

Statutory Document No. 103/04

**THE RULES OF THE HIGH COURT (MATRIMONIAL PROCEEDINGS)
2004**

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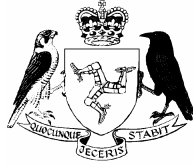
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Statutory Document No. 103/04

THE HIGH COURT ACT 1991

**THE RULES OF THE HIGH COURT
(MATRIMONIAL PROCEEDINGS) 2004**

Laid before Tynwald

16th March 2004

Coming into operation

1st April 2004

In exercise of the powers conferred on the Deemsters by section 25 of the High Court Act 1991¹, and of all other enabling powers, the following Rules are hereby made:—

PART 1

GENERAL

1. Citation and commencement

These Rules may be cited as the Rules of the High Court (Matrimonial Proceedings) Rules 2004 and shall come into operation on the 1st April 2004.

2. Interpretation

(1) In these Rules —

"the Act" means the Matrimonial Proceedings Act 2003²;

"avoidance of disposition order" means an order under section 52(2)(b) or (c) of the Act;

"business day" means any day other than —

(a) a Saturday, Sunday, Christmas Day or Good Friday; or

(b) a bank holiday within the meaning of the Bank Holidays Act 1989³;

"the court" means the High Court;

"defended proceedings" means matrimonial proceedings which are not undefended proceedings;

¹ 1991 c.12

² 2003 c.7

³ 1989 c.5

"file" means file in the General Registry;

"financial provision" means—

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

"financial relief" has the same meaning as in section 52 of the Act;

"initial application" means an application by which matrimonial proceedings are begun;

"institution" has the same meaning as in the Custody Act 1995⁴;

"matrimonial proceedings" (except in rule 7) means proceedings —

- (a) for a divorce order, an annulment order or a separation order, or
- (b) for an order under section 18 of the Act (presumption of death and dissolution of marriage);

"consent order" means an order under section 48 of the Act;

"notice of intention to defend" has the meaning given by rule 95;

"order for maintenance pending suit" means an order under section 27 of the Act;

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

"the Rules of Court" means the Rules of the High Court of Justice 1952⁵;

"special procedure list" has the meaning given by rule 26(3);

"the statutory rate" means the rate prescribed under section 9 of the Administration of Justice Act 1981⁶;

"undefended proceedings" means matrimonial proceedings —

- (a) in which no answer has been filed or any answer filed has been struck out, or
- (b) which is proceeding only on the respondent's answer and in which no reply or answer to the respondent's answer has been filed or any such reply or answer has been struck out, or
- (c) to which rule 15(4) applies and in which no notice has been given under that rule or any notice so given has been withdrawn, or

⁴ 1995 c.1

⁵ Made 7th January 1952

⁶ 1981 c.8

- (d) in which an answer has been filed claiming relief but in which no pleading has been filed opposing the making of an order on the initial application or answer or any pleading or part of a pleading opposing the making of such order has been struck out, or
- (e) any proceedings not within (a) to (d) above in which an order has been made;

"variation order" means an order under section 43 of the Act.

(3) Proceedings begun on an initial application shall be treated as pending for the purposes of these rules even though a final order has been made on the application.

(4) A reference in these Rules to a numbered form (eg. "Form 5") is to the form so numbered in Schedule 1.

(5) A reference in these Rules to a provision of the Pension Schemes Act 1993 (an Act of Parliament)⁷ or the Welfare Reform and Pensions Act 1999 (an Act of Parliament)⁸, or to an instrument made under an Act of Parliament, is to that provision or instrument as it has effect in the Island.

3. Application of Rules of Court

Subject to the provisions of these Rules and of any enactment, the Rules of Court shall apply with any necessary modifications to the commencement of, and to the practice and procedure in, any proceedings to which these Rules apply.

4. Revocations and transitional provisions

(1) These Rules apply, so far as practicable, to any proceedings pending on the day on which they come into operation.

- (2) The following rules are revoked —
the Matrimonial Causes Rules 1993⁹,
the Matrimonial Causes (Amendment) Rules 1997¹⁰, and
the Matrimonial Causes (Amendment) Rules 2001¹¹.

PART 2

MATRIMONIAL PROCEEDINGS

5. Application of Part 2

This Part applies —

- (a) to matrimonial proceedings, and

⁷ 1993 c.48

⁸ 1999 c.30

⁹ SD 492/93

¹⁰ SD 408/97

¹¹ SD 326/01

- (b) for specifying the procedure for complying with the requirements of section 25 of the Act (restriction on orders affecting children).

Commencement etc of matrimonial proceedings

6. Matrimonial proceedings to be begun by application

(1) All matrimonial proceedings shall be begun by an application (an "initial application") in Form 2.

(2) Unless otherwise directed, every initial application shall contain the information required by Schedule 2.

(3) Where an application for a divorce order, annulment order or separation order discloses that there is a minor child of the family who is —

- (a) under 16 or
- (b) over that age and receiving instruction at an educational establishment or undergoing training for a trade or profession,

the initial application shall be accompanied by a statement, signed by the applicant personally and if possible agreed with the respondent, containing the information required by Form 3, to which shall be attached a copy of any medical report mentioned in it.

7. Applicant relying on section 11 or 12 of the Civil Evidence Act 1973

(1) A applicant who, in reliance on section 11 or 12 of the Civil Evidence Act 1973¹², intends to adduce evidence that a person —

- (a) was convicted of an offence by or before a court in the British Islands or by a court-martial there or elsewhere, or
- (b) was found guilty of adultery in matrimonial proceedings, or
- (c) was found or adjudged to be the father of a child in affiliation proceedings before a court in the British Islands,

must include in his initial application a statement of his intention with particulars of —

- (i) the conviction, finding or adjudication and the date of it,
- (ii) the court or court-martial which made the conviction, finding or adjudication and, in the case of a finding or adjudication, the proceedings in which it was made, and
- (iii) the issue in the proceedings to which the conviction, finding or adjudication is relevant.

(2) In this rule "matrimonial proceedings", "relevant proceedings" and "affiliation proceedings" have the same meanings as in the said section 12.

8. Signing of initial application

Every initial application shall be signed by the applicant's advocate in his own name or the name of his firm, or by the applicant if he sues in person.

¹² 1973 c.18

9. Making of initial application

(1) Unless otherwise directed on an application made *ex parte*, a certificate of the marriage to which the proceedings relate shall be filed with the initial application.

(2) Where an advocate is acting for a applicant for a divorce order or separation order, a certificate in Form 4 shall be filed with the initial application, unless otherwise directed on an application made *ex parte*.

(3) Where there is before the Court an initial application which has not been dismissed or otherwise disposed of by a final order, another application by the same applicant in respect of the same marriage shall not be made without leave granted on an application made in the pending proceedings:

Provided that no such leave shall be required where it is proposed, after the expiration of the period of one year from the date of the marriage, to make an application for a divorce order alleging such of the facts mentioned in section 2(2) of the Act as were alleged in an application for a separation order made before the expiration of that period.

(4) The initial application shall be made by filing it, together with any statement and report required by rule 6(3), with as many copies of the application as there are persons to be served and a copy of the statement and report required by rule 6(3) for service on the respondent.

(5) There shall be annexed to every copy of the application for service a notice in Form 5 with Form 6 attached, and there shall also be annexed to the copy application for service on a respondent the copy of any statement and report filed pursuant to paragraph (4).

10. Parties

(1) Subject to paragraph (2), where an initial application alleges that the respondent has committed adultery, the person with whom the adultery is alleged to have been committed shall be made a co-respondent in the proceedings unless —

- (a) that person is not named in the application, or
- (b) the Court otherwise directs.

(2) Where an initial application alleges that the respondent has been guilty of rape upon a person named, then, notwithstanding anything in paragraph (1), that person shall not be made a co-respondent in the proceedings unless the Court so directs.

(3) Where an initial application alleges that the respondent has been guilty of an improper association (other than adultery) with a person named, the Court may direct that the person named be made co-respondent in the proceedings, and for that purpose the Court may give notice to the applicant and to any other party who has given notice of intention to defend of a date, time and place at which the Court will consider giving such a direction.

(4) An application for directions under paragraph (1) may be made *ex parte* if no notice of intention to defend has been given.

(5) Paragraphs (1) and (3) do not apply where the person named has died before the filing of the application.

11. Discontinuance of proceedings before service of application

Before an initial application is served on any person, the applicant may file a notice of discontinuance and the proceedings shall thereupon stand dismissed.

Service of application etc.

12. Service of initial application

(1) Subject to the provisions of this rule and rules 88 and 90, a copy of every initial application shall be served personally or by post on every respondent or co-respondent.

(2) Service may be effected —

(a) where the party to be served is a person under disability within the meaning of rule 89, through the applicant, and

(b) in any other case, through the Court or, if the applicant so requests, through the applicant.

(3) Personal service shall in no case be effected by the applicant himself.

(4) For the purposes of paragraphs (1) to (3), a copy of an initial application shall be deemed to be duly served if —

(a) an acknowledgement of service in Form 6 is signed by the party to be served or by an advocate on his behalf and is returned to the General Registry, and

(b) where the form purports to be signed by the respondent, his signature is proved at the hearing or, where the proceedings are undefended, in the affidavit filed by the applicant under rule 26(3).

(5) Where a copy of an initial application has been sent to a party and no acknowledgement of service has been returned to the General Registry, a Deemster, if satisfied by affidavit or otherwise that the party has nevertheless received the document, may direct that the document shall be deemed to have been duly served on him.

(6) Where a copy of an initial application has been served on a party personally and no acknowledgement of service has been returned to the General Registry, service shall be proved by filing an affidavit of service showing, in the case of a respondent, the server's means of knowledge of the identity of the party served.

(7) Paragraph (6) does not apply in cases where —

(a) the application alleges 2 years' separation coupled with the respondent's consent to an order being made, and

(b) none of the other facts mentioned in section 2(2) of the Act is alleged, unless the applicant produces to the Court a written statement containing the respondent's consent to the making of an order.

(8) Where an acknowledgement of service is returned to the General Registry, the Chief Registrar shall send a photocopy of it to the applicant.

