

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5197 GIBRALTAR Monday 23rd December 2024

LEGAL NOTICE NO. 232 OF 2024

CIVIL PARTNERSHIP ACT 2014

CIVIL PARTNERSHIP (AMENDMENT) RULES 2024

In exercise of the powers conferred by section 123 of the Civil Partnership Act 2014, and of all other enabling powers, the Chief Justice has made the following Rules-

Title.

1. These Rules may be cited as the Civil Partnership (Amendment) Rules 2024.

Commencement.

2. These Rules come into operation on the day of publication.

Amendment of Rules.

- 3.(1) The Civil Partnership Rules 2014 are amended in accordance with this rule-

- (2) In rule 11-

- (a) the heading is substituted with the following-

“Applications for leave to present a petition for dissolution before one year.”; and

- (b) in sub-rule (1) the phrase “3 years” is substituted with “1 year”.

- (3) In rule 12 –

- (a) in sub-rule (3) before the words “attached” insert “and in the case of a petition for dissolution or judicial separation the petitioner’s notice of intention to dissolve the civil partnership in accordance with FORM–CP27 or notice of intention of judicial separation in accordance with FORM–CP28”;

- (b) in sub-rule (4) insert “,” immediately after the word “dissolution”.

- (4) In rule 13(1)-

- (a) in sub-rule (k) remove the words “where the facts on which the petition is filed is

two years separation with consent or three years separation,”; and

(b) in sub-rule (m)-

(i) substitute “the facts alleged by the petitioner for the purposes of section 25(5) of the Act or, where the petition is not for dissolution or judicial separation,” with “in the case of nullity proceedings”; and

(ii) remove “in any case”.

(5) In rule 14-

(a) in sub-rule (c) remove “and”;

(b) in sub-rule (d) remove “and”;

(c) in sub-rule (e) replace “.” with “; and”; and

(d) after sub-rule (e) insert the following new sub-rule- “(f) the petitioner’s notice of intention to dissolve the civil partnership in FORM – CP27 or notice of intention of judicial separation in FORM – CP28.”.

(6) In rule 16-

(a) remove “or co-respondent”; and

(b) after “in FORM – CP6” insert “and in the case of dissolution proceedings or judicial separation proceedings the petitioner’s notice of intention to dissolve the civil partnership in FORM - CP27 or the petitioner’s notice of intention of judicial separation in FORM-CP28”.

(7) In rule 17-

(a) in sub-rule (1)(a)-

(i) after “a copy of every petition” insert “and in the case of dissolution proceedings or judicial separation proceedings a copy of the petitioner’s notice of intention to dissolve the civil partnership in FORM – CP27, or a copy of the petitioner’s notice of intention of judicial separation in FORM – CP28”; and

(ii) remove the words “and co-respondent”;

(b) in sub-rule (3) after “a copy of the petition” insert “and in the case of dissolution proceedings or judicial separation proceedings a copy of the petitioner’s notice of intention to dissolve the civil partnership in FORM – CP27 or a copy of the petitioner’s notice of intention of judicial separation in FORM – CP28”.

- (c) in sub-rule (5)-
 - (i) after “a copy of the petition” insert “and in the case of dissolution proceedings or judicial separation proceedings a copy of the petitioner’s notice of intention to dissolve the civil partnership in FORM – CP27 or a copy of the petitioner’s notice of intention of judicial separation in FORM – CP28”; and
 - (ii) substitute “document” with “documents” in the two places where it occurs;
 - (d) in sub-rule (10)(a)(ii)-
 - (i) before “has given notice of intention to defend” insert “in the case of nullity proceedings”; and
 - (ii) after “has given notice of intention to defend” insert “and in the case of dissolution proceedings or judicial separation proceedings, has filed an acknowledgement of service in FORM – CP6”.
- (8) In rule 18(2) after the words “notice of intention to defend” insert “in nullity proceedings”.
- (9) In rule 19-
- (a) remove “and every co-respondent” and “and every person named in it”;
 - (b) in sub-rule (a) before “has given notice of intention to defend” insert “in nullity proceedings”; and
 - (c) in sub-rule (b)-
 - (i) before “is shown by record of the Registrar” insert “in dissolution proceedings, judicial separation proceedings and nullity proceedings”; and
 - (ii) after “the petition” insert “and the petitioner’s notice of intention to dissolve the civil partnership in FORM – CP27 in dissolution proceedings or the petitioner’s notice of intention of judicial separation in FORM – CP28 in judicial separation proceedings”.
- (10) In rule 20-
- (a) in sub-rule (1) after “intends to defend the proceedings” insert “for nullity”;
 - (b) in sub-rule (2) after “giving notice of intention to defend” insert “the nullity proceedings”; and
 - (c) in sub-rule (3) substitute “a cause” with “nullity proceedings”.

