the provision under which the application is made).

(8) Where the Court makes direction under sub-rule (7), the named person may file an affidavit in answer to the allegations and the named person may

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intervene in the proceedings by applying for directions under sub-rule (7) within 7 days of service of the affidavit on him.

(9) If the respondent does not file an affidavit in accordance with sub-rule (5), the Court may order him to file an affidavit containing full particulars of his property and income, and in that case the respondent shall serve a copy of any such affidavit on the applicant.

(10) Within 14 days after being served with a copy of any affidavit filed by the respondent, the applicant may file a further affidavit as to means and as to any fact in the respondent's affidavit which is disputed, and in that case the applicant shall serve a copy on the respondent.

(11) No further affidavit shall be filed without leave.

Application for alteration of maintenance agreement during lifetime of parties.

76.(1) An application under section 65 of the Maintenance Act for the alteration of a maintenance agreement shall be made by originating application containing, unless otherwise directed, the information required by FORM-M20.

(2) The application shall be made to the Court and may be heard and determined by the Court.

(3) There shall be filed with the application an affidavit by the applicant exhibiting a copy of the agreement and verifying the statements in the application and also a copy of the application and of the affidavit for service on the respondent.

(4) A copy of the application and of the affidavit referred to in sub-rule (3) shall be served on the respondent, together with a notice in FORM-M22.

(5) The respondent shall, within 14 days after the time limited for giving notice of intention to defend, file an affidavit in answer to the application containing full particulars of his property and income and, if he does not do so, the Court may order him to file an affidavit containing such particulars.

(6) A respondent who files an affidavit under sub-rule (5) shall at the same time file a copy which the proper officer shall serve on the applicant.

Application for alteration of maintenance agreement after death of one party.

77.(1) An application under section 66 of the Maintenance for the alteration of a maintenance agreement after the death of one of the parties shall be

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made in the Court, by originating summons out of the Registry in FORM–M21.

(2) There shall be filed in support of the application an affidavit by the applicant exhibiting a copy of the agreement and an official copy of the grant of representation to the deceased's estate and of every testamentary document admitted to proof and stating–

- (a) whether the deceased died domiciled in Gibraltar;
- (b) the place and date of the marriage between the parties to the agreement;
- (c) the name of every child of the family and of any other child for whom the agreement makes financial arrangements; and
 - (i) the date of birth of each such child who is still living (or, if it be the case, that he has attained the age of 18) and the place where and the person with whom any such minor child is residing,
 - (ii) the date of death of any such child who has died since the agreement was made;
- (d) whether there have been in the Court any, and if so what, previous proceedings with reference to the agreement or to the marriage, or to the children of the family or any other children for whom the agreement makes financial arrangements, and the date and effect of any order or decree made in such proceedings;
- (e) whether there have been in the Court any proceedings by the applicant against the deceased's estate under the Inheritance (Provision for Family and Dependants) Act;
- (f) in the case of an application by the surviving party, the applicant's means;
- (g) in the case of an application by the personal representatives of the deceased, the surviving party's means, so far as they are known to the applicant, and the information mentioned in paragraphs (a), (b) and (c) of rule 78(2);
- (h) the facts alleged by the applicant as justifying an alteration in the agreement and the nature of the alteration sought;

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- (i) if the application is made after the end of the period of six months from the date on which representation in regard to the deceased's estate was first taken out, the grounds on which the Court's permission to entertain the application is sought.

(3) In this rule and the next following rule "the deceased" means the deceased party to the agreement to which the application relates.

Further proceedings on application under rule 77.

78.(1) The Court may at any stage of the proceedings direct that any person be added as a respondent to an application under rule 77.

(2) A respondent who is a personal representative of the deceased shall, within 14 days after the time limited for giving notice of intention to defend, file an affidavit in answer to the application stating—

- (a) full particulars of the value of the deceased's estate for probate, after providing for the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable thereout and interest thereon;
- (b) the person or classes of persons beneficially interested in the estate (giving the names and addresses of all living beneficiaries) and the value of their interests so far as ascertained; and
- (c) if such be the case, that any living beneficiary (naming him) is a child.

(3) If a respondent who is a personal representative of the deceased does not file an affidavit stating the matters mentioned in sub-rule (2) the Court may order him to do so.

(4) A respondent who is not a personal representative of the deceased may, within 14 days after the time limited for giving notice of intention to defend, file an affidavit in answer to the application.

(5) Every respondent who files an affidavit in answer to the application shall at the same time lodge a copy, which the proper officer shall serve on the applicant.

Investigation by the Court and other relevant orders.

79.(1) On or after the filing of a notice in FORM-M19 an appointment must be fixed for the hearing of the application by the Court.

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(2) An application for an avoidance of disposition order must, if practicable, be heard at the same time as any related application.

(3) Notice of the appointment must be given in FORM–M21 by the Registrar to every party to the application.

(4) Any party may apply to the Court for an order that any person do attend an appointment (an “inspection appointment”) before the Court and produce any documents to be specified or described in the order, the inspection of which appears to the Court to be necessary for disposing fairly of the application to which it relates or for saving costs.

(5) No person shall be required by an order under sub-regulation (4) to produce any document at an inspection appointment which he could not be required to produce at the final hearing of the application.

(6) The Court must permit any person attending an inspection appointment pursuant to an order under sub-regulation (4) to be represented at the appointment.

(7) At the hearing of an application to which this regulation applies the Court must, investigate the allegations made in support of and in answer to the application, and may take evidence orally and may at any stage of the proceedings, whether before or during the hearing, order the attendance of any person for the purpose of being examined or cross-examined and order the disclosure and inspection of any document or require further affidavits.

(8) The Court may at any stage of the proceedings give directions as to the filing and service of pleadings and as to the further conduct of the proceedings.

(9) Where any party to such an application intends on the day appointed for the hearing to apply for directions, he must file and serve on every other party a notice to that effect.

(10) Subject to any directions given by the Court, any party to an application to which this sub-regulation applies may by letter require any other party to give further information concerning any matter contained in any affidavit filed by or on behalf of that other party or any other relevant matter, or to provide a list of relevant documents or to allow inspection of any such document, and may, in default of compliance by such other party, apply to the Court for directions.

(11) The Court must, after completing his investigation under this regulation, make such order as he thinks just.

(12) Pending the final determination of the application, the Court may make an interim order upon such terms as he thinks just.

PART VII

Registration and Enforcement under the Council Regulation

Interpretation for Part VII.

80. In this Part, “judgment” is to be construed in accordance with the definition in Article 2(4) of the Council Regulation.

Filing of applications.

81. Every application to the Supreme Court under the Council Regulation, other than an application under rule 89 for a certified copy of a judgment, shall be filed with the Registrar.

Application for registration.

82. An application for registration of a judgment under Article 28(2) of the Council Regulation shall be made without notice being served on any other party.

Evidence in support of application.

83.(1) An application for registration under Article 28(2) of the Council Regulation must be supported by a statement that is sworn to be true or an affidavit—

- (a) exhibiting—
 - (i) the judgment or a verified or certified or otherwise duly authenticated copy thereof together with such other document or documents as may be requisite to show that, according to the law of the Member State in which it has been given, the judgment is enforceable and has been served;
 - (ii) in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document;
 - (iii) where it is the case, a document showing that the party making the application is in receipt of legal aid in the Member State in which the judgment was given;

- (iv) where the judgment or document is not in the English language, a translation thereof into English certified by a notary public or a person qualified for the purpose in one of the Member States or authenticated by witness statement or affidavit;
 - (v) the certificate, in the form set out in Annex I or Annex II of the Council Regulation, issued by the Member State in which judgment was given;
- (b) stating—
- (i) whether the judgment provides for the payment of a sum or sums of money;
 - (ii) whether interest is recoverable on the judgment or part thereof in accordance with the law of the State in which the judgment was given, and if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue;
- (c) giving an address within the jurisdiction of the court for service of process on the party making the application and stating, so far as is known to the witness, the name and the usual or last known address or place of business of the person against whom judgment was given; and
- (d) stating to the best of the information or belief of the witness—
- (i) the grounds on which the right to enforce the judgment is vested in the party making the application;
 - (ii) as the case may require, either that at that date of the application the judgment has not been satisfied, or the part or amount in respect of which it remains unsatisfied.
- (2) Where the party making the application does not produce the documents referred to in sub-rules (1)(a)(ii) and (iii), the court may—
- (a) fix a time within which the documents are to be produced;
 - (b) accept equivalent documents; or
 - (c) dispense with production of the documents.

Order for registration.

84.(1) An order giving permission to register a judgment under Article 28(2) of the Council Regulation must be drawn up by the court.

(2) Every such order shall state the period within which an appeal may be made against the order for registration and shall contain a notification that the court will not enforce the judgment until after the expiration of that period.

(3) The notification referred to in rule (2) shall not prevent any application for protective measures under Article 20 of the Council Regulation pending final determination of any issue relating to enforcement of the judgment.

Register of judgments.

85. There shall be kept in the Registry by the Registrar a register of the judgments ordered to be registered under Article 28(2) of the Council Regulation.

Notice of registration.

86.(1) Notice of the registration of a judgment under Article 28(2) of the Council Regulation must be served on the person against whom judgment was given by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the court may direct.

(2) Permission is not required to serve such a notice out of the jurisdiction and rule 14 shall apply in relation to such a notice.

(3) The notice of the registration must state—

- (a) full particulars of the judgment registered and the order for registration;
- (b) the name of the party making the application and his address for service within the jurisdiction;
- (c) the right of the person against whom judgment was given to appeal against the order for registration; and
- (d) the period within which an appeal against the order for registration may be made.

Enforcement of judgment.

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87.(1) A judgment registered under Article 28(2) of the Council Regulation shall not be enforced until after the expiration of the period specified in accordance with rule 84 or, if that period has been extended by the Court, until after the expiration of the period so extended.

(2) Any party wishing to apply for the enforcement of a judgment registered under Article 28(2) of the Council Regulation must produce to the proper officer a witness statement or affidavit of service of the notice of registration of the judgment and of any order made by the court in relation to the judgment.

(3) Nothing in this rule shall prevent the court from granting protective measures under Article 20 of the Council Regulation pending final determination of any issue relating to enforcement of the judgment.

Application for recognition or non-recognition.