(9) An application for leave to substitute some other mode of service for the modes of service prescribed by paragraph (1) or to substitute notice of the

proceedings by advertisement or otherwise, shall be made *ex parte* by filing an affidavit setting out the grounds on which the application is made; and the form of any advertisement shall be settled by the Chief Registrar:

Provided that no order giving leave to substitute notice of the proceedings by advertisement shall be made unless it appears to the Court that there is a reasonable probability that the advertisement will come to the knowledge of the person concerned.

(10) Where in the opinion of the Court it is impracticable to serve a party in accordance with any of the foregoing paragraphs or it is otherwise necessary or expedient to dispense with service of a copy of an initial application on the respondent or on any other person, the Court may make an order dispensing with such service.

An application for an order under this paragraph shall be made in the first instance *ex parte* by filing an affidavit setting out the grounds of the application, but the Court may, if it thinks fit, require the attendance of the applicant on the application.

13. Consent to making of order

(1) Where, before the hearing of an application alleging 2 years' separation coupled with the respondent's consent to an order being made, the respondent wishes to indicate to the court that he consents to the making of an order, he shall do so by filing a notice to that effect signed by the respondent personally.

For the purposes of this paragraph an acknowledgement of service containing a statement that the respondent consents to the making of an order shall be treated as such a notice if the acknowledgement is signed —

- (a) in the case of a respondent acting in person, by the respondent, or
- (b) in the case of a respondent represented by an advocate, by the respondent as well as by the advocate.

(2) A respondent to an application which alleges any such fact as is mentioned in paragraph (1) may give notice to the Court either that he does not consent to an order being made or that he withdraws any consent which he has already given. Where any such notice is given and none of the other facts mentioned in section 2(2) of the Act is alleged, the proceedings on the application shall be stayed and the Chief Registrar shall thereupon give notice of the stay to all parties.

Pleadings and amendment

14. Supplemental application and amendment of application

- (1) Subject to rule 17 —
 - (a) a supplemental application may be made without leave at any time before an answer is filed but thereafter only with leave; and
 - (b) an initial application may be amended without leave at any time before an answer is filed but thereafter only with leave.
- (2) Subject to paragraph (3) an application for leave under this rule —
 - (a) may, if every opposite party consents in writing to the supplemental application being made or the initial application being amended, be

made by filing in the General Registry the supplemental application or a copy of the initial application as proposed to be amended; and

- (b) shall, in any other case, be made on notice 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;
 - (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) An amendment authorised to be made under this rule shall be made by filing a copy of the amended application.
- (6) Rules 8 and 10 apply to a supplemental or amended application as they apply to the initial application.
- (7) Unless otherwise directed, a copy of a supplemental or amended application, 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 initial application or in the supplemental or amended application.
- (8) The applicant shall file the documents required by paragraph (7) to be served on any person and thereupon, unless otherwise directed, rules 9(5) and 12 shall apply in relation to that person as they apply in relation to a person required to be served with an initial application.

15. Filing of answer to application

- (1) Subject to paragraph (2) and to rules 13, 17 and 35, a respondent or co-respondent who —
 - (a) wishes to defend the initial application or to dispute any of the facts alleged in it,
 - (b) being the respondent wishes to make in the proceedings any charge against the applicant in respect of which the respondent applies for relief, or
 - (c) being the respondent to an application to which section 6(1) of the Act applies, wishes to oppose the making of an order on the ground mentioned in that subsection,

shall, within 21 days after the expiration of the time limited for giving notice of intention to defend, file an answer to the application.

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

(3) Any reference in these rules to a person who has given notice of intention to defend shall be construed as including a reference to a person who has filed an answer without giving notice of intention to defend.

(4) Where in proceedings in which relief is sought under section 13(d) of the Act the respondent files an answer containing no more than a simple denial of the facts stated in the application, he shall, if he intends to rebut the charges in the application, give the Court notice to that effect when filing his answer.

16. Filing of reply and subsequent pleadings

(1) A applicant may file a reply to an answer within 14 days after he has received a copy of the answer pursuant to rule 20.

(2) If the applicant does not file a reply to an answer, he shall, unless the answer applies for a divorce order, annulment order or separation order, 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.

17. Filing and amendment of pleadings after directions for trial

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

(2) Rules 4, 5 and 11 of Order 47 of the Rules of Court (which restrict the service and amendment of pleadings in the long vacation) do not apply to proceedings to which this Part applies.

18. Contents of answer and subsequent pleadings

(1) Where an answer, reply or subsequent pleading contains more than a simple denial of the facts stated in the initial application, answer or reply, as the case may be, the pleading shall set out with sufficient particularity the facts relied on but not the evidence by which they are to be proved and, if the pleading is filed by the husband or wife, it shall, in relation to those facts, contain the information required in the case of an initial application by paragraph 1(k) of Schedule 2.

(2) Unless otherwise directed, an answer by a husband or wife who disputes any statement required by paragraphs 1(f), (g) and (h) of Schedule 2 to be included in the initial application shall contain full particulars of the facts relied on.

(3) Paragraph 4(a) of Schedule 2, where appropriate, applies with any necessary modifications to a respondent's answer as it applies to an initial application:

Provided that it shall not be necessary to include in the answer any claim for costs against the applicant.

(4) Where an answer to an initial application contains an application for relief, it shall contain the information required by paragraph 1(j) of Schedule 2 in the case of the initial application in so far as it has not been given by the applicant.

(5) Where a party's pleading includes such a statement as is mentioned in rule 7, then if the opposite party —

(a) denies the conviction, finding or adjudication to which the statement relates, or

(b) alleges that the conviction, finding or adjudication was erroneous, or

- (c) denies that the conviction, finding or adjudication is relevant to any issue in the proceedings,

he must make the denial or allegation in his pleading.

(6) Rules 7 and 8 apply, with any necessary modifications, to a pleading other than an initial application as they apply to an initial application.

19. Allegation against third person in pleading

(1) Rules 10 and 12 apply, with any necessary modifications, to a pleading other than an application as they apply to an application, except that for the references in those rules to a co-respondent there shall be substituted references to a party cited.

(2) Rule 15 applies, with any necessary modifications, to a party cited as it applies to a co-respondent.

20. Service of pleadings

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 Chief Registrar shall annex to every copy for service on a party cited in the pleading a notice in Form 5 with Form 6 attached and shall send a copy to every other opposite party.

21. Supplemental answer and amendment of pleadings

Rule 14 applies, with any necessary modifications, to the filing of a supplemental answer, and the amendment of a pleading or other document not being an application, as it applies to the filing of a supplemental application and the amendment of an application.

22. Particulars

(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.

Preparations for trial

23. Discovery in defended proceedings

(1) Order 23 of the Rules of Court (discovery and inspection of documents) apply to defended proceedings as it applies to an action, with the following modifications —

- (a) omit the second paragraph of rule 2(1) and rules 2(2) to (4) and 6,
(b) in rule 2(7), for "the cause or matter is set down for hearing" substitute "directions for trial are given",

- (c) in rule 16(1), omit the words from "including" onwards, and
- (d) omit rule 19 and, in rule 23(1), the words from "including" onwards.

(2) For the purposes of Order 23 rule 2(1) as applied by paragraph (1), pleadings shall be deemed to be closed at the expiration of 14 days after service of the answer, and are deemed to be closed then notwithstanding that any request or order for particulars previously made has not been complied with.

(3) The applicant and any party who has filed an answer shall be entitled to have a copy of any list of documents served on any other party under Order 23 as applied by paragraph (1), and such copy shall, on request, be supplied to him free of charge by the party who served the list.

In this paragraph "list of documents" includes an affidavit verifying the list.

(4) A copy of the proposed interrogatories shall be filed when the motion for an order under Order 23 rule 18 is filed.

24. Medical examination in proceedings for annulment

(1) In proceedings for an annulment order on the ground of incapacity to consummate the marriage the applicant shall, subject to paragraph (2), apply to the Court to determine whether medical inspectors should be appointed to examine the parties.

(2) An application under paragraph (1) shall not be made in undefended proceedings —

- (a) if the husband is the applicant, or
- (b) if the wife is the applicant and
 - (i) it appears from the initial application that she was either a widow or divorced at the time of the marriage in question, or
 - (ii) it appears from the initial application 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 applicant is alleging his or her own incapacity.

(3) References in paragraphs (1) and (2) to the applicant shall, where the matter 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 paragraph (1) by the applicant 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 paragraph (1) by the respondent shall be made after he has filed an answer.

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

(6) In proceedings for an annulment order 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 medical inspectors to examine the parties.

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

(8) If the Court on an application under paragraph (1) or (6) considers it expedient to do so, it shall appoint a medical inspector or, if it thinks it necessary, 2 medical inspectors 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 paragraph (1) the Court may, if it thinks fit, appoint a medical inspector or 2 medical inspectors to examine any party who has not been examined or to examine further any party who has been examined.

(10) The party on whose application an order under paragraph (8) is made or who has the conduct of proceedings in which an order under paragraph (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.

25. Conduct of medical examination

(1) Every medical examination under rule 24 shall be held at the consulting room of the medical inspector or, as the case may be, of one of the medical inspectors appointed to conduct the examination:

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

(2) Every party presenting himself for examination shall sign, in the presence of the inspector or inspectors, a statement that he is the person referred to as the applicant or respondent, as the case may be, in the order for the examination, and at the conclusion of the examination the inspector or inspectors shall certify on the statement that it was signed in his or their presence by the person who has been examined.

(3) Every report made in pursuance of rule 24 shall be filed and either party shall be entitled to be supplied with a copy on payment of the prescribed fee.

(4) In undefended proceedings it shall not be necessary for the inspector or inspectors to attend and give evidence at the trial unless so directed.

(5) In defended proceedings, if the report made in pursuance of rule 24 is accepted by both parties, notice to that effect shall be given by the parties to the Court and to the inspector or inspectors not less than 7 clear days before the date fixed for the trial; and where such notice is given, it shall not be necessary for the inspector or inspectors to attend and give evidence at the trial.

(6) Where pursuant to paragraphs (4) or (5) the evidence of the inspector or inspectors is not given at the trial, his or their report shall be treated as information furnished to the Court by a court expert and be given such weight as the court thinks fit.