(11) Rule 21 is omitted.

(12) In rule 22-

(a) in sub-rule (1)-

(i) substitute “A supplemental petition may be filed or amended” with “A petition may be amended or a supplemental petition filed”; and

(ii) after “answer is filed” insert “in nullity proceedings or before acknowledgement of service in FORM – CP6 is filed in dissolution or judicial separation proceedings”;

(b) in sub-rule (2)(a) after “notice of intention to defend is given” insert “in nullity proceedings or the acknowledgement of service in FORM – CP6 is not filed in dissolution or judicial separation proceedings”;

(c) in sub-rule (2)(b) after “given notice of intention to defend” insert “in nullity proceedings or filed an acknowledgement of service in FORM – CP6 in dissolution or judicial separation proceedings”;

(d) in sub-rule (4)(a) after “where any party” insert “in nullity proceedings”; and

(e) in sub-rule (6) remove “and co-respondent”.

(13) In rule 23-

(a) in sub-rule (1) substitute “or co-respondent” with “in nullity proceedings”; and

(b) in sub-rule (2) substitute “An” with “In nullity proceedings an”.

(14) In rule 25-

(a) in sub-rule (1) substitute “If” with “In nullity proceedings if”;

(b) in sub-rule (2) substitute “The answer” with “In nullity proceedings the answer”;

(c) in sub-rule (3) substitute “If an” with “In nullity proceedings if an”;

(d) in sub-rule (4) substitute “An answer” with “In nullity proceedings an answer”;

(e) sub-rule (5) is omitted; and

(f) in sub-rule (6) substitute “Every answer” with “In nullity proceedings every answer”.

(15) In rule 26-

- (a) in sub-rule (1) substitute “A petitioner” with “In nullity proceedings a petitioner”; and
- (b) in sub-rule (2) substitute “If the petitioner” with “In nullity proceedings if the petitioner”.

(16) In rule 27-

- (a) in sub-rule (1) substitute “A party” with “In nullity proceedings a party”; and
- (b) in sub-rule (3) substitute “A party” with “In nullity proceedings a party”.

(17) In rule 28-

- (a) in sub-rule (1) after “the filing of any answer” insert “in nullity proceedings and the acknowledgement of service in FORM – CP6 in dissolution or judicial separation proceedings”; and
- (b) in sub-rule (6)-
 - (i) substitute “undefended list” with “dissolution list or judicial separation (civil partnerships) list or undefended nullity (civil partnerships) list”; and
 - (ii) before “the filing of a notice pursuant to rule 31 for the issue of the Registrar’s Certificate be dispensed with.” insert “in the case of proceedings for nullity”.

(18) In rule 31-

- (a) in sub-rule (1)-
 - (i) substitute “a petition” the first time that it appears with “proceedings for nullity”;
 - (ii) substitute “who shall give a certificate” with “who shall issue a certificate”;
 - (iii) substitute the “;” for “.” at the end of sub-rule (1)(d);
- (b) in sub-rule (2)-
 - (i) substitute “an undefended petition for petition” with “for dissolution”;
 - (ii) substitute “undefended list” with “dissolution list or judicial separation (civil partnerships) list”.

(c) in sub-rule (3)-

- (i) substitute “a defended petition” with “defended nullity proceedings”; and
- (ii) insert “nullity (civil partnerships)” after “the next defended”.