88.(1) Registration of the judgment under these rules shall serve for the purposes of Article 21(3) of the Council Regulation as a decision that the judgment is recognised.

(2) Where it is sought to apply for recognition or non-recognition of a judgment under the Council Regulation, the rules of this Part shall apply to such application as they apply to an application for registration under Article 28(2) of the Council Regulation, with the exception that the applicant shall not be required to produce—

- (a) a document or documents which establish that according to the law of the Member State in which it has been given the judgment is enforceable and has been served; or
- (b) the document referred to in rule 83(1)(a)(iii).

Enforcement or Recognition of judgments in other Member States.

89.(1) An application for a certified copy of a judgment or certificate referred to in Articles 37(1) or 45(1) of the Council Regulation must be made to the court which made the order on a witness statement or affidavit without notice being served on any other party.

(2) A witness statement or affidavit by which an application for a certified copy of a judgment is made must—

- (a) give particulars of the proceedings in which the judgment was obtained;

- (b) have annexed to it a copy of the petition or application by which the proceedings were begun, the evidence of service thereof on the respondent, copies of the pleadings and particulars, if any, and a statement of the grounds on which the judgment was based together, where appropriate, with any document showing that the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings;
 - (c) state whether the respondent did or did not object to the jurisdiction, and, if so, on what grounds;
 - (d) show that the judgment has been served in accordance with the provisions of these Rules and is not subject to any order for the stay of proceedings;
 - (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been given; and
 - (f) state—
 - (i) whether the judgment provides for the payment of a sum of money;
 - (ii) whether interest is recoverable on the judgment or part thereof and if so, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue.
- (3) A witness statement or affidavit by which an application for a certificate is made must give—
- (a) particulars of the proceedings in which the judgment was obtained;
 - (b) the full name, country and place of birth and date of birth of the parties;
 - (c) details of the type of certificate applied for and the reasons for making the application; and
 - (d) where the application is for a certificate under Annex II to the Council Regulation—

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- (i) the full name, and if known, the address and the date and place of birth of any other person with parental responsibility;
- (ii) information as to whether or not the judgment entails the return of a child wrongfully removed or retained in another Member State and if so, the full name and address of the person to whom the child should be returned.

(4) The certified copy of the judgment shall be an office copy sealed with the seal of the court and signed by the district judge and there shall be issued with the copy of the judgment a certified copy of any order which has varied any of the terms of the original order.

Authentic instruments and court settlements.

90. Rules 80 to 89 (except rule 83(1)(a)(ii)) shall apply to an authentic instrument and a settlement to which Article 46 of the Council Regulation applies, as they apply to a judgment subject to any necessary modifications.

Service of a certificate under Articles 41 or 42 of the Council Regulation.

91.(1) The court will serve a certificate issued under Article 41 or 42 of the Council Regulation, or a certificate rectified under rule 95, on all the parties and the Central Authority of Gibraltar.

(2) The Central Authority of Gibraltar will serve such a certificate as mentioned in sub-rule (1) on the Central Authority of the relevant Member State.

Designation of the Central Authority and registration of certificates issued under Articles 41 or 42 of the Council Regulation.

92.(1) For the purposes of the Council Regulations and this Part of these Rules, the Minister for Justice shall be the Central Authority.

(2) The Central Authority shall keep a register of certificates issued under Articles 41 or 42.

Application of a party for transfer of proceedings to a court of another Member State.

93.(1) A party may make an application that proceedings, or a specific part of those proceedings, be heard in another Member State pursuant to Article 15 of the Council Regulation.

(2) An application under sub-rule (1) shall be made in the Supreme Court, by notice to attend before the judge on a day specified in the notice, and such notice shall be filed and served on the respondents not less than 5 days before the hearing of the application.

(3) An application made under sub-rule (1) must be supported by an affidavit, which shall contain evidence of the child's particular connection to the other Member State in accordance with Article 15(3) of the Council Regulation.

(4) The respondents referred to in sub-rule (2) are any other parties, the child and the Central Authority of the relevant Member State.

(5) In this rule references to the child are references to the child who is the subject of the parental responsibility proceedings.

Application by a court of another Member State for transfer of proceedings.

94.(1) A court of another Member State may make an application that proceedings, or a specific part of those proceedings, be heard in that Member State pursuant to Article 15 of the Council Regulation.

(2) An application under sub-rule (1) shall be made in the first instance to the Central Authority of Gibraltar.

(3) The Central Authority shall forward an application made under sub-rule (1) to the court in which the parental responsibility proceedings are pending, or where there are no pending proceedings to the principal registry.

(4) When a court receives the application the court shall serve all other parties in Gibraltar not less than 5 days before the hearing of the application.

(5) The hearing of the application shall be held before the Supreme Court.

(6) A decision to accept or refuse jurisdiction under Article 15 of the Council Regulation is to be served on all parties, the Central Authority of the relevant Member State and the Central Authority of Gibraltar and service on a Central Authority or court of another Member State shall be made by the Central Authority of Gibraltar.

Rectification of certificates issued under Articles 41 or 42.

95.(1) Where there is an error in a certificate issued under Articles 41 or 42 the Judge can rectify that error.

(2) A rectification under paragraph (1) may be made—

- (a) by the Judge of his own motion; or
- (b) pursuant to an application by—
 - (i) any party to the proceedings;
 - (ii) the Central Authority of Gibraltar; or
 - (iii) the Central Authority of another Member State.

(3) Any application under sub-rule (2)(b) may be made without notice being served on any other party.

PART VIII
Miscellaneous

Disclosure of addresses.

96.(1) Subject to rule 8, nothing in these Rules shall be construed as requiring any party to reveal the address of their private residence or that of any child save by order of the court.

(2) Where a party declines to reveal an address in reliance upon this rule, he shall give notice of that address to the court and that address shall not be revealed to any person save by order of the court.

Mode of making applications.

97. Except where these rules, or any rules applied by these rules, otherwise provide, every application in family proceedings—

shall be made by summons.

Amendment to rule 6 of the Supreme Court Rules 2000.

98. Rule 6(2) of the Supreme Court Rules 2000 is amended by deleting paragraph (b).

ORIGINATING SUMMONS

<p>In the Matter of a Proposed Petition by AB for the Dissolution of his (or her) Marriage with CD.</p>	<p>In the Supreme Court of Gibraltar</p>	
	<p>Application No.</p>	
	<p>Petitioner/Applicant (including ref)</p>	
	<p>Respondent/Defendant</p>	

LET.....of.....attend the Judge in Chambers at on the..... day of 20....., at.....o'clock in thenoon on the hearing of an application of for an order that the said.....may be at liberty to file a petition for the Dissolution of his (or her) marriage with the saidsolemnized 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 herewith.

You are required to complete the accompanying Form of Acknowledgment of Service (FORM-M3) and send it to the under-mentioned lawyer.

If you wish to be heard on the 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 Judge may think just and expedient.

Dated thisday of.....20.....

THIS SUMMONS was taken out by.....lawyer for the above-named.

Note:

1. You must complete the accompanying acknowledgement of service and send it so as to reach the Court within fourteen days after you receive this summons.

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2. In default of your giving notice of intention to defend the Court will proceed to hear and determine the application and make such order thereon as it may think fit, notwithstanding your absence.

3. If you intend to instruct a lawyer to act for you, you should at once give him all the documents served on you, so that he may take the necessary steps on your behalf.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

NOTICE OF APPLICATION/ PROCEEDINGS

**TAKE
NOTICE**

that a petition for divorce has been presented to the Court. A

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

sealed copy of it [and a copy of the petitioner's statement of arrangements regarding the children] is/ are delivered with this notice.

1. You must complete and detach the acknowledgement of service in FORM- M3 and send it so as to reach the Registry of the Supreme Court, Main Street, Gibraltar, within 14 days after you receive this notice, inclusive of the day of receipt. Delay in returning the form may add to the costs.
2. If you intend to instruct a Lawyer to act for you, you should at once give him all documents which have been served on you, so that he may send the acknowledgement to the Registrar on your behalf. If you do not intend to instruct a Lawyer, 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. Any change of address should be notified to the Registrar.

NOTES ON QUESTIONS IN FORM –M3

3. If you answer Yes to Question 4 or 7, you must within 35 days after you receive this notice, inclusive of the day of receipt, file in the Registry, an answer to the petition, and deliver a copy to every other party to the proceedings. The case will then be transferred to the Supreme Court.
4. Before you answer Yes to Question 5, you should understand that–
 - (a) you are under no obligation to answer this question but you may do so if you wish;
 - (b) the answer Yes will be treated by the Court as an admission on which the petitioner is entitled to rely and may result in an order for costs being made against you; and

- (c) if you are in any doubt about the answer to give you should consult a Lawyer.

5. Before you answer Yes to Question 6 you should understand that–

- (a) if the petitioner satisfies the Court that the petitioner and you have lived apart for 2 years immediately before the presentation of the petition and that you consent to a decree, the Court will grant one unless it considers that the marriage has not broken down irretrievably;
- (b) a decree absolute of divorce will end your marriage so that–
 - (i) any right you may have to a pension which depends on the marriage continuing will be affected;
 - (ii) you will not be able to claim a State widow's pension when the petitioner dies;
- (c) once the Court grants a decree absolute of divorce or a decree of judicial separation, you will lose your right to inherit from the petitioner if he or she dies without having made a will;
- (d) a decree may have other consequences in your case depending on your particular circumstances and if you are in any doubt about these you would be well advised to consult a Lawyer.

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

7. The petitioner relies in support of the petition on the fact that the parties to the marriage have lived apart for at least 3 years. Section 26A of the Matrimonial Causes Act provides that if in such a case the respondent applies to the Court for it to consider the respondent's financial position after the divorce, a decree nisi based on 3 years' separation only cannot be made absolute unless the Court is satisfied that the petitioner has made or will make proper financial provision for the respondent, or else that the petitioner should not be required to make any financial provision for the respondent. The petition will tell you whether the petitioner proposes to make any financial provision for you. It is important that you should consider this information carefully before answering Question 7 in the acknowledgement.

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- M9.