26. Directions for trial

(1) On the written request of the applicant or of any party who is defending proceedings begun by an initial application, the Court shall give directions for the trial of the proceedings if it is satisfied—

- (a) that a copy of the application (including any supplemental or amended application) and any subsequent pleading has been duly served on every party required to be served and, where that party is a person under disability, that any affidavit required by rule 90(2) has been filed;
- (b) if no notice of intention to defend has been given by any party entitled to give it, that the time limited for giving such notice has expired;
- (c) if notice of intention to defend has been given by any party, that the time allowed him for filing an answer has expired;
- (d) if an answer has been filed, that the time allowed for filing any subsequent pleading has expired;
- (e) in proceedings for annulment —
 - (i) that any application required by rule 24(1) has been made, and
 - (ii) where an order for the examination of the parties has been made on an application under rule 24, that the notice required by paragraph (10) of that rule has been served and that the report of the inspector or inspectors has been filed.

(3) Where the proceedings are undefended proceedings for divorce or separation and, in a case to which section 2(2)(d) of the Act applies, the respondent has filed a notice under rule 13(1) that he consents to the making of an order, then, unless otherwise directed there shall be filed with the request for directions for trial an affidavit by the applicant—

- (a) containing the information required by Form 7(a), (b), (c), (d), or (e) as near as may be in the order there set out, together with any corroborative evidence on which the applicant intends to rely, and
- (b) verifying, with such amendments as the circumstances may require, the contents of any statement of arrangements filed by the applicant under rule 6(3),

and the Chief Registrar shall give directions for trial by entering the proceedings in a list to be known as "the special procedure list".

(4) In the case of defended proceedings a Deemster may treat the request for directions for trial as an application for directions so as to enable him to give such directions with regard to—

- (a) the future course of the proceedings,

- (b) any application made therein for financial provision or for an order relating to a child, and
- (c) the provision of evidence relating to the arrangements or proposed arrangements for the children of the family,

as appear to be necessary or desirable for securing the just, expeditious and economical disposal of the proceedings; and the Chief Registrar shall give the parties notice of a date, time and place at which the request will be considered.

(5) In any other case the Chief Registrar shall give directions for trial by setting the proceedings down for trial and giving notice that he has done so to every party to the proceedings.

(6) Except where evidence has been provided under paragraph (3)(b), directions for trial under this rule shall, unless the Chief Registrar orders otherwise, include a direction to the applicant to file an affidavit verifying, with such amendments as the circumstances may require, the contents of any statement of arrangements filed by the applicant under rule 6(3).

(7) In the case of undefended proceedings on the respondent's answer, paragraphs (3) and (6) shall have effect as if for the references to the applicant and respondent there were substituted references to the respondent and the applicant respectively.

27. Determination of place of trial

(1) Directions for trial shall determine the place of trial.

(2) Directions determining the place of trial of any proceedings may be varied by the Chief Registrar of his own motion or on the application of any party to the proceedings.

28. Directions as to allegations under section 2(2)(b) of Act

(1) Where in defended proceedings the applicant alleges that the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent, a Deemster may, of his own motion on giving directions for trial or on the application of any party made at any time before the trial, order or authorise the party who has made the request for or obtained such directions to file a schedule of the allegations and counter-allegations made in the pleadings or particulars.

(2) Where such an order is made or authority given, the allegations and counter-allegations shall, unless otherwise directed, be listed concisely in chronological order, each counter-allegation being set out against the allegation to which it relates, and the party filing the schedule shall serve a copy of it on any other party to the proceedings who has filed a pleading.

29. Stay under Schedule 1 to the Act

(1) An application to the Court by the applicant or respondent in proceedings for divorce for an order under paragraph 3 (obligatory stay) or paragraph 4 (discretionary stay) of Schedule 1 to the Act shall be made to the Chief Registrar.

(2) Where, on giving directions for trial —

- (a) it appears to the Chief Registrar from any information given pursuant to paragraph 1(j) of Schedule 2 or rule 18(4) or paragraph (4) that any proceedings which are in respect of the marriage in question or which are capable of affecting its validity or subsistence are continuing in another jurisdiction, and
- (b) he considers that the question whether the proceedings on the application should be stayed under paragraph 3 of Schedule 1 to the Act ought to be determined by the Court,

he shall fix a date, time and place for the consideration of that question by a Deemster and give notice of it to all parties.

In this paragraph "proceedings continuing in another jurisdiction" has the same meaning as in paragraph 1(j) of Schedule 2.

(3) Any party who makes a request for directions for trial in matrimonial proceedings within the meaning of Schedule 1 to the Act shall, if there has been a change in the information given pursuant to paragraph 1(j) of Schedule 2 and rule 18(4), file a statement giving particulars of the change.

(4) An application by a party to the proceedings for an order under paragraph 5 (revocation of stay) of Schedule 1 to the Act shall be made to the Chief Registrar.

(5) An application by a party to the proceedings for an order under paragraph 10 of Schedule 1 may be made to a Deemster as if the application were an application for financial provision.

Evidence

30. Evidence at trial

(1) Subject to the provisions of this rule and rules 34 and 94 and of the Civil Evidence Act 1973 and any other enactment, any fact required to be proved by the evidence of witnesses at the trial of matrimonial proceedings shall be proved by the examination of the witnesses orally and in open court.

(2) Nothing in this rule and rule 94 affects the power of the Deemster at the trial to refuse to admit any evidence if in the interest of justice he thinks fit to do so.

- (3) The Court may order —
 - (a) that the affidavit of any witness 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, or
 - (ii) by the production of documents or entries in books, or
 - (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, 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 for an order under paragraph (3) shall —
 - (a) if no notice of intention to defend has been given, or
 - (b) if the applicant and every party who has given notice of intention to defend consents to the order sought, or
 - (c) if the proceedings are 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 of it 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 paragraph (4).

Trial etc.

31. Mode and place of trial

(1) Unless otherwise directed and subject to rule 34 all matrimonial proceedings and any issue arising in them shall be tried by a Deemster without a jury.

(2) As soon as practicable after matrimonial proceedings have been set down for trial, the Chief Registrar shall fix the date, place and, as nearly as may be, the time of the trial and give notice of it to every party to the proceedings.

32. Trial of issue

Where directions are given for the separate trial of any issue and those directions have been complied with, the Chief Registrar shall —

- (a) if the issue arises on an application for financial provision or an application with respect to any child or alleged child of the family, proceed as if the issue were a question referred to a Deemster on an application for financial provision;
- (b) in any other case, set the issue down for trial and thereupon rule 31(2) shall apply as if the issue were matrimonial proceedings.

33. Date of trial

Except with the consent of the parties or by leave of a Deemster, no matrimonial proceedings, whether defended or undefended, shall be tried until after the expiration of 10 days from the date on which directions for trial were given:

Provided that nothing in this rule shall apply to a proceedings entered in the special procedure list.

34. Disposal of cases in special procedure list

(1) As soon as practicable after matrimonial proceedings have been entered in the special procedure list, a Deemster shall consider the evidence filed by the applicant and —

- (a) if he is satisfied that the applicant has sufficiently proved the contents of the initial application and is entitled to an order, he shall so certify;
- (b) if he is not so satisfied he may either give the applicant an opportunity of filing further evidence or remove the proceeding from the special procedure list, whereupon rule 26(3) shall cease to apply.

(2) On the giving of a certificate under paragraph (1) a date shall be fixed for the making of an order by a Deemster in open court, and the Chief Registrar shall send to each party notice of the date and place so fixed and a copy of the certificate, but subject to paragraph (3) it shall not be necessary for any party to appear on that occasion.

(3) Where a Deemster gives a certificate under paragraph (1) and the application contains a request for costs, the Deemster may —

- (a) if satisfied that the applicant is entitled to such costs, include in his certificate a statement to that effect;
- (b) if not so satisfied, give to any party who objects to paying such costs notice that, if he wishes to proceed with his objection, he must attend before the court on the date fixed under paragraph (2).

(4) Within 14 days after the making of an order in accordance with a certificate under paragraph (1) any person may inspect the certificate and the evidence filed under rule 26(3) (except the statement of arrangements) and may bespeak copies on payment of the prescribed fee.

35. Right to be heard on question of costs

(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 objection.

(2) A party shall be entitled to be heard on any question pursuant to paragraph (1) whether or not he has returned to the General Registry an acknowledgement of service stating his wish to be heard on that question.

(3) In proceedings after a provisional divorce order or a separation order, no order the effect of which would be to make a co-respondent or party cited liable for costs which are not directly referable to the divorce order or separation order shall be made unless the co-respondent or party cited is a party to such proceedings or has been given notice of the intention to apply for such an order.

36. Respondent's statement as to arrangements for children

(1) A respondent on whom there is served a statement in accordance with rule 6(3) may, whether or not he agreed that statement, file a written statement of his views on the present and proposed arrangements for the children, and on receipt of

such a statement from the respondent the Chief Registrar shall send a copy to the applicant.

(2) Any such statement of the respondent's views shall, if practicable, be filed within the time limited for giving notice of intention to defend, and in any event before the Deemster considers the arrangements or proposed arrangements for the upbringing and welfare of the children of the family under section 25(1) of the Act.

37. Procedure for complying with section 25

(1) Where no such application as is referred to in rule 38 is pending the Deemster shall, after giving his certificate under rule 34(1)(a) or after the provision of evidence pursuant to a direction under rule 26(4), as the case may be, proceed to consider the matters specified in section 25(1) of the Act in accordance with the following provisions of this rule.

(2) Where, on consideration of the relevant evidence, including any further evidence or report provided pursuant to this rule and any statement filed by the respondent under rule 36, the Deemster is satisfied that —

- (a) there are no children of the family to whom section 25 of the Act applies, or
- (b) there are such children but the court need not exercise its powers under the Children and Young Persons Act 2001 with respect to any of them or give any direction under section 25(2) of the Act,

the Deemster shall certify accordingly and, in a case to which sub-paragraph (b) applies, the Chief Registrar shall send the applicant and the respondent a copy of the certificate.

(3) Where the Deemster is not satisfied as mentioned in paragraph (2) he may, without prejudice to his powers under the Children and Young Persons Act 2001 or section 25(2) of the Act, give one or more of the following directions —

- (a) that the parties, or any of them, shall file further evidence relating to the arrangements for the children (and the direction shall 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;
- (c) that the parties, or any of them, shall attend before him at the date, time and place specified in the direction; and the parties shall be notified accordingly.