(19) In rule 32-

(a) substitute the following for sub-rule (1)-

“32.(1) The Registrar shall prepare and maintain four lists, to be known as “the dissolution list”, “the judicial separation (civil partnerships) list”, the “undefended nullity (civil partnerships) list” and the “defended nullity (civil partnerships) list”.”;

- (b) in sub-rule (3) substitute “undefended petition” with “dissolution or judicial separation or undefended nullity proceedings”;
- (c) in sub-rule (4) substitute “the petition for the time being entered into the undefended list” with “the petitions entered in the dissolution list, the judicial separation (civil partnerships) list, and the undefended nullity (civil partnerships) list”;
- (d) in sub-rule (6) after “defended” insert “nullity (civil partnerships)”;
- (e) in sub-rule (9) substitute “petitions” with “nullity proceedings”; and
- (f) in sub-rule (10) substitute “a petition” with “defended nullity proceedings”.

(20) In rule 33-

(a) substitute the heading with the following-

“Evidence at a trial of defended nullity proceedings.”; and

- (b) in sub-rule (1) substitute “a petition” with “defended nullity proceedings”.

(21) In rule 41-

(a) substitute the heading with the following-

“Hearing of dissolution, judicial separation and undefended nullity proceedings by the Court.”;

- (b) in sub-rule (1) substitute “undefended petitions” with “petitions for dissolution, judicial separation and undefended nullity proceedings”; and

- (c) in sub-rule (2) substitute “the undefended list” with “the dissolution list, or the judicial separation (civil partnerships) list or the undefended nullity (civil partnerships) list”.
- (22) In rule 42 –
- (a) substitute the heading with the following-

“Right of respondent to be heard on question of costs.”;
 - (b) in sub-rule (1) substitute “or party cited” with “in nullity proceedings”; and
 - (c) sub-rule (3) is omitted.
- (23) Rule 47 is omitted.
- (24) In rule 53(1) substitute “weeks” with “months”.
- (25) Rule 55 is omitted.
- (26) In rule 57 remove “without filing an answer and”.
- (27) In rule 58-
- (a) in sub-rule (1) substitute “answer” with “acknowledgement of service in FORM CP6”;
 - (b) in sub-rule (2) substitute “answers” with “acknowledgement of service in FORM CP6”;
 - (c) in sub-rule (3) substitute “answer” with “acknowledgement of service in FORM CP6”; and
 - (d) in sub-rule (4) substitute “answer” with “acknowledgement of service in FORM CP6”.
- (28) Rule 62 is omitted.
- (29) In rule 64(1) substitute “answer” with “acknowledgement of service in FORM – CP6”.
- (30) In rule 71(1) substitute “answer” with “acknowledgement of service”.
- (31) Rules 77(7) and 77(8) are omitted.
- (32) Replace the heading “PART VII Jurisdiction and recognition of judgments” with “PART VIII Jurisdiction and recognition of judgments”.
- (33) At the end of Part VIII insert the following Part IX-

“PART IX

Applications for financial relief following an overseas dissolution, nullity or legal separation.

Application for leave.

90.(1) An application for leave to file an application for financial relief following an overseas dissolution, annulment or legal separation under paragraph 4 of schedule 5 of the Act shall be made to the Court by originating summons in accordance with FORM – CP29, accompanied by-

- (a) an affidavit in support of the application;
- (b) a copy of the order of dissolution, nullity or legal separation obtained in the overseas country.

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

- (a) the grounds on which the application is made to include the jurisdictional basis upon which an application for financial relief would be made;
- (b) whether an interim order for maintenance is sought for the benefit of the applicant or any child of the family and on what basis there is an immediate need for financial assistance.

(3) 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.

(4) 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.

(5) If the respondent wishes to oppose the application, he or she must file in the Court and serve on the applicant an affidavit setting out the grounds on which it will be opposed within 14 days of service in accordance with subrule (4).

(6) The respondent may be heard without filing an affidavit setting out the grounds on which the application will be opposed, but only with leave of the Court.

Application for financial relief.

91. Upon leave being granted to the applicant to file an application for financial relief following an overseas dissolution, annulment or legal separation the application for financial relief shall be made by notice in Form – CP13 and the application for

financial relief shall be dealt with in accordance with Rules 64 to 70 and Rules 73 to 76.

Information required in an application for financial relief consent order.

92. Upon leave being granted to the applicant to file an application for financial relief following an overseas dissolution, annulment or legal separation and the parties to that application agree the terms of a consent order pursuant to paragraphs 9, 10 and 12 of schedule 5 of the Act, then Rule 63 shall apply insofar as it applies to sections 67, 69 or 70 of the Act.”