9.–

- (a) If you do not wish to defend the case but object to the claim for costs, you should answer Yes to Question 9 in the acknowledgement. You must state the grounds on which you object. An objection cannot be entertained unless grounds are given which, if established, would form a valid reason for not paying the costs. If such grounds are given, you will be notified of a date on which you must attend before the judge if you wish to pursue your objection.
- (b) If you do not object to the claim for costs but simply wish to be heard on the amount to be allowed, you should answer No to Question 9.
- (c) If you are ordered to pay costs, the amount will, unless agreed between the petitioner and yourself, be fixed by the Court, or will be taxed by the Commissioner of Income Tax, after lodgement of the petitioner's bill of costs. In the latter event, you will be sent a copy of the bill and will have the right to be heard about the amount before it is finally settled.

10. Please answer Question 10. If your answer to Question 10(b) is Yes make sure you sign the form at the end.

11. If you wish to make an application for–

- a residence order
- a contact order
- a specific issue order
- a prohibited steps order

in respect of a child you will have to make a separate application on the prescribed form under the Family Proceedings (Children) Rules 2010. Before you apply for any of these orders or any other order which may be available to you under the Children Act 2009 you are advised to see a Lawyer.

12. If you wish to contest the petitioner's financial or property claim, you will have an opportunity of doing so when you receive a notice stating that the petitioner intends to proceed with the claim. You will then be required to file an affidavit giving particulars of your property and income and be notified of the date when the claim is to be heard.

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13. If you wish to make some financial or property claim on your own account, you will have to make a separate application. If you are in doubt as to the consequences of divorce on your financial position, you should obtain legal advice from a Lawyer.

Dated this day of 20 .

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

FORM-M3

Rules 6(5), 7(3), 12, 13(3), 15(c), 16 and 19(3)

ACKNOWLEDGEMENT OF SERVICE

If you intend to instruct a Lawyer to act for you, give him this form immediately.

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Read carefully the Notice of Proceedings before answering the following questions.

1. Have you received the originating summons delivered with this form?
2. On what date and at what address did you receive it?
3. Are you the person named as Respondent?
4. Do you intend to defend the case?
5. [In the case of a petition alleging adultery] Do you admit the adultery alleged in the petition?
6. [In the case of a petition alleging 2 years' separation coupled with the respondent's consent to a decree being granted]. Do you consent to a decree being granted?
7. [In the case of a petition asking for divorce alleging 3 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. In the event of a decree nisi being granted on the basis of 2 years' separation, coupled with the respondent's consent, or 3 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, do you object to paying the costs of the proceedings? If so, on what grounds?

10.(a) Have you received a copy of the Statement of Arrangements for Children?

- (b) Do you agree with the proposals in that Statement of Arrangements? If not you may file a written statement of your own views on the present and proposed arrangements for the children. It would help if you sent that statement to the Court office with this form.

Dated this day of 20 .

Signed

Address for service [unless you intend to instruct a Lawyer] give your place of residence, or if you do not reside in Gibraltar, the address of a place to which documents may be sent to you. If you subsequently wish to change your address for service, you must notify the Registry of the Supreme Court.

[I am [We are] acting for the Respondent [or the above-named in this matter].

Signed

Address for service:

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

STATEMENT OF ARRANGEMENTS FOR CHILDREN

<p>To the Petitioner</p> <p>You must complete this form.</p>	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

If you or the respondent have any children

- under 16 or
- over 16 but under 18 if they are at school or college or are training for a trade, profession or vocation.

Please use black ink.

Please complete Parts I, II and III.

Before you issue a petition for divorce try to reach agreement with your husband/wife over the proposals for the children's future. There is space for him/her to sign at the end of this form if agreement is reached.

If your husband/wife does not agree with the proposals he/she will have an opportunity at a later stage to state why he/she does not agree and will be able to make his/her own proposals.

You should take or send the completed form, signed by you (and, if agreement is reached, by your husband/wife) together with a copy to the Court when you issue your petition.

Please refer to the explanatory notes issued regarding completion of the prayer of the petition if you are asking the Court to make any order regarding the children.

If you wish to apply for any of the orders which may be available to you under the *Children Act 2009* you are advised to see a Lawyer.

You should obtain legal advice from a Lawyer or, alternatively, from an advice agency. Addresses of Lawyers and the Gibraltar Citizen's Advice Bureau can be found in the telephone directory.

To the Respondent

The petitioner has completed Part I, II and III of this form which will be sent to the Court at the same time that the divorce petition is filed.

Please read all parts of the form carefully.

If you agree with the arrangements and proposals for the children you should sign Part IV of the form.

Please use black ink. You should return the form to the petitioner, or his/her Lawyer.

If you do not agree with all or some of the arrangements of proposals you will be given the opportunity of saying so when the divorce petition is served on you.

PART 1 – DETAILS OF THE CHILDREN

Please read the instructions for boxes 1, 2 and 3 before you complete this section.

1. Children of both parties *(Give details of any children born to you and the Respondent or adopted by you both)*

	Forenames	Surname	Date of Birth
(i)			
(ii)			
(iii)			
(iv)			
(v)			

2. Other children of the family *(Give details of any other children treated by both of you as children of the family: for example your own or the Respondent's)*

	Forenames	Surname	Date of birth	Relationship to Yourself Respondent

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- (i)
- (ii)
- (iii)
- (iv)
- (v)

**3. Other children who
are not children of
the family**

*(Give details of any children born to you or the
Respondent that have not been treated as children of
the family or adopted by you both)*

	Forenames	Surname	Date of Birth
--	-----------	---------	---------------

- (i)
- (ii)
- (iii)
- (iv)
- (v)

PART II – ARRANGEMENTS FOR THE CHILDREN OF THE FAMILY

This part of the form must be completed. Give details for each child if arrangements are different (if necessary, continue on another sheet and attach it to this form)

4. Home details

(Please tick the appropriate boxes)

(a) The addresses at which the children now live

(b) Give details of the number of living rooms, bedrooms, etc. at the addresses in (a)

(c) Is the house rented or owned and by whom?

Is the rent or any mortgage being regularly paid No Yes

(d) Give the names of all other persons living with the children including your husband/wife if he/she lives there. State their relationship to the children.

(e) Will there be any change in these arrangements? No Yes *(please give details)*

5. Education and training details*(Please tick the appropriate boxes)*

- (a) Give the names of the school, college or place of training attended by each child.

- (b) Do the children have any special educational needs? No Yes *(please give details)*

- (c) Is the school, college or place of training, fee-paying? No Yes *(please give details of how much the fees are per term / year)*

Are fees being regularly paid? No Yes *(please give details)*

- (d) Will there be any change in these arrangements? No Yes *(please give details)*

6. Childcare details*(Please tick the appropriate boxes)*

- (a) Which parent looks after the children from day to day? If responsibility is shared, please give details

- (b) Does that parent go out to work? No Yes *(please give details of his/her hour of work)*
- (c) Does someone look after the children when the parent is not there? No Yes *(please give details)*
- (d) Who looks after the children during school holidays?
- (e) Will there be any change in these arrangements? No Yes *(please give details)*

7. Maintenance

(Please tick the appropriate boxes)

- (a) Does your husband/wife pay towards the upkeep of the children? No Yes *(please give detail) of how much)*

If there is another source of maintenance, please specify.

- (b) Is the payment made under a Court order? No Yes *(please give details, including the name of the Court and the case number)*

(c) Has maintenance for the children been agreed with your husband/wife? No Yes

(d) Will you be applying for
 • a child maintenance order from the Court No Yes

8. Details for contact with the children *(Please tick the appropriate boxes)*

(a) Do the children see your husband/wife No Yes *(please give details of how often and where)*

(b) Do the children ever stay with your husband/wife No Yes *(please give details of how much)*

(c) Will there be any change to these arrangements? No Yes *(please give details of how much)*

Please give details of the proposed arrangements for

- the residence of your child;
and
- your child to see and or stay with your husband/wife

9. Details of health

(Please tick the appropriate boxes)

- (a) Are the children generally in good health? No Yes *(please give details of any serious disability or chronic illness)*
- (b) Do the children have any special health needs? No Yes *(please give details of the care needed and how it is to be provided)*

10. Details of Care and other Court proceedings

(Please tick the appropriate boxes)

- (a) Are the children in the care of the Care Agency, or under the supervision of a social worker or probation officer or equivalent? No Yes *(please give details including any Court proceedings)*
- (b) Are any of the children on the Child Protection Register? No Yes *(please give details of the local authority and the date of registration)*
- (c) Are there or have there been any proceedings in any Court involving the children, for example adoption, custody/residence, access/contact, wardship, No Yes *(please give details and send a copy of any order to the Court)*

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care, supervision or
maintenance?

PART III – TO THE PETITIONER

Conciliation

If you and your husband/wife do not agree about arrangements for the child(ren), would you agree to discuss the matter with the Conciliator/Mediator and your husband/wife? No Yes

Declaration

I declare that the information I have given is correct and complete to the best of my knowledge.

Signed.....(Respondent)

Date.....

PART IV – TO THE RESPONDENT

I agree with the arrangements and proposals contained in Part I and II of this form.

Signed.....(Petitioner)

Date.....

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The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

STATEMENT OF FINANCIAL INFORMATION

In the Supreme Court of Gibraltar	
Application/Case No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Please fill in this form fully and accurately. Where any box is not applicable write "N/A". You have a duty to the Court to give a full, frank and clear disclosure of all your financial and other relevant circumstances.

A failure to give full and accurate disclosure may result in any order the Court makes being set aside.

If you are found to have been deliberately untruthful, criminal proceedings for perjury may be taken against you.

You must attach documents to the form where they are specifically sought and you may attach other documents where it is necessary to explain or clarify any of the information that you give.

Essential documents, which **must** accompany this Statement, are detailed at questions 2.1, 2.2, 2.3, 2.14, 2.18 and 2.20.

If there is not enough room on the form for any particular piece of information, you may continue on an attached sheet of paper.

This statement must be sworn before an Officer of the Court, a Lawyer or a Commissioner for Oaths before it is filed with the Court or sent to the other party.