(4) Where the court gives a direction under section 25(2) of the Act, notice of the direction shall be given to the parties.

(5) In this rule "parties" means the applicant, the respondent and any person who appears to the court to have the care of the child.

38. Applications relating to children of the family

(1) Where matrimonial proceedings are pending, an application by a party to the proceedings or by any other person for an order under any provision of Part 1 or Part 2 of the Children and Young Persons Act 2001 in relation to a child of the family shall be made in the proceedings; and where the applicant is not a party and has

obtained such leave as is required under that Act to make the application, no leave to intervene in the proceedings shall be necessary.

(2) If, while matrimonial proceedings are 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 matrimonial proceedings, by the applicant.

39. Restoration of matters adjourned at the hearing

Where at the trial of matrimonial proceedings any application is adjourned by the Court for hearing in chambers, it may be restored —

- (a) by notice by any party, or
- (b) by notice given by a Deemster when in his opinion the matter ought to be further considered;

and the notice shall state the date, time and place for the hearing of the restored application and be served on every party concerned.

40. Application for re-hearing

(1) An application for re-hearing of proceedings tried by a Deemster alone, where no error of the Court at the hearing is alleged, shall be made to a Deemster.

(2) Unless otherwise directed, the application shall be made to the Deemster by whom the proceedings were tried and shall be heard in open court.

(3) The application shall state the grounds on which it is made.

(4) Unless otherwise directed, the application must be issued within 6 weeks after the judgment and served on every other party to the proceedings not less than 14 days before the day fixed for the hearing of the application.

(5) The applicant shall file a certificate that a copy of the application, with a notice of the time and place of the hearing, has been duly served on each person required to be served with it.

(6) The application shall be supported by an affidavit setting out the allegations on which the applicant relies or exhibiting a copy of any pleading which he proposes to file if the application is granted, and a copy of the affidavit shall be served on every other party to the proceedings.

(7) Not less than 7 days before the application is heard the applicant shall file a copy of a transcript of so much as is relevant of any official record of the proceedings at the trial.

(8) Where a party wishes to appeal against a final divorce order or final annulment order, the question whether he has had the time and opportunity to appeal from the provisional order on which the final order was founded shall be determined on an application for a re-hearing under this rule.

(9) Any other application for re-hearing shall be made by way of appeal to the Staff of Government Division.

(10) This rule applies, with any necessary modifications, to proceedings disposed of under rule 34 as it applies to proceedings tried by a Deemster alone.

Orders

41. Orders

Except in a case to which rule 60 (consent orders) applies —

- (a) every divorce order, annulment order and separation order,
- (b) every order made in open court, and
- (c) every other order which is required to be drawn up,

shall be drawn up by the Chief Registrar unless the Court otherwise directs.

42. Application for revocation of divorce order

(1) An application by a respondent under section 9(1) of the Act for the revocation of a divorce order shall be made to a Deemster and shall be heard in open court.

(2) Paragraphs (3) and (5) of rule 40 apply to an application under this rule as they apply to an application under that rule.

(3) The application shall state the grounds on which it is made, and a copy of the application shall be served on the applicant not less than 14 days before the day fixed for the hearing of the application.

(4) 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 applicant.

43. Application under section 9(2)

(1) An application by a respondent to an application for a divorce order for the Court to consider the financial position of the respondent after the divorce shall be made in Form 8.

(2) The respondent shall file a certificate that a copy of the application, with a notice of the time and place of the hearing, has been duly served on each person required to be served with it.

(3) Where the applicant has relied on the fact of 2 or 5 years' separation and the court has made a provisional order without making any finding as to any other fact mentioned in section 2(2) of the Act —

- (a) rules 50 to 67 apply as if the application were for financial provision, and
- (b) unless the context otherwise requires, references in those rules to Form 12 shall be read as references to Form 8.

(3) A statement of any of the matters mentioned in section 9(3) of the Act with respect to which the Court is satisfied, or, where the Court has proceeded under section 9(4), a statement that the conditions for which that subsection provides have been fulfilled, shall be entered in the records of the Court.

44. Intervention to show cause by Attorney General

(1) If the Attorney General wishes to show cause against a provisional order being made final, he shall file a notice to that effect and send a copy to the party in whose favour it was pronounced.

(2) Within 21 days after giving notice under paragraph (1) the Attorney General shall file his plea setting out the grounds on which he desires to show cause, together with a copy for service on the party in whose favour the order was made and every other party affected by the order.

(3) The Attorney General shall serve a copy of the plea on each of the persons mentioned in paragraph (2).

(4) Subject to the following provisions of this rule, these rules shall apply to all subsequent pleadings and proceedings in respect of the plea as if it were an initial application.

(5) 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 for an order revoking the provisional order and dismissing the application.

(6) Rule 26 applies to proceedings in respect of a plea by the Attorney General as it applies to the trial of matrimonial proceedings, except that —

- (a) if all the charges in the plea are denied in the answer the application for directions shall be made by the Attorney General, and
- (b) in any other case it shall be made by the party in whose favour the provisional order was made.

45. Intervention to show cause by person other than Attorney General

(1) If any person other than the Attorney General wishes to show cause under section 23(3) or (4) of the Act against a provisional order being made final, he shall file an affidavit stating the facts on which he relies and serve a copy on the party in whose favour the order was made.

(2) A party on whom a copy of the affidavit has been served under paragraph (1) may, within 14 days after service, file an affidavit in answer and, if he does so, shall serve a copy of it 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 a Deemster 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 paragraph (5) within the time allowed, the person in whose favour the provisional order was made may do so.

46. Revocation of provisional order by consent

(1) Where a reconciliation has been effected between the applicant and the respondent —

- (a) after a provisional order has been made but before it has been made final, or
- (b) after a separation order has been made,

either party may apply for an order revoking the order by consent.

(2) The application shall be made with notice to the other spouse and to any other party against whom costs have been awarded or who is otherwise affected by the provisional order or separation order, and a copy of the application shall be served on every such person.

- (3) The application may be heard in chambers.

47. Final order on notice

(1) Subject to rule 48(1) an application by a spouse to make final a provisional order made in his favour may be made in Form 9.

(2) On the making of such an application, the Chief Registrar shall search the records of the court and, subject to paragraph (3), if he is satisfied —

- (a) that no application for revocation of the order or for re-hearing of the proceedings and no appeal against the order or the dismissal of an application for re-hearing of the proceedings is pending;
- (b) that no order has been made by the Court extending the time for making an application for re-hearing of the proceedings or by the Staff of Government Division extending the time for appealing against the order or the dismissal of an application for re-hearing of the proceedings 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 sub-paragraph (b) is pending;
- (d) that no intervention under rule 44 or 45 is pending;
- (e) that the Court has complied with section 25(1) of the Act and has not given any direction under section 25(2); and
- (f) that the provisions of section 9(2) to (4) of the Act do not apply or have been complied with,

the Court shall make the order final.

(3) If the application under paragraph (1) is filed more than 12 months after the provisional order was made, there shall be filed with the notice an explanation in writing —

- (i) giving reasons for the delay;
- (ii) stating whether the parties have lived with each other since the making of the provisional order and, if so, between what dates; and

- (iii) 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 making of the provisional order 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 Chief Registrar shall refer the application to a Deemster, who may require the applicant to file an affidavit verifying the said explanation and may make such order on the application as he thinks fit.

48. Final order on application

(1) In the following cases an application for a provisional order to be made final shall be made to a Deemster —

- (a) where the Attorney General gives to the Court and to the party in whose favour the order was made a notice that he requires more time to decide whether to show cause against the order being made final, 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 order is made final.

Unless otherwise directed, the application shall be served on every party to the proceedings (other than the applicant) and, in a case to which sub-paragraph (a) applies, on the Attorney General.

(2) An application by a spouse for a provisional order made against him to be made final shall be made to a Deemster, and the application shall be served on the other spouse not less than 4 clear days before the day on which the application is heard.

(3) A final order made under this rule shall not take effect until the Chief Registrar has searched the records of the Court and is satisfied as to the matters mentioned in rule 47(2).

49. Final order

(1) Where a provisional order is made final, the Chief Registrar shall issue the final order, which shall include a statement of the precise time at which it was made.

(2) Where a provisional order is made final, the Chief Registrar shall send to the applicant and the respondent a certificate in Form 10 or 11, authenticated by the seal of the Court.

(3) A copy of the certificate in Form 10 or 11 that a provisional order has been made final shall be issued to any person requiring it on payment of the prescribed fee.

(4) An index of final orders shall be kept in the General 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.

PART 3

APPLICATIONS FOR FINANCIAL PROVISION ETC.

50. Financial provision: general

This Part applies to any application for financial provision and to any application under section 9(2) of the Act (consideration of certain agreements).

51. Right to be heard on financial questions

A respondent may be heard on any question of financial provision without filing an answer and whether or not he has returned to the General Registry an acknowledgement of service stating his wish to be heard on that question.

52. Application by applicant or respondent for financial provision

(1) Subject to paragraph (2), any application by an applicant for a divorce order, annulment order or separation order, or by a respondent who files an answer claiming financial provision, for —

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

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

(2) An application for financial provision which should have been made in the initial application or answer may be made subsequently —

- (a) by leave of the Court, either in Form 12 or at the trial, or
- (b) where the parties are agreed upon the terms of the proposed order, without leave in Form 12.

(3) An application for financial provision, not being an application which is required to be made in the initial application or answer, shall be made in Form 12.

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

Any of the following persons —

- (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) the Department of Health and Social Security, where a child is in its care by virtue of an order made by any Court; and
- (e) a child of the family who has been given leave to intervene in the proceedings for the purpose of applying for financial provision,

may apply for an order for financial provision as respects that child in Form 12.

54. Application in Form 12

Where an application for financial provision is made in Form 12, the applicant shall serve a copy on the respondent to the application.

55. Application for financial provision after order of court of summary jurisdiction

Where an application for financial provision is made while there is in force an order of a court of summary jurisdiction for maintenance of a spouse or child, the applicant shall file a copy of the order on or before the hearing of the application.