(34) In Form CP4 substitute “3 years have” with “1 year has”.

(35) Substitute the following for Form – CP5-

“

FORM-CP5

Rules 12(3), 16 and 23(3)

NOTICE OF APPLICATION/PROCEEDINGS

In the Supreme Court of Gibraltar

Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

TAKE NOTICE that a petition for dissolution / judicial separation / nullity [delete as appropriate] has been presented to the Court. A 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 acknowledgment of service in FORM-CP6 and send it so as to reach the Registry of the Supreme Court, Main Street, Gibraltar, within 8 days after you receive this notice, exclusive 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 or her all documents which have been served on you, so that he or she may send the acknowledgment 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 acknowledgment 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-CP6

3. If you answer Yes to Question 6, you must within 22 days after you receive this notice, exclusive 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.

4. If you answer No to Question 6 and after indicating that you do not wish to defend the case you wish to defend the case, you must immediately inform the Registry and give notice to the Petitioner.

5. If you answer Yes to Question 7 you must, make an application to the Court by filing and serving on the Petitioner a notice in FORM- CP13.

6. Question 8:-

- (a) If you do not wish to defend the case but object to the claim for costs, you should answer Yes to Question 8 in the acknowledgment. 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 8.
- (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.

7. Please answer Question 9. If your answer to Question 9(b) is Yes make sure you sign the form at the end.

8. 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 in the prescribed form.

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.

9. 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.

10. 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 dissolution on your financial position, you should obtain legal advice from a Lawyer.

Dated this day of

The Supreme Court office at 277 Main Street, Gibraltar 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.”.

(36) Substitute the following for Form – CP6-

“

FORM-CP6

Rules 11(5), 12(3), 16, 17(3), 19(c), 20 and 23(3)

ACKNOWLEDGEMENT OF SERVICE

In the Supreme Court of Gibraltar

Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

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

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

(38) After the end of FORM – CP26 insert the following-

“

FORM – CP27

NOTICE OF INTENTION TO DISSOLVE CIVIL PARTNERSHIP

Rule 12(3)

In the Supreme Court of Gibraltar

Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

TAKE NOTICE that the Petitioner herein intends to petition for dissolution on the basis of the irretrievable breakdown of the civil partnership with the Respondent.

Signed

(Petitioner)

Dated this day of 20

FORM – CP28

NOTICE OF INTENTION OF JUDICIAL SEPARATION

Rule 12(3)

In the Supreme Court of Gibraltar

Application No.	
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Petitioner/Applicant (including ref)	
Respondent/Defendant	

TAKE NOTICE that the Petitioner herein intends to petition for judicial separation.

Signed

(Petitioner)

Dated this day of 20

FORM – CP29

ORIGINATING SUMMONS

Rule 90(1)

In the matter of a proposed application for financial relief following an overseas dissolution, annulment or legal separation.

In the Supreme Court of Gibraltar

Application No.	
Petitioner/Applicant (including ref)	
Respondent/Defendant	

Let [] of [] attend the Judge in Chambers at

[] on the [] day of [] 20 [] at [] o'clock in the [] noon on the hearing of an application of [] for an order that the said [] may be at liberty to file an application for financial relief following an overseas dissolution / annulment / legal separation.

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

If you wish to oppose the application, you must file in the Supreme Court of Gibraltar and serve on the applicant within 14 days an affidavit setting out the grounds upon which you wish to oppose the application.

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 this [] day of [] 20 [].

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

1. In default of you filing an affidavit setting out the grounds upon which you oppose the application, the Court will proceed to hear and determine the application and make such order thereon as it may think fit, notwithstanding your absence.

2. 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.”.

Transitional Provisions.

4. Proceedings commenced prior to the commencement of these Rules shall be regulated and continue in accordance with the Civil Partnership Rules 2014 as if they had not been amended by these Rules.

Dated: 23rd December 2024.

ANTHONY DUDLEY,
Chief Justice.

EXPLANATORY MEMORANDUM

These Rules amend the Civil Partnership Rules 2014 following the amendments to the Civil Partnership Act 2014 by the Civil Partnership (Amendment) Act 2024.