PART 1- GENERAL INFORMATION**1.1 Full Name**

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1.2 Date of Birth

Date	Mont h	Year

1.3 Date of Marriage

Date	Mont h	Year

1.4 Occupation

--

1.5 Date of separation

Date	Month	Year

Tick here if not applicable

1.6 Date of the:

Petition			Decree Nisi/Decree of Judicial Separation			Decree Absolute		
Date	Month	Year	Date	Month	Year	Date	Month	Year

1.7 If you have remarried, or will remarry, state the date

Date	Month	Year

1.8 Do you live with another person? Yes No

1.9 Do you intend to live with someone within the next six months? Yes No

1.1 Details of any children of the family

0

Full names	Date of Birth			With whom does the child live?
	Date	Month	Year	

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1.11 Give details of the state of health of yourself and the children

Yourself	Children

1.12 Give details of the present and proposed future educational arrangements for the children.

Present arrangements	Future arrangements

1.13 Give details of any Child Maintenance Orders or any agreement as to Child Maintenance made between the parties.

--

1.14 If this application is to vary an order, give details of

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the order that is to be varied and attach a copy of the order.

Give the reasons for asking for the order to be varied.

--

1.15 Give details of any other Court cases between you and your husband/wife, whether in relation to money, property, children or anything else.

Case No.	Court

1.16 Specify your present residence and the occupants of it and on what terms you occupy it (e.g. tenant, owner-occupier).

Address	Occupants	Terms of occupation

PART 2 FINANCIAL DETAILS

Capital: Realisable Assets

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**If you have obtained a valuation(s) within the last six months attach a copy (of each), If not, give your own estimate of the property value. A copy of your most recent mortgage statement is also required in relation to each mortgage.*

2.1 Give details of your interest in the matrimonial home.

Property name and address	Land Registry Title No.	Nature and extent of your interest (and that of any other person who may have an interest in it)	Property value

Mortgagee's name and address	Type of mortgage	Balance outstanding on any mortgage (including any penalties which would apply if property were sold now)	Total current value of your beneficial interest
1.			
2.			
Other			
NET value of your interest in the matrimonial home (A)			

2.2 Give details of all other properties, land and buildings in which

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**you
have an interest**

Property name(s) and address(es)	Land Registry Title No.	Nature and extent of your interest (and that of any other person who may have an interest in it)	*Property value
1.			
2.			
3.			
Mortgagee's Name(s) and address(es)	Type of mortgage	Balance outstanding on any mortgage (including any penalties which would apply if the property were sold now)	Total current value of your interest
1.			
2.			
3.			
TOTAL value of the above (not including the matrimonial home)			(B1)

2.3 Give details of all bank, building society and National Savings accounts, in credit, which you hold or have an interest in or have at any time in the last 12 months had any interest in. For joint accounts, give your interest and the name of the account holder.

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If the account is overdrawn, include in Liabilities section at 2.12. *You must attach your bank statements covering the last 12 months for each account listed.*

Name of bank or building society, including branch name	Type of account (e.g. current)	Account number	Name of other account holder (if applicable)	Balance at the date of this statement	Total current value of your interest
1.					
2.					
3.					
4.					
5.					
TOTAL value of your interest in ALL accounts					(B2)

2.4 Give details of all stocks, gilts and other quoted securities which you hold or have an interest in.

Do not include dividend income as this will be dealt with separately later on.

Name	Type	Size	Current Value	Total current value of your interest

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TOTAL value of your interest in ALL holdings				(B3)

2.5 Give details of all life insurance policies which you hold or in which you have an interest, including those that do not have a surrender value, for each policy.

Policy details, including name of company, policy type and number	If policy is charged, state in whose favour and amount of charge	Maturity date			Surrender value	Total current value of your interest
		Date	Month	Year		
<p><i>You must attach any surrender value quotations</i></p> <p>TOTAL value of your interest in ALL policies</p>						(B4)

2.6 Give details of all issues of National Savings Certificates which you hold or have an interest in.

Name of issue	Nominal amount	Current value	Total current value of your interest

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TOTAL value of ALL your certificates (B5)

2.7 Give details of all National Savings or Government of Gibraltar Bonds (including Premium Bonds) and other bonds which you hold or have an interest in.

Type of bond	Bond-holder's number	Current value	Total current value of your interest

TOTAL value of ALL your bonds (B6)

2.8 Give details of all monies which are OWED TO YOU. Include sums owed in director's or partnership accounts.

Brief description of debt	Balance outstanding	Total current value of your interest

TOTAL value of your interest in ALL debts owed to you (B7)

2.9 Give details of all cash savings held in excess of £300. You must state where it is held and the currency it is held in.

Where held	Amount	Currency	Total current value of your interest

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TOTAL value of ALL your cash			(B8)

2.10 Give details of personal belongings individually worth more than £500.

Include cars (gross value, collections, pictures, jewellery, furniture and household belongings (this list is not exhaustive).

Item	Sale value	Total estimated current value of your interest
TOTAL value of your interest in ALL personal belongings		(B9)

2.11 Give details of any other realisable assets not yet mentioned, for example, unit trusts, investment trusts, commodities, business expansion schemes and futures (this list is not exhaustive). This is where you must mention any other realisable assets.

Type	Current value	Total current value of your interest
TOTAL value of your interest in ALL other realisable assets		(B10)

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Now add together all the figures in the previous total boxes (b1 to B10) to give the TOTAL current value of ALL your interest in realisable assets. (B)

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PART 2 FINANCIAL DETAILS: *Capital: Liabilities*

2.12 Give details of any liabilities you have. Exclude mortgages on property dealt with above. Include money owed on credit cards and store cards, bank loans, hire purchase agreements and any overdrawn bank or building society accounts.

Liability (i.e. total amount owed, current monthly payments and term of loan/debt)	Current amount	Total current value of your share of the liability
TOTAL value of ALL your liabilities		(C1)

PART 2 FINANCIAL DETAILS: *Capital- Business Assets*

2.13 Give details of all your business interests. *You must attach a copy of the last 2 years, accounts and any other document on which you base your valuation.*

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Name and nature of your business	Your ESTIMATE of the current value of your interest	Your ESTIMATE of any possible tax payable on disposal	Basis of valuation (<i>No formal valuation is required at this time</i>)	What is the extent of your interest?	Total net current value of your interest
TOTAL current value of your interest in business assets (E)					

2.14 List any directorships you hold or have held in the last 12 months.

PART 2 FINANCIAL DETAILS : *Capital-Pensions (excluding Basic State Pensions)*

2.15 Give details of your pension interest.

If you have been provided with a valuation of your pension rights by the trustees or managers of the pension scheme you must attach it. Where the information is not available, give the estimated date when it will be available and attach the letter to the pension company or administrators from whom the information was sought. If you have more than one pension plan or scheme, you must provide the information in respect of each one, continuing, if necessary, on a separate piece of paper. If you have made Additional Voluntary Contributions or any Free Standing Additional Voluntary Contributions to any plan or scheme, you must give the information separately if the benefits referable to such contributions are separately recorded or paid. If you have more than one pension scheme you should reproduce the information for each scheme.

Information about the Scheme(s)

Name and address of scheme, plan or policy	
Your National Insurance number (if applicable)	
Number of scheme, plan or policy	
Type of scheme, plan or policy (<i>e.g. final salary, money purchase or other</i>)	

CETV – Cash Equivalent Transfer Value

CETV value	
The lump sum payable on death in service before retirement	
The lump sum payable on death in deferment before retirement	
The lump sum payable on death after retirement	

Retirement Benefits

Earliest date when benefit can be paid	
The estimated lump sum and monthly pension payable on retirement, assuming you take the maximum lump sum	monthly
The estimated monthly pension without taking any lump sum	

Spouse's Benefit

On death in service	
On death in deferment	
On death in retirement	

Defendant's Benefits

On death in service	
On death in deferment	
On death in retirement	

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TOTAL value of your pension assets (F)

PART 2 - FINANCIAL DETAILS: *Capital- Other Assets*

2.16 Give details of any other assets not listed above.

Include the following (this list is not exhaustive):

Unrealisable assets.

Share option scheme, stating the estimated net sale proceeds of the shares if the options were capable of exercise now, and whether any Tax would be payable.

Trust interests (including interests under a discretionary trust), stating your estimate of the value of the interest and when it its likely to become realisable. If you say it will never be realisable, or has no value, give your reasons.

Specify also any asset that is likely to be received in the foreseeable future, any assets held on your behalf by a third party and any assets not mentioned elsewhere in this form held outside Gibraltar.

Type of Asset	Value	Total net value of your interest

TOTAL value of your other assets (G)

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TOTAL value of your net assets (excluding pensions) (D+E+G) (H)

TOTAL value of your net assets (including pensions) (H+F) (I)

PART 2 FINANCIAL DETAILS *Income*

You must attach your last three payslips and your P7 and/or equivalent for the most recently completed financial year.

2.17 Earned Income. Give details of your gross and net income in the last financial year, and in the current financial year.

Job title/type of work	Nature of income (e.g. salary, bonus)	Last financial year		Current financial year <i>(estimated for the whole year)</i>	
		Gross	Net	Gross	Net

2.18 Additional Income: benefits etc. Give details and the value of all benefits in kind, perks, or other remuneration not disclosed elsewhere, received in the last financial year and current financial year.

Nature of income	Last financial year	Current financial year <i>(estimated for the whole year)</i>

2.19 Self-employed or partnership income. Give details of annual net profit or loss of the last two accounting years, your share of this figure and tax payable to date of the last accounts and the estimate of income since that date. State the date on which your accounting year begins. Year 2 should be the most recent year, Year 1 the previous year. Please state the “from” and “to” dates for the years concerned.

Nature of business	Nature of income and date your accounting year begins	Details of the last two accounting periods					
		Net profit/loss		Your share of profit/loss		Tax payable by you	
		Year 1	Year 2	Year 1	Year 2	Year 1	Year 2
	Net income SINCE date of last accounts and estimate for the whole year	Net Income	Estimate	<i>You must attach the accounts for the last two completed accounting years</i>			

2.2 Investment income (e.g. dividends, interest).
0 Give details of net income received in the last financial year, and in the current financial year, and state whether it was paid gross of net of income tax. You are not required to calculate any tax payable that may arise.