56. Children to be separately represented on certain applications

(1) Where an application is made to the Court for an order for a 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, and may appoint the Attorney General or other fit person to be guardian ad litem of the children for the purpose of the application.

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

(3) Before a person other than the Attorney General is appointed guardian ad litem under this rule there shall be filed a certificate by the Attorney General or the advocate acting for the children that the person proposed as guardian has no interest in the matter adverse to that of the children and that he is a proper person to be such guardian.

57. General provisions as to evidence etc on application for financial provision

(1) An applicant or respondent who has applied for financial provision in his initial application or answer and who intends to proceed with the application shall, subject to rule 65, deliver to the General Registry a notice in Form 13 in duplicate and serve a copy on the other party to the application.

(2) Where an application is made for financial provision, not being an application to which rule 60 applies, the application in Form 12 or notice in Form 13, as the case may be, shall unless otherwise directed be supported by an affidavit by the applicant containing full particulars of his property and income, and stating the facts relied on in support of the application.

(3) Within 28 days after the service of an affidavit under paragraph (2) or within such other time as the Court may fix, the respondent to the application, other than an application for a variation order, shall file an affidavit in answer containing full particulars of his property and income.

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

(1) Where an application is made for a property adjustment order or an avoidance of disposition order, the affidavit in support shall contain, so far as known to the applicant, full particulars —

- (a) in the case of an application for a transfer or settlement of property —
 - (i) of the property in respect of which the application is made,
 - (ii) of the property to which the party against whom the application is made is entitled either in possession or reversion;
- (b) in the case of an application for an order for a variation of settlement —
 - (i) of all settlements, whether ante-nuptial or post-nuptial, made on the spouses, and
 - (ii) of the funds brought into settlement by each spouse;
- (c) in the case of an application for an avoidance of disposition order —
 - (i) of the property to which the disposition relates,
 - (ii) of the person in whose favour the disposition is alleged to have been made and in the case of a disposition alleged to have been made by way of settlement, of the trustees and the beneficiaries of the settlement.

(2) Where an application for a property adjustment order or an avoidance of disposition order relates to land, the application in Form 12 or notice in Form 13, as the case may be, 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.

(3) A copy of Form 12 or 13, together with a copy of the supporting affidavit, 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 variation of a settlement, the trustees of the settlement and the settlor if living;
- (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.

(4) In the case of an application to which paragraph (2) refers, a copy of Form 12 or 13 shall be served on any mortgagee of whom particulars are given pursuant to that paragraph; and any person so served may apply to the Court in writing, within 14 days after service, for a copy of the applicant's affidavit.

- (5) Any person who —
 - (a) is served with an affidavit pursuant to paragraph (3), or

- (b) receives an affidavit following an application made in accordance with paragraph (4),

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

59. Service of affidavit in answer or reply

(1) A person who files an affidavit for use on an application under rule 57 or 58 shall at the same time serve a copy on the opposite party and, where the affidavit contains an allegation of adultery or of an improper association with a named person, then, if the Court so directs, it shall be endorsed with a notice in Form 14 and a copy of the affidavit or of such part of it as the Court may direct, so endorsed, shall be served on that person by the person who files the affidavit, and the person against whom the allegation is made shall be entitled to intervene in the proceedings by applying for directions under rule 61(5) within 14 days of service of the affidavit on him.

(2) Rule 35(3) shall apply to a person served with an affidavit under paragraph (1) of this rule as it applies to a co-respondent.

60. Information on application for consent order for financial relief

(1) Subject to paragraphs (2) and (3), there shall be filed with every application for a consent order under any of sections 28, 29 or 30 of the Act —

- (a) 2 copies of a draft of the order in the terms sought, one of which shall be endorsed with a statement signed by the respondent to the application signifying his agreement, and
- (b) a statement of information (which may be made in more than one document) which shall include —
 - (i) the duration of the marriage, the age of each party and of any minor or dependent child of the family;
 - (ii) an estimate in summary form of the approximate amount or value of the capital resources and net income of each party and of any minor child of the family;
 - (iii) what arrangements are intended for the accommodation of each of the parties and any minor child of the family;
 - (iv) whether either party has remarried or has any present intention to marry or to cohabit with another person;
 - (v) where an order includes provision to be made under section 31 (pension sharing) of the Act, a statement confirming that the person responsible for the pension arrangement in question has been served with the documents required by rule 67(11) and that no objection to such an order has been made by that person within 14 days from such service;
 - (vi) where 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

(vii) any other especially significant matters.

(2) Where an application is made for a consent order varying an order for periodical payments paragraph (1) is sufficiently complied with if the statement of information required to be filed with the application includes only the information in respect of net income mentioned in paragraph (1)(b), and an application for a consent order for interim periodical payments pending the determination of an application for financial provision 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 filing of a statement of information in accordance with paragraph (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.

61. Investigation of application for financial provision

(1) On or after the filing of an application in Form 12 or a notice in Form 13 an appointment shall be fixed for the hearing of the application by a Deemster.

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

(3) Notice of the appointment, unless given in Form 12 or 13, shall be given by the applicant to every party to the application.

(4) At the hearing of an application for financial provision the Deemster

(a) shall, subject to rule 64, investigate the allegations made in support of and in answer to the application;

(b) may take evidence orally; and

(c) 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 discovery and production of any document or require further affidavits.

(5) The Deemster 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.

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

(7) Any party may apply to the Court for an order that any person attend an appointment (a "production appointment") before the Court and produce any documents to be specified or described in the order, the production of which appears to the Court to be necessary for disposing fairly of the application for financial provision or for saving costs.

(8) No person shall be compelled by an order under paragraph (7) to produce any document at a production appointment which he could not be compelled to produce at the hearing of the application for financial provision.

(9) The Court shall permit any person attending a production appointment pursuant to an order under paragraph (7) to be represented at the appointment.

(10) The hearing shall, unless the Court otherwise directs, take place in chambers.

62. Open proposals

(1) Not less than 14 days before the date fixed for the final hearing of an application for financial provision, the applicant shall (unless the Court otherwise directs) file 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 paragraph (1), the respondent shall file 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.

63. Request for further information etc.

Any party to an application for financial provision 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 furnish 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.

64. Order on application for financial provision

(1) The Deemster shall, after completing his investigation under rule 61, make such order as he thinks just.

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

(3) Where the Court considers it expedient to give effect to an order under section 30 (orders for sale of property) of the Act or any other order for financial provision relating to any property, it may —

- (a) grant execution in respect of the property, or
- (b) make an order compelling any person in receipt of the rents and profits thereof to deliver them up to such person as the Court may direct.

65. Request for periodical payments order at same rate as order for maintenance pending suit

(1) Where at or after the date of a final divorce order or annulment order 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 initial application or answer, request the Court in writing to make such an 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 applicant shall serve on the other spouse a notice in Form 15 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 15.

(3) If the other spouse does not give notice of objection within the time aforesaid, the Court may make an order providing for payments at the same rate as those provided for by the order for maintenance pending suit without further notice to that spouse and without requiring the attendance of the applicant or his advocate, and shall in that case serve a copy of the order on the applicant as well as on the other spouse.

66. Application for order under section 52(2)(a) of Act

An application under section 52(2)(a) of the 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 a Deemster.

67. Pensions

(1) This rule applies where —

- (a) an application for financial provision has been made, and
- (b) the applicant or respondent has or is likely to have any benefits under a pension arrangement.

(2) Within 7 days of giving or receiving notice in Form 12, the party with pension rights shall 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 2(2) and (3)(b) to (f) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000¹³.

(3) Within 7 days of receiving information under paragraph (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 paragraph (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 12 months earlier than the date of giving or receiving notice in Form 12, which has been furnished or requested pursuant to any of the following provisions —

- (a) the Pensions on Divorce etc. (Provision of Information) Regulations 2000;
- (b) regulation 5 of and Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996¹⁴;
- (c) section 94(1)(a) of the Pension Schemes Act 1993;
- (d) section 94(1)(b) of the Pension Schemes Act 1993 or paragraph 2(a) (or, where applicable, 2(b)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987¹⁵.

¹³ SI 2000/1048

¹⁴ SI 1996/1655

(6) Upon making or giving notice of intention to proceed with an application for financial provision including provision to be made under section 31 (pension sharing) of the Act, or upon adding a request for such provision to an existing application for financial provision, the applicant shall send to the person responsible for the pension arrangement concerned a copy of Form 12.

(7) Upon making or giving notice of intention to proceed with an application for financial provision including provision to be made under section 34 or 35 (pension earmarking) of the Act, or upon adding a request for such provision to an existing application for financial provision, the applicant shall send to the person responsible for the pension arrangement concerned —

- (a) a copy of Form 12;
- (b) an address to which any notice which the person responsible is required to serve on the applicant under the Matrimonial Proceedings (Pensions) Regulations 2001¹⁶ 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 sub-paragraph (c) is that of a bank, a building society or National Savings and Investments, sufficient details to enable payment to be made into the account of the applicant.

(8) A person responsible for a pension arrangement on whom a copy of a notice under paragraph (7) is served may, within 21 days after service, require the applicant to provide him with a copy of the affidavit supporting his application.

(9) A person responsible for a pension arrangement who receives a copy of an affidavit as required by paragraph (8) may within 21 days after receipt file an affidavit in answer.

(10) A person responsible for a pension arrangement who files an affidavit in answer pursuant to paragraph (9) may file therewith a notice to the Chief Registrar requiring an appointment to be fixed; and where such a notice is filed —

- (a) the Chief Registrar shall fix the appointment for the hearing or further hearing of the application and give not less than 14 days' notice of that appointment to the applicant, the respondent and the person responsible for the pension arrangement; and
- (b) the person responsible for the pension arrangement shall be entitled to be represented at any such hearing.

(11) Where the parties have agreed on the terms of an order including provision under section 34 or 35 of the Act, then unless service has already been effected under paragraph (7), they shall serve on the person responsible for the pension arrangement concerned —

- (a) the notice in Form 12 under rule 52(2)(b);
- (b) a draft of the proposed order, complying with paragraph (13); and
- (c) the particulars set out in paragraph (7)(b), (c) and (d).

