

Rules of the High Court (Matrimonial Proceedings) 2004

Rule 6(2).

CONTENTS OF APPLICATION
(Unless otherwise directed under rule 6)

Please note

These are guidance notes to assist you in completing the Divorce Application.

The court will always recommend if you are unsure of the relevant Acts/Rules which relate to applications, or have queries regarding the contents of applications, you should seek legal advice and/or contact a Manx advocate. The names of Manx advocates who are Family Law practitioners may be obtained from the Isle of Man Law Society.

SCHEDULE 2

Every initial application, other than an application under rule 79, shall state –

1. the names of the parties to the marriage and the date and place of the marriage;
2. the last address at which the parties to the marriage have lived together as husband and wife;
3. (a) where it is alleged that the court has jurisdiction based on domicile;-
 - (i) the country in which the applicant is domiciled, and
 - (ii) if that country is not the Island, the country in which the respondent is domiciled;(b) where it is alleged that the court has jurisdiction based on habitual residence -
 - (i) the country in which the applicant has been habitually resident throughout the period of one year ending with the date of the application, or
 - (ii) if the applicant has not been habitually resident in the Island, the country in which the respondent has been habitually resident during that period, with details in either case, including the addresses of the places of residence and the length of residence at each place;
4. the occupation and residence of the applicant;
5. the occupation and residence of the respondent;
6. 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;
 - (iii) whether (to the knowledge of the applicant in the case of a husband's application),

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;

(iv) if it be the case, that there is a dispute whether a living child is a child of the family;

7. (a) whether or not there are or have been any other proceedings in any court in the Island or elsewhere with reference to the marriage or to any child of the family or between the applicant 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 order or decree, 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 order or decree;

(b) whether there are any proceedings continuing in any country outside the Island 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 application should be stayed under Schedule 1 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, where the fact on which the application is based is 5 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 applicant or any child of the family;

8. in the case of an application for a divorce order, that the marriage has broken down irretrievably;

9. the fact alleged by the applicant for the purposes of section 2(2) of the Act or, where the application is not for a divorce order or a separation order, 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;

10. any further or other information required by such of the following paragraphs and by rule 78 as may be applicable.

An application for an annulment order under section 13(e) or (f) of the Act shall state whether the applicant was at the time of the marriage ignorant of the facts alleged.

An application for an order 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.

11. every application shall conclude with a request setting out particulars of the relief claimed, including any application for an order under any provision of Part 1 or Part 2 of the Children and Young Persons Act 2001 with respect to a child of the family, any claim for costs and any application for financial provision which it is intended to claim;

12. the names and addresses of the persons who are to be served with the application, indicating if any of them is a person under disability; and

13. the applicant's address for service, which, where the applicant sues by an advocate, shall be the advocate's name or firm and address. Where the applicant, although suing in person, is receiving legal advice from an advocate, the advocate's name or firm and address may be given as the address for service if he agrees. In any other case, the applicant's address for service shall be the address of any place in the Island to which documents for the applicant may be delivered or sent.

Finally do not forget

- sign and date the application,
- bring or send your marriage certificate or certified copy
- submit the Divorce Application fee to the court
- complete a Statement of Arrangements if there are children in the family
- all applications should be submitted to the court in duplicate (in triplicate if the grounds are adultery)