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Nature of income and the asset from which it derived	Paid gross or net (<i>delete that which is not applicable</i>)	Last financial year	Current financial year
		Gross / Net	

2.21 State benefits (including state pension). Give details of all state benefits received in the last 52 weeks.

Nature of income	Total income received in the last 52 weeks

2.22 Any other income. Give details of any other income (including benefits) received in the last 52 weeks.

Nature of income	Total income for the last 52 weeks

**PART 2 FINANCIAL
DETAILS:**

Summaries

2.23 Summary of your income

Your estimate of your current annual net income from all sources (2.18 – 2.23)	Your estimate of your net income from all sources for the next 52 weeks

2.24 Summary of financial information

	Reference of the section on this statement	Value
Net value of your interest in the matrimonial home	A	
Total current value of all your interest in the other realisable assets	B	
Total net value of your liabilities	C	
Total net value of our personal assets	D	
Total current value of your interest in business assets	E	
Total current value of your pension or transfer values	F	
Total value of your other assets	G	
Total value of your net assets (excluding pension)	H	

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Total value of your net assets <i>(including pension)</i>	I	
Your estimated net income for the next 52 weeks	J	

PART 3 REQUIREMENTS: *Income Needs*

3.1 Give the reasonable future income needs of yourself (e.g. housing, care etc.) and of any children living with you, or provided for by you.

This may be expressed as annual, monthly or weekly figures (state which), but you should not use a combination of any of these periods.

Item	<i>Income needs of yourself</i>	Amount
	Sub-total	
Item	<i>Income needs of child(ren) living with you, or provided by for by you</i>	Amount

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	Sub-total	
	Total income needs	

PART 3 REQUIREMENTS: *Capital Needs*

3.2 Give the reasonable future capital needs of yourself and of any children living with you, or provided for by you.

Item	<i>Income needs of yourself</i>	Cost
	Sub-total	
Item	<i>Income needs of child(ren) living with you, or provided by for by you</i>	Cost

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Sub-total	
Total capital needs	

PART 4 OTHER INFORMATION

4.1 State whether there has been any significant change in your net assets during the last 12 months, including any assets held outside Gibraltar (e.g. closure of any bank or building society accounts).

4.2 Give brief details of the standard of living enjoyed by you and your spouse during the marriage.

4.3 Are there any particular contributions to the family property and assets or outgoings, or to family life, that have been made by you, your partner or anyone else that you think should be taken into account? If so, give a brief description of the contribution, the amount, when it was made, and by whom.

4.4 Bad behaviour or conduct by the other party will only be taken into account in very exceptional circumstances when deciding how the assets should be divided after divorce. If you feel it should be taken into account in your case identify the nature of the behaviour or conduct. ALTERNATIVE – Do you wish such behaviour to be taken into account in this case?

4.5 Give details of any other circumstances which you consider could significantly affect the extent of the financial provision to be made by or for you or for any child of the family, e.g. earning capacity, disability, inheritance prospects or redundancy, remarriage and cohabitation plans, any contingent liabilities. (This list is not exhaustive).

4.6 If you have remarried (or intend to) or are living with another person (or intend to), give brief details so far as they are known to you, of his or her income and assets.

Annual Income	Assets
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Nature of income	Value (state whether gross or net, if known)	Item	Value (if known)
	gross / net		
	gross / net		
	gross / net		
	gross / net		
Total		Total	

PART 5 ORDER SOUGHT

5.1 If you are able to at this stage, specify what kind of orders you are asking the Court to make, and state whether at this stage you see the case being appropriate for a “clean break”. (A “clean break” means a settlement or order which provides, amongst other things, that neither you nor your spouse will have any further claim against the income or capital of the other party. A clean break does not terminate the responsibility of a parent to a child).

5.2 **If you are seeking a transfer or settlement of any property or other asset, you must identify the asset in question.

5.3 **If you are seeking a variation of a pre-nuptial or post-nuptial settlement, you must identify the settlement, by whom it was made, its trustees and beneficiaries, and state why you allege it is a nuptial settlement. .

5.4 **If you are seeking an avoidance of disposition order, you must identify the property to which the disposition relates ad the person or body in whose favour the disposition is alleged to have been made.

****IMPORTANT NOTE:** Where 5.2, 5.3 or 5.4 apply, you should seek legal advice before completing the sections.

SWORN confirmation of the information

I

*(the above-named
Applicant/Respondent)*

of

make oath and confirm that the information given above is a full, frank, clear and accurate disclosure of any financial and other relevant circumstances.

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Signed

Dated

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

**NOTICE OF APPLICATION FOR DECREE NISI TO BE MADE
ABSOLUTE**

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

TAKE NOTICE that the petitioner [or respondent] applies for the decree nisi pronounced in his (her) favour on the day of 20 , to be made absolute.

Dated this day of 20

Signed

[Lawyer for the] Petitioner [or Respondent]

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

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

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

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

Dated this day of 20

Note:

Divorce effects inheritance under a will.

Where a will has already been made by either party to the marriage then, from the above date on which the decree was made absolute, unless a contrary intention appears in the will–

- (a) any appointment of the former spouse as an executor or trustee or any conferment of a power of appointment on the former spouse takes effect as if the former spouse had died on the date on which the marriage is dissolved or annulled; and
- (b) any property comprising or included in a gift to the former spouse passes as if the former spouse had died on that date.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

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

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Referring to the decree made in this cause on the day of 20 , whereby it was ordered that the marriage in fact solemnized on the day of 20 at between the petitioner and the respondent [in the case of a void marriage be pronounced and declared to have been by law void and the said petitioner be pronounced to have been and to be free of all bond of marriage with the said respondent], [in the case of a voidable marriage be annulled] unless sufficient cause be shown to the Court within from the making thereof why the said decree should not be made absolute, and no such cause having been shown,

it is hereby certified that the said decree was on the day of 20 , made final and absolute [in the case of a void marriage and that the said marriage was by law void and that the said petitioner was and is free from all bond of marriage with the said respondent][in the case of a voidable marriage and that the said petitioner was from that date and is free from all bond of marriage with the said respondent].

Dated this day of 20

Note:

Divorce effects inheritance under a will.

Where a will has already been made by either party to the marriage then, from the above date on which the decree was made absolute, unless a contrary intention appears in the will-

- (a) any appointment of the former spouse as an executor or trustee is treated as if omitted; and
- (b) any gift in the will to the former spouse lapses.

Matrimonial Causes

1962-09

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
2010/156**

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

**NOTICE OF AN APPLICATION UNDER RULE 53 TO CONSIDER
THE FINANCIAL POSITION OF THE RESPONDENT AFTER
DIVORCE.**

The
marriage of
and

TAKE
NOTICE
that the
respondent
applies to

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

the Court under section 26A (2) of the Matrimonial Causes Act for the Court to consider the financial position of the respondent after the divorce.

The application will be heard on a date to be fixed [or if, in the case of an application made after a decree nisi], a date has been fixed by the Court in chambers at on day, the day of 20 , at o'clock.

TAKE NOTICE ALSO that you must within 14 days after you receive this notice, file in the Registry an affidavit giving full particulars of your property and income. You must at the same time send a copy of your affidavit to the [Lawyer for the] respondent.

If you wish to allege that the respondent has property or income, you should say so in your affidavit.

(Signed) Dated this day of 20 .
[Lawyer for the] Respondent

The Supreme Court office at _____ is open between __ am and __ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

Matrimonial Causes

1962-09

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
2010/156**

FORM-M10

Rules 56, 57(1) and 62(1)

Notice of (Intention to proceed with) an Application for Financial Relief

*(*delete as appropriate)*

The marriage of and

Take Notice that the

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Applicant intends **to apply** to the Court or **to proceed** with the application in the *(petition)(answer) for:

- an Order for maintenance pending suit
- a periodical payment order
- a secured payment order
- a lump sum order
- a property adjustment order

If an application is made for any periodical payments or secured periodical payments for the children:

and there is a written agreement made before
about maintenance for the benefit of children, **tick**
this box

and there is a written agreement made on or after
about maintenance for the benefit of children, **tick**
this box

but there is no agreement, tick any of the boxes below to show
if you are applying for payment:

- for a step-child or stepchildren
- to meet expenses arising from a child's disability;
- to meet expenses incurred by a child being
educated or training for work; or
- when either the child or the person with care of
the child or the absent parent of the child is not
habitually resident in Gibraltar.
- on some other ground (please specify)
or that

Signed:
(Applicant/Lawyer for the Applicant)

Dated:

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

NOTICE OF FIRST APPOINTMENT

(*delete as appropriate)

The marriage of and

TAKE NOTICE that

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

By [] you must file with the Court a statement which gives full details of your property and income. You must sign and swear the statement. At the same time each party must exchange a copy of the statement with the [legal representative of the] other party. You must use the standard form of statement (FORM-M5) which you may obtain from the Court office.

By [] you must file with the Court and the [legal representative of the] other party:

- (a) a concise statement of the apparent issues between yourself and the other party;
- (b) a chronology;
- (c) a questionnaire setting out the further information and documents you require from the other party, or a statement that no information or documents are required.

The First Appointment will be heard by

(the Judge in chambers) at

on 20

at [a.m.] [p.m.]

1962-09

Matrimonial Causes

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
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The probable length of the hearing is

You and your legal representative, if you have one, must attend the appointment. At the appointment you must provide the Court with a written estimate in FORM-M13 of any legal costs which you have incurred. Non-compliance may render you liable to costs penalties.

Signed:
(Applicant/Lawyer for the Applicant)

Dated:

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

Subsidiary
2010/156

FORM-M12

Rule 60(1)

NOTICE OF ALLEGATION IN PROCEEDINGS FOR FINANCIAL RELIEF

(*delete as appropriate) The marriage of and Take Notice that	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

The following statement has been filed in proceedings for financial relief:

Signed:

Dated:

*[Respondent/Lawyer for the Respondent]

If you wish to be heard on any matter affecting you in these proceedings you may intervene by applying to the Court for directions regarding:

- the filing and service of pleadings
- the conduct of further proceedings

You must apply for directions **within eight days** after you receive this Notice. The period of eight days includes the day you receive it.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

ESTIMATE OF FINANCIAL RELIEF COSTS UP TO THE DATE OF HEARING OR APPOINTMENT

Estimate of Costs (Financial Relief) of (Name of party)	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

the Applicant
 Respondent

Between

and

Estimate of costs relating to financial relief application for hearing on: []
Please note it is a requirement of the rules to provide full costs information to the Court.

(Does not include here costs incurred in respect of other aspects of the case, for example, the divorce proceedings, children matters, or injunction etc.)