¹⁵ SI 1987/1110

¹⁶ SD 828/01

- (12) No consent order under paragraph (11) 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.

(13) An order for financial provision, whether by consent or not, including provision under section 31, 34 or 35 of the Act, 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 containing the information set out in paragraph (14) or paragraph (15) 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.

(14) Where provision is made under section 31 of the Act, the annex shall state —

- (a) the case number and the title of the proceedings;
- (b) that it is a pension sharing order made under Part 2 of the Act;
- (c) the names of the transferor and the transferee;
- (d) the national insurance number of the transferor;
- (e) sufficient details to identify the pension arrangement concerned and the transferor's rights or benefits from it (for example a policy reference number);
- (f) the specified percentage, or where appropriate the specified amount, required in order to calculate the appropriate amount for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (an Act of Parliament) (creation of pension debits and credits);
- (g) how the pension sharing charges are to be apportioned between the parties or alternatively that they are to be paid in full by the transferor;
- (h) that the person responsible for the pension arrangement has furnished the information required by regulation 4 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 and that it appears from that information that there is power to make an order including provision under section 6 (pension sharing) of the 2001 Act;
- (i) the day on which the order or provision takes effect; and
- (j) that the person responsible for the pension arrangement concerned must discharge his liability in respect of the pension credit within a period of 4 months beginning with the day on which the order or provision takes effect or, if later, with the first day on which the person responsible for the pension arrangement concerned is in receipt of —

- (i) the order for financial provision, including the annex;
- (ii) the divorce order or annulment order; and
- (iii) the information prescribed by regulation 5 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000;

provided that if the court knows that the implementation period is different from that stated in sub-paragraph (j) by reason of regulations under section 34(4) or 41(2)(a) of the Welfare Reform and Pensions Act 1999 (an Act of Parliament), the annex shall contain details of the implementation period as determined by those regulations instead of the statement in sub-paragraph (j).

(15) Where provision is made under section 34 or 35 of the Act, the annex shall state —

- (a) the case number and the title of the proceedings;
- (b) that it is an order making provision under section 34 or 35, as the case may be, of the Act;
- (c) the names of the party with pension rights and the other party;
- (d) the national insurance number of the party with pension rights;
- (e) sufficient details to identify the pension arrangement concerned and the rights or benefits from it to which the party with pension rights is or may become entitled (for example a policy reference number);
- (f) in the case of an order including provision under section 34(4) of the Act, what percentage of any payment due to the party with pension rights is to be paid for the benefit of the other party;
- (g) in the case of an order including any other provision under section 34 or 35 of the Act, what the person responsible for the pension arrangement is required to do;
- (h) the address to which any notice which the person responsible for the pension arrangement is required to serve on the other party under the Matrimonial Proceedings (Pensions) Regulations 2001 is to be sent, if not notified under paragraph (7)(b);
- (i) an address to which any payment which the person responsible for the pension arrangement is required to make to the other party is to be sent, if not notified under paragraph (7)(c);
- (j) where the address in sub-paragraph (i) is that of a bank, a building society or National Savings and Investments, sufficient details to enable payment to be made into the account of the other party, if not notified under paragraph (7)(d); and
- (k) where the order is made by consent, that no objection has been made by the person responsible for the pension arrangement, or that an objection has been received and considered by the court, as the case may be.

(16) Where the court makes, varies or revokes an order including provision under section 31, 34 or 35 of the Act, the applicant for the order, variation or

revocation (or, if it is made otherwise than on an application, the court) shall send to the person responsible for the pension arrangement concerned —

- (a) a copy of the final divorce order, final annulment order or separation order; and
- (b) 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.

(17) The documents referred to in paragraph (16) shall be sent within 7 days after the making of the relevant order, or within 7 days after the final divorce order, final annulment order or separation order, whichever is the later.

(18) In this rule —

- (a) all words and phrases defined in section 36(6) of the Act have the meanings there given;
- (b) all words and phrases defined in section 46 of the Welfare Reform and Pensions Act 1999 (an Act of Parliament) have the meanings given by that section.

PART 4

OTHER FAMILY PROCEEDINGS

Failure to provide reasonable maintenance

68. Application in case of failure to provide reasonable maintenance

16. (1) Every application under section 38 of the Act shall be made in Form

(2) There 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 an application for a divorce order by paragraph 1(a), (c), (d), (f) and (i) of Schedule 2;
- (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 paragraph (2) shall be served on the respondent, together with a notice in Form 17 with Form 6.

(5) Subject to paragraph (6), the respondent shall, within 14 days after the time allowed for sending the acknowledgement 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 acknowledgement of service, file an affidavit setting out the grounds of the challenge; and the obligation to file an affidavit under paragraph (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 or of an improper association with a person named, rule 59(1) shall apply.

(8) If the respondent does not file an affidavit in accordance with paragraph (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.

(9) 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.

No further affidavit shall be filed without leave.

(10) Rule 61(4) shall apply, with any necessary modifications, to an application for an order under section 38 of the Act as if the application were for financial provision.

Alteration of maintenance agreement

69. Application for alteration of maintenance agreement during lifetime of parties

(1) An application under section 50 of the Act for the alteration of a maintenance agreement shall, unless otherwise directed, be in Form 18.

(2) 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.

(3) A copy of the application and of the affidavit referred to in paragraph (2) shall be served on the respondent, together with a notice in Form 17 with Form 6 attached.

(4) 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.

(5) A respondent who files an affidavit under paragraph (4) shall at the same time serve a copy on the applicant.

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

(1) An application under section 51 of the Act for the alteration of a maintenance agreement after the death of one of the parties shall be made in Form 19.

(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 the Island;
- (b) the place and date of the marriage between the parties to the agreement and the name and status of the wife before the marriage;
- (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 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 any 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 any proceedings by the applicant against the deceased's estate under the Inheritance (Provision for Family and Dependants) Act 1982¹⁷ or any Act repealed by that Act and the date and effect of any order made in such proceedings;
- (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 rule 71(3)(a), (b) and (c);
- (h) the facts alleged by the applicant as justifying an alteration in the agreement and the nature of the alteration sought;
- (i) if the application is made after the end of the period of 6 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.

¹⁷ 1982 c.8

(3) In this rule and rule 71 "the deceased" means the deceased party to the agreement to which the application relates.

71. Further proceedings on application under rule 70

(1) The Court may at any stage of the proceedings direct that any person be added as a respondent to an application under rule 70.

(2) Order 9 rule 10 of the Rules of Court (representation orders) applies to the proceedings as if they were mentioned in that rule.

(3) 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 out of it, including the amount of any tax or duty payable thereon and interest on such tax or duty;
- (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 minor or a patient within the meaning of rule 89.

(4) If a respondent who is a personal representative of the deceased does not file an affidavit stating the matters mentioned in paragraph (4) the Court may order him to do so.

(5) 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.

(6) Every respondent who files an affidavit in answer to the application shall at the same time serve a copy on the applicant.

72. Application of other rules to proceedings under section 50 or 51

(1) Rules 59, 61(4) and 64(2) and (3) apply, with any necessary modifications, to an application under section 50 or 51 of the Act as they apply to an application for financial provision.

(2) Subject to paragraph (1) and to rules 35 to 37, these rules shall, so far as applicable, apply with any necessary modifications to an application under section 50 or 51 of the Act as if the application were an initial application in matrimonial proceedings.

Summary determination of property disputes

73. Applications under section 128

(1) Subject to paragraph (2), an application under section 128 of the Act shall be made in Form 20 and shall be supported by affidavit.

(2) An order under section 128 of the Act may be made in any financial provision proceedings upon the application of any party to those proceedings in Form 21.

(3) Where the application concerns the title to or possession of land, the application shall —

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

(4) The application shall be served on the respondent, together with a copy of the affidavit in support and an acknowledgement of service in Form 6.

(5) Where particulars of a mortgage are given pursuant to paragraph (3), the applicant shall serve a copy of the application on the mortgagee; and any person so served may apply to the court in writing, within 14 days after service, for a copy of the affidavit in support; and within 14 days of receiving such affidavit may file an affidavit in answer and shall be entitled to be heard on the application.

(6) If the respondent intends to contest the application, he shall, within 14 days after the time allowed for sending the acknowledgement of service, file an affidavit in answer to the application setting out the grounds on which he relies, and serve a copy of the affidavit on the applicant.

(7) If the respondent fails to comply with paragraph (6), the applicant may apply for directions; and the court may give such directions as it thinks fit, including a direction that the respondent shall be debarred from defending the application unless an affidavit is filed within such time as the court may specify.

(8) The court may grant an injunction in proceedings under section 128 of the Act if, but only so far as, the injunction is ancillary or incidental to any relief sought in those proceedings.

(9) Rules 59, 61(4) and 64(2) and (3) apply, with any necessary modifications, to an application under section 128 of the Act as they apply to an application for financial provision.

(10) Subject to the provisions of this rule, these rules shall apply, with any necessary modifications, to proceedings on an application under section 128 of the Act as if they were matrimonial proceedings,

Family homes and domestic violence

74. Applications under Part 5 of the Act

(1) An application for an occupation order or a non-molestation order under Part 5 of the Act shall be made in Form 22.

(2) An application for an occupation order or a non-molestation order made by a child under the age of 16 shall be made in Form 22 but shall be treated, in the first instance, as an application to the Court for leave.

(3) An application for an occupation order or a non-molestation order which is made in other proceedings which are pending shall be made in Form 22.

(4) An application in Form 22 shall be supported by an affidavit by the applicant.

(5) Where an application is made *ex parte*, the affidavit shall state the reasons why notice was not given.

(6) An application made on notice (together with the affidavit and a notice of the time and place of the hearing) shall be served on the respondent personally not less than 2 days before the date on which the application will be heard.

(7) The court may abridge the period specified in paragraph (6).

(8) Where the applicant is acting in person, service of the application shall be effected by the coroner if the applicant so requests.

This does not affect the court's power to order substituted service.

(9) Where an application for an occupation order or a non-molestation order is pending, the court shall consider (on the application of either party or of its own motion) whether to exercise its power under section 91(3) of the Act to transfer the hearing of that application to a court of summary jurisdiction, and shall make an order for transfer in Form 23 if it seems necessary or expedient to do so.