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

Subsidiary
2010/156

SUMMARY OF COSTS ESTIMATE

	Prescribed rates for publicly funded services £	Indemnity Rates £
GRAND TOTAL (Box 7+ Box 14)		
State what has been paid towards the grand total above		
Amount of any contributions paid by the funded client towards their publicly funded services		

Signature of Lawyer(or party, if not repres)

Dated:

Name of firm

Ref:

SECTION A:

Costs incurred in the Financial Relief prior to issue of FORM-M10

PART 1

	Prescribed rates for publicly funded services £	Indemnity Rate £
1. Financial Relief Lawyer's costs incurred by any previous Lawyers.		
2. Financial Relief Lawyer's costs incurred by the current Lawyers.		
3. Disbursements incurred by		

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010Subsidiary
2010/156

any previous Lawyers.		
4. Disbursements incurred by current Lawyers.		
5. All counsel's fees		
SUB-TOTAL		

PART 2

6. Add any private client costs previously incurred (in publicly funded cases only)		
---	--	--

7. TOTAL OF SECTION A		
-----------------------	--	--

SECTION B:

Costs incurred in the Financial Relief proceedings after issue of FORM-M10

PART 3

	Prescribed rates for publicly funded services £	Indemnity Rate £
8. Financial Relief Lawyer's costs incurred by any previous Lawyers		
9. Financial Relief Lawyers' costs (including costs of the current hearing) incurred by the current Lawyers		
10. Disbursements incurred by any previous Lawyers		
11. Disbursements incurred by current Lawyers		
12. All counsel's fees		

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

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SUB-TOTAL		
-----------	--	--

PART 4

13. Add any private client costs previously incurred (in publicly funded cases only).		
14. TOTAL OF SECTION B		

Signed:
(Applicant/Lawyer for the Applicant/Respondent)

Dated:

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

FULL PARTICULARS OF ALL FINANCIAL RELIEF COSTS

		In the Supreme Court of Gibraltar	
Statement of Costs (Financial Relief) of		Application No.	
		Petitioner/Applicant (including ref)	
		Respondent/Defendant	
	<input style="width: 150px; height: 15px;" type="text"/>		
(Name of party)			

Applicant

Respondent

Between

and

Statement of costs relating to ancillary application for hearing on: []

Please Note: It is a requirement of the rules to provide full costs information to the Court.

(Do not include in this form costs incurred in respect of other aspects of the case, for example, divorce proceedings, children matters, inspections, etc)

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

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Description of fee earner:

(a) Name: Status: Hourly Rate Claimed: £

(b) Name: Status: Hourly Rate Claimed: £

(c) Name: Status: Hourly Rate Claimed: £

(d) Name: Status: Hourly Rate Claimed: £

SUMMARY OF COSTS STATEMENT

	Prescribed rates for publicly funded services £	Indemnity Rate £
TOTAL SECTION A (Box 7)		
TOTAL SECTION B (Box 14)		
TOTAL SECTION C (Box 21)		
TOTAL SECTION D (Box 25)		
TOTAL SECTION E (Box 26)(if completed)		
GRAND TOTAL (A+B+C+D+E)		
State what has been paid towards the grand total above		
Amount of any contributions paid by the refunded client towards their publicly funded services		

Signature of Lawyer

(or party, if not represented)

Dated:

Name of firm

Re

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010**Subsidiary
2010/156****SECTION A:**

Costs incurred in the Financial Relief proceedings prior to issue of FORM-M10

PART 1

	Prescribed rates for publicly funded services £	Indemnity Rate £
1. Financial Relief Lawyer's costs incurred by any previous Lawyers.		
2. Financial Relief Lawyer's costs incurred by the current Lawyers.		
3. Disbursements incurred by any previous Lawyers.		
4. Disbursements incurred by current Lawyers.		
5. All counsel's fees		
SUB-TOTAL		

PART 2

6. Add any private client cost previously incurred (in publicly funded cases only)		
7. TOTAL OF SECTION A		

SECTION B:

Costs incurred in the Financial Relief proceedings after issue of FORM-M10 up to the date of the last Form-M13).

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

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PART 3

	Prescribed rates for publicly funded services £	Indemnity Rate £
8. Financial Relief Lawyer's costs incurred by any previous Lawyers.		
9. Financial Relief Lawyer's costs incurred by the current Lawyers.		
10. Disbursements incurred by any previous Lawyers.		
11. Disbursements incurred by current Lawyers.		
12. All counsel's fees		
SUB-TOTAL		

PART 4

13. Add any private client costs previously incurred (in publicly funded cases only).		
14. TOTAL OF SECTION B		

SECTION C:

Costs incurred in the Financial Relief proceedings after the date of the last FORM –M13 up to the date of this form.

PART 5

	Prescribed rates for publicly funded services £	Indemnity Rate £
15. Financial Relief Lawyer's costs incurred by any previous Lawyers.		
16. Financial Relief Lawyer's costs incurred by the current Lawyers.		
17. Disbursements incurred by any previous Lawyers.		
18. Disbursements incurred by current Lawyers.		
19. All counsel's fees (Counsel's fees for final hearing should not be included here, but given in Section D)		
SUB-TOTAL		

PART 6

20. Add any private client costs previously incurred (in publicly funded cases only)		
21. TOTAL OF SECTION C		

SECTION D:

Estimate of costs expected and incurred in the Financial Relief proceedings after the date of this form up to the end of the final hearing.

PART 7

	Prescribed rates for publicly funded services £	Indemnity Rate £
22. Financial Relief Lawyer's costs		
23. Disbursements		
24. Counsel's fees (All counsel's fees expected to be incurred for final hearing should be included here.)		
11. Disbursements incurred by current Lawyers.		
23. TOTAL OF SECTION D		

SECTION E:

Estimate of costs to be incurred implementing proposed order for financial relief.

(Note: Include only those costs which it is known or anticipated will be incurred in giving effect to the order. If the work to be carried out is only conveyancing, the prescribed rates for public funding services do not apply.)

PART 8

	Prescribed rates for publicly funded services £	Indemnity Rate £
26. TOTAL OF SECTION E (Total estimated costs of implementing proposed order)		

The Supreme Court office at _____ is open between __ am and __ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

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Matrimonial Causes

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
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If you do not do so, your correspondence may be returned.

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

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FORM-M15

Rule 69(2)

NOTICE OF A REQUEST FOR PERIODICAL PAYMENTS ORDER AT SAME RATE AS ORDER FOR MAINTENANCE PENDING SUIT OR OUTCOME OF PROCEEDINGS

*(delete as appropriate) The marriage of and TAKE NOTICE that	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

On _____ * [19] [20] the Applicant obtained an Order for you to pay maintenance pending suit at the rate of £

The Applicant having applied in his/her petition (answer) for a Periodical Payments Order for himself/herself has requested the Court to make such an Order at the same rate as above.

Signed (the Judge)

Dated:

What to do if you object to this Order being made.

If you object to the making of such a Periodical Payments Order, you must notify the Court and the Applicant/Respondent of your objections within 14 days of this notice being served on you. If you do not do so, the Court may make an Order without notifying you further.

The Supreme Court office at _____ is open between __ am and __ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

**PENSION SHARING ANNEX UNDER SECTION 46B OF THE
MATRIMONIAL CAUSES ACT**

(*delete as appropriate)

In the Supreme Court of Gibraltar	
Application No.	
Between	Petitioner/Applicant (including ref)
(Petitioner)	Respondent/Defendant
And	

(Respondent)

Take Notice that

on _____ the Court
made a pension sharing order under Part VIIA of the Matrimonial Causes Act.

*[varied] [discharged] an order which included provision for pension sharing under Part VIIA of the Matrimonial Causes Act and dated.....

The annex to the order provides the person responsible for the pension arrangement with the information required by virtue of rules of Court.

A. Transferor’s Details:

- (i) The full name by which the Transferor is known:
- (ii) All names by which the Transferor has been known:
- (iii) The Transferor’s date of birth:
- (iv) The Transferor’s address:

B. Transferee’s Details:

- (i) The full name by which the Transferee is known:

- (ii) All names by which the Transferee has been known:
- (iii) The Transferee’s date of birth:
- (iv) The Transferee’s address:
- (v) If the Transferee is also a member of the pension scheme from which the credit is derived, or a beneficiary of the same scheme because of survivor’s benefits, the membership number:

C. Details of the Transferor’s Pension Arrangement:

- (i) Name of the arrangement:
- (ii) Name and address of the person responsible for the pension arrangement:
- (iii) Policy Reference Number:
- (iv) If appropriate, such other details to enable the pension arrangement to be Identified:

D. Pension Sharing Charges

It is directed that

*The pension sharing charges be apportioned between the parties as follows:

or

*The pension sharing charges be paid in full by the Transferor.

(*delete as appropriate)

E. Have you filed FORM-M23 (Statement of Information for a Consent Order)* under rule 61? Yes No

If Yes delete the text opposite

The parties certify that:

- (i) they have received the information required by regulation 7 of the Pensions on Divorce etc. Regulations 2010;

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
2010/156**

- (ii) that information is attached on FORM–M18 (Pension Inquiry Form); and
- (iii) it appears from that information that there is power to make an order including provision under section 46B of the Matrimonial Causes Act.

F. In cases where the transferee has a choice of an internal or external transfer. If the transferee has indicated a preference, indicate what it is. Information for a Consent Order)*

Internal Transfer	<input type="checkbox"/>	External Transfer	<input type="checkbox"/>
-------------------	--------------------------	-------------------	--------------------------

G. In the case of external transfer only (recommended but optional information)

- (i) The name of the qualifying arrangement which has agreed to accept the pension credit:
- (ii) The address of the qualifying arrangement;
- (iii) If known, the Transferee’s membership or policy number in the qualifying arrangement and reference number of the new provider:
- (iv) The name or title, business address, phone and fax numbers and email address of the person who may be contacted in respect of the discharge of liability for the pension credit on behalf of the Transferee:
- (v) Please attach a copy of the letter from the qualifying arrangement indicating its willingness to accept the pension credit.

Please complete boxes H to J where applicable.

- | | | | | |
|---|-----|--------------------------|----|--------------------------|
| <p>H. Where the credit is derived from an occupational Scheme which is being wound up, has the Transferee indicated whether he wishes to transfer his pension credit rights to a qualifying arrangement.</p> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| <p>I. Where the pension arrangement has requested details of the Transferor’s health has that information been provided?</p> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| <p>J. Where the pension arrangement has requested further information has that information been provided?</p> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

Note: Until the information requested in A, B (and as far as applicable G, H I and J) is provided the pensioner sharing order cannot be implemented

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

Subsidiary
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although it may be made. Even if all the information requested has been provided further information may be required before implementation can begin. If so, reasons why implementation ceased begin should be sent to the pension arrangement to the Transferor and Transferee within 21 days of receipt of the pension sharing order and this annex.

THIS ORDER TAKES EFFECT FROM the date on which the Decree Absolute of Divorce or Nullity of marriage is granted or if later, either:

- (a) 21 days from the date of this order, unless an Appeal has been lodged, in which case; or
- (b) the effective date of the order determining that appeal.

To the person responsible for the pension arrangement:

*(delete as appropriate)

Take notice that you must discharge your liabilities within the period of 4 months beginning with the later of -

- the day on which this order takes effect, or
- the first day on which you are in receipt of—
 - a. the pension sharing order including this annex and where appropriate any attachment;
 - b. in a matrimonial cause, a copy of the decree of divorce or nullity of marriage and a copy of the certificate that the decree has been made absolute;
 - c. the information specified in paragraph A, B and C of this Annex and, where applicable, paragraphs G to J of this annex; and
 - d. payment of all outstanding charges requested by the pension scheme.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

PENSION SHARING ANNEX UNDER SECTION 46F OR 46G OF THE MATRIMONIAL CAUSES ACT

<i>(*delete as appropriate)</i> Between (Petitioner)	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

And

(Respondent)

TAKE NOTICE that

On _____ **the Court**

- Made an order including provision under section [*46F] [46G] of the Matrimonial Causes Act.
- *[varied] [discharged] an order which included provision under section*[46F][46G] of the Matrimonial Causes Act and dated.....

The annex to the order provides the pension arrangement with the information required by virtue of rules of Court.

1. Name of the party with the pension rights:
2. Name of the other party:
3. Details of the Pension Agreement:-
 - (i) Name and address of the person responsible for the pension arrangement.
 - (ii) Policy Reference Number

- (iii) if appropriate, such other details to enable the pension arrangement to be identified

4 .

- (i) To be completed where a Periodical Payments order is made under s.46F of the Matrimonial Causes Act.

The specified percentage of any payment due to the party with the pension rights that is to be paid for the benefits of the other party. %

- (ii) To be completed where the Court orders that the party with pension rights commutes a percentage of his pension to a tax free lump sum on retirement under section 46F of the Matrimonial Causes Act.

- (a) the specified percentage of the maximum lump sum available that is to be commuted: %

- (b) the specified percentage of the commuted sum which is to be paid to the spouse or the former spouse of the party with pension rights:

- (iii) To be completed where the Court orders under section 46G of the Matrimonial Causes Act, that all or part of a lump sum payable to the party with pension rights in respect of his death be paid to the other party.

- (a) the percentage of the lump sums to be paid by the person responsible for the pension arrangement to the other party: %

- (b) the percentage of the lump sums payable in accordance with a nomination by the party with pension rights to the other party: %

- (c) the percentage of the lump sum to be paid by the person responsible for the pension arrangement for the benefit of the other party: %

To the person responsible for the pension arrangement:

*(*Delete if the information has already been provided to the person responsible for the pension arrangements)*

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

**Subsidiary
2010/156**

1. *You are required to serve any notice under the Pension on Divorce etc Regulations 2010 on the other party at the following address:

2. *You are required to make any payments due under the pension arrangement to the other party at the following address:

3. * If the address at 2. above is that of a bank, building Society or the Department of National Savings the following details will enable you to make payment into the account of the other party (e.g Account Name, Number, Bank/Building Society etc Sort code)

Note: Where the order to which this annex applies was made by consent the following section should also be completed.

The Court also concerns:
(*Delete as appropriate)

*That notice has been served on the person responsible for the pension arrangement and that no objection has been received.

*That notice has been served on the person responsible for the pension arrangement and that the Court has considered any objection received.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

Matrimonial Causes

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FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010

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FORM-M18

Rule 65(2)

PENSION INQUIRY FORM INFORMATION NEEDED WHEN A PENSION SHARING ORDER OR PENSION ATTACHMENT ORDER MAY BE MADE

(*delete as appropriate)

	In the Supreme Court of Gibraltar	
Between	Application No.	
(Petitioner)	Petitioner/Applicant (including ref)	
And	Respondent/Defendant	
	(Respondent)	

A. To be completed by Pension Scheme member or policy holder:

1. Name of pension scheme member or polity holder.

Address:

Reference.

2. Lawyer's details:

Address

Reference

Tel

3. Address to which the forms should be sent once completed if different from 2 above.

Signature
of Pension Scheme member or policy holder

FAMILY PROCEEDINGS (MATRIMONIAL CAUSES) RULES 2010**Subsidiary
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(The scheme member's signature is necessary to authorise the release of the requested information, unless a Court order requiring the information is attached to this form).

B. To be completed by the pension arrangement.

This section deals with information required to be provided under the regulations 5 and 6 of the Pension on Divorce etc Regulations 2010 and rule 68(2) of the Family Proceedings (Matrimonial Causes) Rules 2010. If a request for a Cash Equivalent Transfer Value has been made, the pension arrangement has 3 months to provide the information or 6 weeks if notified that the information is needed in connection with matrimonial proceedings, or such shorter time as notified by the Court. Otherwise, the information should be provided within one month or such shorter time as notified by the Court. The valuation referred to in paragraph 1(a) below must have been made not more than 12 months before the date fixed for the first appointment.

If this information has already been prepared in a standard form please send this instead.

1.(a) Please confirm that you have already provided a valuation of the member's pension rights to the scheme member or to the Court. Yes No

(b) If the answer to (a) is No, details of the CETV quotation should be attached and the date on which it was calculated.

2. Provide a statement summarising the way in which the valuation referred to above has been or will be calculated.

3. State the pension benefits included in the valuation referred to in B1 above.

4.

(a) Does the person responsible for the pension arrangement offer scheme membership to the person entitled to a pension credit? Yes No

(b) If Yes, does this depend on employer and/or trustee approval? Yes No

5. If the answer to 4(a) is Yes, what benefits are available to the person with the pension credit?

6. Charging Policy

Does the arrangement charge for providing information or implementing a pension sharing order? Yes No

If Yes, please provide a list of charges. Indicate when these must be paid and whether they can be paid directly from benefits held in the scheme or policy, or the pension credit.

C. To be completed by the pension arrangement.

This information is required to be provided by the pension arrangement under regulation 7 of the Pension on Divorce etc. Regulations 2010 within 21 days of being notified that a pension sharing order may be made. If such notification has not already been given, please treat this document as notification that such an order be made. Alternatively the Court may specify a date by which this information should be provided.

If this information has already been prepared in a standard form please send this instead.

1. The full name of the pension arrangement and address to which pension sharing order should be sent.

Does the arrangement charge for providing information or implementing a pension sharing order? Yes No

If Yes, please

When did the winding up commence, and give the name and address of the trustees who are dealing with the winding up.

3. In the case of an occupational pension scheme only assuming that a calculation of the member's CETV was carried out on the day the Yes No

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pension scheme received modification that a pension sharing order may be made, would that CETV be reduced?

4. As far as you are aware are the member's rights under the pension scheme subject to any of the following:

A pension sharing order Yes No

A pension attachment order made under section 34 of the Matrimonial Causes Act 1973 Yes No

A forfeiture order Yes No

A bankruptcy order Yes No

6. Does the pension arrangement propose to levy additional charges specified in regulation 24 of the Pension on Divorce etc. Regulations 2010? Yes No
If yes, please provide the scale of the additional charges likely to be made.

7. Is the scheme member a trustee of the pension scheme? Yes No

8. If a pension sharing order is made, will the person responsible for the pension arrangement require information regarding the scheme member's state of health before implementing the pension Sharing order?

Yes

No

9. Does the person responsible for the pension sharing arrangement require any further information other than that contained in regulation 8 of the Pensions on Divorce etc. 2010, before implementing any Pension Sharing Order?

Yes

No

D. To be completed by the pension arrangement.

The following information should be provided if the scheme member requests it or the Court orders it pursuant to its powers under the Pension on Divorce etc Regulations 2010. Please note that pension arrangements may make an additional charge for providing this information.

1. Disregard any future service or premiums that might be paid and future inflation, what is the largest lump sum payment that the member would be entitled to take if she/he were to retire at a normal retirement age?

2. What is the earliest date on which the member has the right to take benefits, excluding retirement on grounds of ill health?

3. Are spouse's benefits payable? Yes No

4. What lump sum would be payable on death at the date of completion of this form?

5. What proportion of the member's pension would be payable as of right to the spouse or civil partner of the member if the member were to die-

- (a) before retirement, and
- (b) after retirement, disregarding any future service or premiums that might be paid and future inflation?

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2010/1566. Is the pension in payment, drawdown or
deferment?

Yes

No

If Yes, which?

7. Please provide a copy of the scheme booklet.

I. Where the pension arrangement has
requested details of the Transferor's health has
that information been provided?

Yes

No

J. Where the pension arrangement has
requested further information has been
provided? Yes

No

Note: Until the information requested in A, B (and as far as applicable G, H I and J) is provided the pensioner sharing order cannot be implemented although it may be made. Even if all the information requested has been provided further information may be required before implementation can begin. If so, reasons why implementation ceased begin should be sent to the pension arrangement to the Transferor and Transferee within 21 days of receipt of the pension sharing order and this annex.

THIS ORDER TAKES EFFECT FROM the date on which the Decree Absolute of Divorce or Nullity of marriage is granted or if later, either:

- a. 21 days from the date of this order, unless an appeal has been lodged, in which case; or
- b. the effective date of the order determining that appeal.

To the person responsible for the pension arrangement:

*(delete as appropriate)

*the day on which this order takes effect, or

*the first day on which you are in receipt of—

- a. the pension sharing order including this annex and where appropriate any attachment;
- b. in a matrimonial cause, a copy of the decree of divorce or nullity of marriage and a copy of the certificate that the decree has been made absolute;

- c. the information specified in paragraph A and B of this annex and, where applicable, paragraphs G to J of this annex; and
- d. payment of all outstanding charges requested by the pension scheme.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

ORIGINATING APPLICATION ON GROUND OF FAILURE TO PROVIDE REASONABLE MAINTENANCE.