(10) A copy of an application for an occupation order under section 95, 97 or 98 of the Act shall be served by the applicant by post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question, with a notice in Form 24 informing him of his right to make representations in writing or at any hearing.

(11) Rules 61(4) and 63 apply, with any necessary modifications, to an application for an occupation order under section 95, 97 or 98 of the Act as they apply to an application for financial provision.

(12) The applicant shall file a statement in Form 25 after he has served the application.

75. Hearing of applications under Part 5 of the Act

(1) An application for an occupation order or a non-molestation order under Part 5 of the Act shall be dealt with in chambers unless the Court otherwise directs.

(2) Where an order is made on an application made *ex parte*, a copy of the order together with a copy of the application and of the affidavit in support shall be served on the respondent personally.

(3) Where the application is for an occupation order under section 95, 97 or 98 of the Act, a copy of any order made on the application shall be served by the applicant by post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question.

(4) A copy of an order made on an application heard *inter partes* shall be served on the respondent personally.

(5) Where the applicant is acting in person, service of a copy of any order made on the hearing of the application shall be effected by the coroner if the applicant so requests.

(6) Any order made on the hearing of an application under Part 5 of the Act shall be issued in Form 26.

(7) The Court may direct that a further hearing be held in order to consider any representations made by a mortgagee.

(8) An application to vary, extend or revoke an order made under Part 5 of the Act shall be made in Form 27 and this rule shall apply to the hearing of such an application.

76. Enforcement of orders made on applications under Part 5 of the Act

(1) Where a power of arrest is attached to one or more of the provisions ("the relevant provisions") of an order made under Part 5 of the Act —

- (a) the relevant provisions shall be set out in an abridged copy of the order in Form 28, which shall not include any provisions of the order to which the power of arrest was not attached; and
- (b) the abridged copy shall be delivered to the Chief Constable, accompanied by a statement showing that the respondent has been served with the order or informed of its terms (whether by being present when the order was made or by telephone or otherwise).

(2) Where an order is made varying or revoking the relevant provisions, the Chief Registrar shall —

- (a) immediately inform the Chief Constable; and
- (b) deliver a copy of the order to him.

(3) An application for the issue of a warrant for the arrest of the respondent shall be made in Form 29.

(4) The court before whom a person is brought following his arrest may —

- (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the order, or
- (b) adjourn the proceedings and, where such an order is made, the arrested person may be released and —
 - (i) be dealt with within 14 days of the day on which he was arrested; and
 - (ii) be given not less than 2 days' notice of the adjourned hearing.

(5) The court may adjourn consideration of the penalty to be imposed for contempts found proved and such consideration may be restored if the respondent does not comply with any conditions specified by the court.

(6) Where the court makes a hospital order or a guardianship order under section 111 of the Act, the Chief Registrar shall —

- (a) send to the hospital any information which will be of assistance in dealing with the patient;
- (b) inform the applicant when the respondent is being transferred to hospital.

(7) Where a transfer direction given by the Department of Home Affairs under section 54 of the Mental Health Act 1998¹⁸ is in force in respect of a person remanded in custody by the court under Schedule 3 to the Act, the Chief Registrar shall notify —

- (a) the chief officer of the institution where that person was detained; and
- (b) the hospital where he is detained,

of any committal hearing which that person is required to attend, and the Chief Registrar shall give notice in writing to the hospital where that person is detained of any further remand under paragraph 3 of Schedule 3 to the Act.

(8) In paragraph (4) "arrest" means arrest under a power of arrest attached to an order or under a warrant of arrest.

77. Bail application

(1) An application for bail made by a person arrested under a power of arrest or a warrant of arrest may be made either orally or in writing.

(2) Where an application is made in writing, it shall contain the following particulars —

- (a) the full name of the person making the application;
- (b) the address of the place where the person making the application is detained at the time when the application is made;
- (c) the address where the person making the application would reside if he were to be granted bail;
- (d) the amount of the recognizance in which he would agree to be bound; and
- (e) the grounds on which the application is made and, where a previous application has been refused, full particulars of any change in circumstances which has occurred since that refusal.

(3) An application made in writing shall be signed by the person making the application or by a person duly authorised by him in that behalf or, where the person making the application is a minor or is for any reason incapable of acting, by a guardian ad litem acting on his behalf, and a copy shall be served by the person making the application on the applicant for the Part 5 order.

Proceedings in respect of polygamous marriage

78. Proceedings in respect of polygamous marriage

(1) This rule applies where an application is made for any order or declaration specified in section 136(1) of the Act in respect of a marriage where either party to the marriage is, or has been during the subsistence of the marriage been, married to more than one person (a "polygamous marriage").

- (2) The application —
 - (a) shall state that the marriage in question is polygamous;

¹⁸ 1998 c.3

- (b) shall state whether or not there is, to the knowledge of the applicant, any living spouse of his or hers additional to the respondent or, as the case may be, any living spouse of the respondent additional to the applicant (in this rule referred to as an additional spouse); and
- (c) if there is any additional spouse, shall give his or her full name and address and the date and place of his or her marriage to the applicant or, as the case may be, to the respondent, or state, so far as may be applicable, that such information is unknown to the applicant.
- (3) The court may order that any additional spouse —
 - (a) be added as a party to the proceedings; or
 - (b) be given notice of—
 - (i) the proceedings; or
 - (ii) of any application in the proceedings for any such order as is mentioned in section 136(1)(c) of the Act.
- (4) Any order under paragraph (3) may be made at any stage of the proceedings and either on the application of any party or by the court of its own motion and, where an additional spouse is mentioned in an application or an acknowledgement of service of an application, the applicant shall, on making any application in the proceedings or, if no previous application has been made in the proceedings, on making a request for directions for trial, ask for directions as to whether an order should be made under paragraph (3).
- (5) Any person to whom notice is given pursuant to an order under paragraph (3) shall be entitled, without filing an answer or affidavit, to be heard in the proceedings or on the application to which the notice relates.

Application for declaration as to marital status

79. Application under section 19 for declaration as to marital status

- (1) Unless otherwise directed, an initial application under section 19 of the Act for a declaration as to marital status shall state —
 - (a) the names of the parties to the marriage to which the application relates and the residential address of each of them at the date of the application;
 - (b) the place and date of any ceremony of marriage to which the application relates;
 - (c) the grounds on which the application is made and all other material facts alleged by the applicant to justify the making of the declaration;
 - (d) whether there have been or are continuing any proceedings in any court, tribunal or authority in the Island or elsewhere between the parties which relate to, or are capable of affecting, the validity or subsistence of the marriage, divorce, annulment or legal separation to which the application relates, or which relate to the matrimonial status of either of the parties, and, if so —

- (i) the nature, and either the outcome or present state of those proceedings,
- (ii) the court, tribunal or authority before which they were begun,
- (iii) the date when they were begun,
- (iv) the names of the parties to them,
- (v) the date or expected date of the trial,
- (vi) any other facts relevant to the question whether the application should be stayed under Schedule 1 to the Act;

and any such proceedings shall include any which are instituted otherwise than in a court of law in any country outside the Island, 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 begun and have not been finally disposed of,

- (e) where it is alleged that the court has jurisdiction based on domicile, which of the parties to the marriage to which the application relates is domiciled in the Island on the date of the application, or died before that date and was at death domiciled in the Island;
- (f) where it is alleged that the court has jurisdiction based on habitual residence, which of the parties to the marriage to which the application relates has been habitually resident in the Island, or died before that date and had been habitually resident in the Island throughout the period of one year ending with the date of death;
- (g) where the applicant was not a party to the marriage to which the application relates, particulars of his interest in the determination of the application.

(2) Where the proceedings are for a declaration that the validity of a divorce, annulment or legal separation obtained in any country outside the Island in respect of the marriage either is or is not entitled to recognition in the Island, the application shall in addition state the date and place of the divorce, annulment or legal separation.

(3) There shall be annexed to the application a copy of the certificate of any marriage to which the application relates, or, as the case may be, a certified copy of any order or decree of divorce or annulment or for legal separation to which the application relates.

(4) Where a document produced by virtue of paragraph (3) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.

(5) The parties to the marriage in respect of which a declaration is sought shall be applicant and respondent respectively to the application, unless a third party is applying for a declaration, in which case he shall be the applicant and the parties to the marriage shall be respondents to the application.

80. General provisions as to proceedings under rule 79

(1) An application under rule 79 shall be supported by an affidavit by the applicant verifying the application and giving particulars of every person whose interest may be affected by the proceedings and his relationship to the applicant.

Provided that if the applicant is under the age of 18, the affidavit shall, unless otherwise directed, be made by his next friend.

(2) Where the jurisdiction of the court to entertain an application is based on habitual residence the application shall include a statement of the addresses of the places of residence of the person so resident and the length of residence at each place either during the period of one year ending with the date of the application or, if that person is dead, throughout the period of one year ending with the date of death.

(3) An affidavit for the purposes of paragraph (1) may contain statements of information or belief with the sources and grounds of them.

(4) A copy of the application and every document accompanying it shall be sent by the applicant to the Attorney General at least one month before the application is filed, and it shall not be necessary thereafter to serve these documents upon him.

(5) The Chief Registrar shall send a copy of any answer to the Attorney General if he has notified the court that he wishes to intervene in the proceedings.

(6) When all answers to the application have been filed the applicant shall issue and serve on all respondents to the application a request for directions as to any other persons who should be made respondents to the application or given notice of the proceedings.

(7) When giving directions in accordance with paragraph (6) the court shall consider whether it is necessary that the Attorney General should argue before it any question relating to the proceedings, and if it does so consider, the Attorney General need not file an answer and the court shall give directions requiring him to serve on all parties to the proceedings a summary of his argument.

(8) Persons given notice of proceedings pursuant to directions given in accordance with paragraph (6) shall within 21 days after service of the notice upon them be entitled to apply to the court to be joined as parties.

(9) The Attorney General may file an answer to the application within 21 days after directions have been given under paragraph (7) and no directions for trial shall be given until that period and the period referred to in paragraph (8) have expired.

(10) The Attorney General, in deciding whether it is necessary or expedient to intervene in the proceedings, may have a search made for, and may inspect and bespeak a copy of, any document filed or filed in the General Registry which relates to any other family proceedings referred to in the proceedings.