*(*delete as appropriate)*

<i>In the Matter of an Application under section 40 of the Matrimonial Causes Act.</i>	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

Between **(Applicant)**

And **(Respondent)**

I, _____ of,
 _____, the
 [Wife] [husband] _____ of
 (hereinafter called the ‘respondent’) say that the respondent has failed to provide reasonable maintenance for myself [and has failed to provide, or to make proper contributions towards, maintenance for the child[ren] of our family, namely _____] and I apply for an order for [here set out the financial relief claimed and any order for residence claimed under the Children Act 2009].

My address for service is [where the applicant sues by a Lawyer, state the Lawyer’s name or firm and address or, where the applicant sues in person, state her place of residence as given above, or, if, no place of residence in Gibraltar is given, the address of a place in Gibraltar at or to which the documents for her may be delivered or sent].

Dated:

The Supreme Court office at _____ is open between ___ am and ___ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

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**ORIGINATING APPLICATION FOR ALTERATION OF
MAINTENANCE AGREEMENT DURING PARTIES' LIFETIME**

(*delete as appropriate)

In the Matter of an Application by section 65 of the Maintenance Act

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Between (Petitioner)

And (Respondent)

1. I, _____, the *[wife] [or husband] of _____ (hereinafter called 'the respondent'), apply for an order altering the maintenance agreement made between me and the respondent on the _____ day of _____ 20____,

2. I reside at _____, and the respondent at resides at _____. [Add, unless both parties are resident in Gibraltar. We are both domiciled in [or as the case may be].

3. On the _____ day of _____ 20____, I was lawfully married to the respondent at _____ [or in the case of an application by the husband The respondent] was then [state full name and status of wife before marriage].

4. There is *[are] [no [or state number] child[ren] of the family [namely [state the full name (including surname) of each child now living and his date of birth or, if it be the case, that he is over 18 and, in the case of each child over the age of 16, whether he is or will be, or if an order or provision were made would be, receiving instruction at an education establishment or undergoing training for a trade, profession or vocation] who is now residing at [state the place] with [state the person] [and [state name of any child who has died since the date of the agreement] who died on the _____

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day of 20 .] [The agreement also makes financial arrangements for [give similar particulars of any other child for whom the agreement makes such arrangements]].

5. There have been no previous proceedings in any court with reference to the agreement or to the marriage [or to the child(ren) of the family] [or to the other child(ren) for whom the agreement makes financial arrangements] or between the applicant and the respondent with reference to any property of either or both of them [except *state the nature of the proceedings and the date and effect or any order or decree*].

6. My means are as follows—

7. I ask for the following alteration(s) to be made in the agreement—

8. The facts on which I rely to justify the alteration(s) are—

My address for service is [*where the applicant sues by a Lawyer, state the Lawyer's name or firm and address, or, where the applicant sues in person, state his or her place of residence as given in paragraph 2 or, if no place of residence in Gibraltar is given, the address of a place in Gibraltar at or to which documents for him or her may be delivered or sent*].

Dated this day of 20 .

The Supreme Court office at _____ is open between __ am and __ pm Monday to Friday. When corresponding with the Court, please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

**ORIGINATING APPLICATION FOR ALTERATION OF
MAINTENANCE AGREEMENT AFTER DEATH OF ONE OF THE
PARTIES**

<p>(*delete as appropriate)</p> <p>In the Matter of an Application by Section 66 of the Maintenance Act</p>	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

Between _____ **(Petitioner)**

And
(Respondent)

Let _____ of _____ attend before the Supreme Court _____ in chambers at the Registry on _____ day, the _____ day of _____ 20 , at _____ o'clock, on the hearing of an application by _____ that the agreement made on the _____ day of _____ 20 , between [the applicant and] _____ who died on the _____ day of _____ 20 , [and the respondent] should be altered as shown in the affidavit accompanying this summons so as to make different {or contain} financial arrangements.

Dated this _____ day of _____ 20 .

This summons was taken out by Lawyer for the above-named applicant[s].

To the Respondent,

TAKE NOTICE that

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

2. You must complete the accompanying acknowledgement of service and send it so as to reach the Court within eight days after you receive this summons.

3. [*If the respondent is a personal representative of the deceased:* You must also file an affidavit in answer to the applicant's application containing full particulars of the deceased's estate for probate, after providing for the discharge of the funeral, testamentary and administration expenses, debts and liabilities, including the amount of the estate duty and interest thereon, and the persons or classes of persons beneficially interested in the estate, with the names and addresses of all living beneficiaries and stating whether any beneficiary is a minor or incapable, by reason of mental disorder, of managing and administering his property and affairs.]

[*Or, if the respondent is not a personal representative of the deceased:* You may also file an affidavit in answer to the application.]

[*Add, in either case;* The affidavit must be filed by sending or delivering it, together with a copy for the applicant, so as to reach the Court within 14 days after the time allowed for sending the acknowledgement of service.]

4. If you intend to instruct a Lawyer to act for you, you should at once give him all the documents which have been served on you, so that he may take the necessary steps on your behalf.

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

NOTICE OF PROCEEDINGS AND ACKNOWLEDGEMENT OF SERVICE

<p>(*delete as appropriate)</p> <p>*[In the Matter of an Application under section 40</p>	In the Supreme Court of Gibraltar	
	Application No.	
	Petitioner/Applicant (including ref)	
	Respondent/Defendant	

of the Matrimonial Causes Act]

*[In the Matter of an Application under section 65 of the Maintenance Act]

Between (Applicant)

and
(Respondent)

You should read carefully this Notice of Proceedings before answering the questions that follow.

NOTICE OF PROCEEDINGS

TAKE NOTICE THAT an application

[in case of a failure to provide reasonable maintenance]

[for alteration of a maintenance agreement during the lifetime of the parties]

has been presented to the Court. A sealed copy of the application and a copy of the applicant's affidavit in support are delivered with this notice.

1. You must complete the acknowledgement of service and send it so that it reaches the Court within 14 days after you receive this notice. Delay in returning this form may add to the costs.

2. If you intend to instruct a Lawyer to act for you, you should at once give him all the documents that have been served on you, so that he may send the acknowledgement to the Court on your behalf. If you do not intend to instruct a Lawyer, you should give an address in the acknowledgement of service so that any documents affecting your interests which are sent to you will, in fact, reach you. This address should be your place of residence or, if you do not reside in Gibraltar the address of a place in Gibraltar to which documents may be sent to you. Please make certain that you notify the Court immediately if you change your address.

3. Where the application is for failure to provide reasonable maintenance and you wish to challenge the jurisdiction of the Court to hear the application, you must file in the Court an affidavit setting out the grounds of your challenge. Where you do not wish to challenge the jurisdiction of the Court (or where the Court decides the question of jurisdiction in the applicant's favour) you must file an affidavit stating:

- (a) whether the alleged failure is admitted or denied, and if denied the grounds on which you rely;
- (b) any allegation which you wish to make against the applicant; and
- (c) full particulars of your property and income, unless otherwise directed.

In either case the affidavit must be sent, together with a copy for the applicant, so as to reach the Court within 14 days after the time allowed for sending the acknowledgement of service (or, if you have unsuccessfully challenged the jurisdiction, within 14 days after the Court has decided that the necessary jurisdiction exists). If you include in your affidavit an allegation of adultery with a named person, the affidavit must be accompanied by an extra copy for service on that person.

4. Where the application is for alteration of a maintenance agreement and you wish to defend the application you must file an affidavit in answer to the application, setting out any grounds on which you intend to contest the application and containing full particulars of your property and income, and send the affidavit, together with a copy for the applicant, so as to reach the Court within 14 days after the time allowed for sending the acknowledgement of service, which is in turn 14 days after this notice is served on you.

Dated this day of 20 .

After completing the Acknowledgement of Service below detach this part of the form and return it to the Court.

ACKNOWLEDGEMENT OF SERVICE

PLEASE COMPLETE THIS FORM IN BLACK INK

QUESTION

ANSWER

1. Have you received the originating application and a copy of the supporting affidavit delivered with this form?

2. On what date and at what address did you receive them?

Date:

Address:

3. Are you the person named as the respondent in the originating application?

Only answer this question if the application is for failure to provide reasonable maintenance.

4. Do you intend to challenge the jurisdiction of the Court?

If YES, you must follow the instructions at paragraph 3 of the Notice of proceedings of this form.

5. Do you intend to defend the case?

If YES, follow the instructions at paragraph 3 or 4 of the Notice of Proceedings of this form.

Dated this day of 20

Signed:

I am [We are] acting for the respondent in this matter.

Signed:

Address for service of documents:

Dated this day of 20 .

The Supreme Court office at
is open between am and pm Monday to Friday. When corresponding with the Court,

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please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.

STATEMENT OF INFORMATION FOR A CONSENT ORDER

In the Supreme Court of Gibraltar	
Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Duration of marriage:

Age of Parties:
 Petitioner _____ Respondent _____
 Minor (i.e. under the age of 18) or dependent children

Summary of means

Give as the date of the statement the approximate amount or value of capital resources and net income of petitioner and respondent and, where relevant, of minor children of the family. State also the net equity in any property concerned and the effect of its proposed distribution.

	Capital resources less any unpaid mortgage or charges	Net income
Petitioner		
Respondent		
Children		

Note: If the application is only for an order for interim periodical payments or variation of then only the information required under net income" need be given.

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Where the parties are to live

Give details of what arrangements are intended for the accommodation of each of the parties and any children of the family.

Marital plans

Please tick box

Petitioner Respondent

has no present intention
to marry or co-habit

has remarried
intends to marry

intends to cohabit with another

person

To be answered by the applicant where the terms of the order provide for a transfer of property.

Notice to mortgagee

Has any and every mortgagee of the property been served with notice of the application?

Yes

No

Has any objection to such a transfer been made by any mortgagee within 14 days from the date of service?

Yes

No

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Other information

Give details of any other especially significant matters.

Signatures

Signed _____

Signed

(Lawyer for) Petitioner
Respondent

(Lawyer for)

Date: _____

Date: _____

The Supreme Court office at
is open between __ am and __ pm Monday to Friday. When corresponding with the Court,
please address forms or letters to the Registrar and quote the case number.

If you do not do so, your correspondence may be returned.