(11) Subject to rule 79 and this rule, these rules, so far as applicable, apply with the necessary modifications to the proceedings as if they were matrimonial proceedings.

Financial relief after foreign divorce

81. Application for leave under section 79

(1) An application for leave to apply for an order for financial relief under Part 4 of the Act shall be made *ex parte* in Form 30, and shall be supported by an affidavit by the applicant stating the facts relied on in support of the application with particular reference to the matters set out in section 78(2) of the Act.

(2) The affidavit in support shall give particulars of the judicial or other proceedings by means of which the marriage to which the application relates was dissolved or annulled or by which the parties to the marriage were legally separated and shall state, so far as is known to the applicant —

- (a) the names of the parties to the marriage and the date and place of the marriage;
- (b) the occupation and residence of each of the parties to the marriage;
- (c) whether there are any living children of the family and, if so, 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;
- (d) whether either party to the marriage has remarried;
- (e) an estimate in summary form of the appropriate amount or value of the capital resources and net income of each party and of any minor child of the family;
- (f) the grounds on which it is alleged that the court has jurisdiction to entertain an application for an order for financial relief under Part 4 of the Act.

(3) The Chief Registrar shall fix a date, time and place for the hearing of the application by a Deemster in chambers and give notice of it to the applicant.

82. Application for order for financial relief or avoidance of transaction order under Part 4

(1) An application for an order for financial relief under Part 4 of the Act shall be made in Form 31, and at the same time the applicant, unless otherwise directed, shall file an affidavit in support of the application giving full particulars of his property and income.

(2) The applicant shall serve a copy of the application on the respondent and shall annex to it a copy of the affidavit in support, if one has been filed, and a notice of proceedings and acknowledgement of service in Form 32, and rule 95 shall apply to such an acknowledgement of service as if the references in paragraph (1) of that rule to Form 6 and in paragraph (2) of that rule to 7 days were respectively references to Form 32 and 31 days.

(3) Rules 56, 58 and 60 apply, with any necessary modifications, to an application for an order for financial relief under this rule as they apply to an application for financial provision made in Form 11; and the court may order the attendance of any person for the purpose of being examined or cross-examined and the disclosure and inspection of any document.

(4) An application for an interim order for maintenance under section 80 or an avoidance of transaction order under section 88 of the Act may be made, unless the court otherwise directs, in the application under paragraph (1), and an application for an order under section 88 shall be supported by an affidavit, which may be the affidavit filed under paragraph (1), stating the facts relied on.

(5) If the respondent intends to contest the application he shall, within 28 days after the time limited for giving notice to defend, file an affidavit in answer to the application setting out the grounds on which he relies and shall serve a copy on the applicant.

(6) In respect of any application for an avoidance of transaction order the court may give such a direction or make such appointment as it is empowered to give or make by paragraph (3), and rule 58 shall apply, with any necessary modifications, to an application for an avoidance of transaction order as it applies to an application for an avoidance of disposition order.

83. Application for order under section 89 preventing transaction

(1) An application under section 89 of the Act for an order preventing a transaction shall be made in Form 33 and shall be supported by an affidavit by the applicant stating the facts relied on in support of the application.

(2) The applicant shall serve a copy of the application on the respondent and shall annex thereto a copy of the affidavit in support and a notice of proceedings and acknowledgement of service in Form 32, and rule 95 shall apply to such an acknowledgement of service as if the references in paragraph (1) of that rule to Form 6 and in paragraph (2) of that rule to 7 days were respectively references to Form 32 and 31 days.

(3) If the respondent intends to contest the application he shall, within 28 days after the time limited for giving notice of intention to defend, file an affidavit in answer to the application setting out the grounds on which he relies and shall serve a copy on the applicant.

Consent to marriage of minor

84. Consent to marriage of minor

(1) An application under section 3 of the Marriage Act 1984¹⁹ for the consent of the court to the marriage of a minor shall be dealt with in chambers unless the court otherwise directs.

(2) The application may be brought without the intervention of the applicant's next friend, unless the court otherwise directs.

(3) Where the application follows a refusal to give consent to marriage, every person who has refused consent shall be made a respondent to the application.

(4) The application shall, unless the court orders otherwise, be served not less than 7 days before the date upon which the application is to be heard.

¹⁹ 1984 c.13

PART 5

GENERAL

85. Application

This Part applies to all proceedings in the High Court under the Act, but has effect subject to —

- (a) the provisions of any other Part, and
- (b) where the proceedings relate to any matter under Part 1 or 2 of the Children and Young Persons Act 2001, the provisions of Order 44 of the Rules of Court.

Service

86. Service on advocate

(1) Where a document is required by these rules to be sent to any person who is acting by an advocate, service shall, subject to any other direction or order, be effected—

- (a) by sending the document by post to the advocate's address for service; or
- (b) by sending a legible copy of the document by facsimile transmission or electronic mail to the advocate's office.

(2) Where no other mode of service is prescribed, directed or ordered, service may additionally be effected by leaving the document at the advocate's address.

87. Service on litigant in person

(1) Subject to paragraph (3) and to any other direction or order, where a document is required by these rules to be sent to any person who is acting in person, service shall be effected by sending the document by post to the address given by him or, if he has not given an address for service, to his last known address.

(2) Subject to paragraph (3), where no other mode of service is prescribed, directed or ordered, service may additionally be effected by delivering the document to him or by leaving it at the address mentioned in paragraph (1).

(3) Where it appears to a Deemster that it is impracticable to deliver the document to the person to be served and that, if the document were left at, or sent by post to, the address specified in paragraph (1) it would be unlikely to reach him, the Deemster may dispense with service of the document.

88. Service out of the Island

(1) Any document in proceedings to which these Rules apply may be served out of the Island without leave either in the manner prescribed by these Rules or in accordance with Order 6 of the Rules of Court.

(2) Where an application is to be served on a person out of the Island, the time within which that person must give notice of intention to defend shall be

determined by the Chief Registrar, and the notice in Form 5 shall be amended accordingly.

Disability

89. Person under disability must sue by next friend etc.

(1) In this rule and rule 90 —

"patient" means a person who, by reason of mental disorder within the meaning of the Mental Health Act 1998, is incapable of managing and administering his property and affairs;

"person under disability" means a person who is a minor or a patient;

"Part 7" means Part 7 of the Mental Health Act 1998.

(2) A person under disability may begin and prosecute any proceedings to which these Rules apply by his next friend and may defend any such proceedings by his guardian ad litem and, except as otherwise provided by this rule, it shall not be necessary for a guardian ad litem to be appointed by the court.

(3) No person's name shall be used in any proceedings as next friend of a person under disability unless he is the Attorney General or the documents mentioned in paragraph (8) have been filed.

(4) Where a person is authorised under Part 7 to conduct legal proceedings in the name of a patient or on his behalf, that person shall, subject to paragraph (5), be entitled to be next friend or guardian ad litem of the patient in any proceedings to which these Rules apply and to which his authority extends.

(5) Where a person entitled to defend any proceedings to which these Rules apply is a patient and there is no person authorised under Part 7 to defend the proceedings in his name or on his behalf, then —

- (a) the Attorney General shall, if he consents, be the patient's guardian ad litem, but at any stage of the proceedings an application may be made on not less than 4 days' notice to the Attorney General for the appointment of some other person as guardian;
- (b) in any other case, an application may be made on behalf of the patient for the appointment of a guardian ad litem;

and there shall be filed in support of any application under this paragraph the documents mentioned in paragraph (8).

(6) Where an application or answer has been served on a person whom there is reasonable ground for believing to be a person under disability and no notice of intention to defend has been given, or answer or affidavit in answer filed, on his behalf, the party at whose instance the document was served shall, before taking any further steps in the proceedings, apply to a Deemster for directions as to whether a guardian ad litem should be appointed to act for that person in the proceedings, and on any such application the Deemster may, if he considers it necessary in order to protect the interests of the person served, order that some proper person be appointed his guardian ad litem.

(7) No notice of intention to defend shall be given, or answer or affidavit in answer filed, by or on behalf of a person under disability unless the person giving the notice or filing the answer or affidavit —

- (a) is the Attorney General or, in a case to which paragraph (5) applies, is the Attorney General or has been appointed by the court to be guardian ad litem; or
 - (b) in any other case, has filed the documents mentioned in paragraph (8).
- (8) The documents referred to in paragraphs (3), (5) and (7) are —
- (a) a written consent to act by the proposed next friend or guardian ad litem;
 - (b) where the person under disability is a patient and the proposed next friend or guardian ad litem is authorised under Part 7 to conduct the proceedings in his name or on his behalf, an office copy of the order or other authorisation made or given under Part 7; and
 - (c) except where the proposed next friend or guardian ad litem is authorised as mentioned in sub-paragraph (b), a certificate by the advocate acting for the person under disability —
 - (i) that he knows or believes that the person to whom the certificate relates is a minor or patient, stating (in the case of a patient) the grounds of his knowledge or belief and, where the person under disability is a patient, that there is no person authorised as aforesaid, and
 - (ii) that the person named in the certificate as next friend or guardian ad litem has no interest in the case or matter in question adverse to that of the person under disability and that he is a proper person to be next friend or guardian.

90. Service on person under disability

(1) Where a document to which rule 12 applies is required to be served on a person under disability, it shall be served—

- (a) in the case of a minor who is not also a patient, on his parent or guardian or, if he has no parent or guardian, on the person with whom he resides or in whose care he is;
- (b) in the case of a patient—
 - (i) on the person (if any) who is authorised under Part 7 to conduct in the name of the patient or on his behalf the proceedings in connection with which the document is to be served, or
 - (ii) if there is no person so authorised, on the Attorney General if he has consented under rule 89 to be the guardian ad litem of the patient, or
 - (iii) in any other case, on the person with whom the patient resides or in whose care he is:

Provided that the court may order that a document which has been, or is to be, served on the person under disability or on a person other than one mentioned in subparagraph (a) or (b) shall be deemed to be duly served on the person under disability.

(2) Where a document is served in accordance with paragraph (1) it shall be endorsed with a notice in Form 34; and after service has been effected the person at whose instance the document was served shall, unless the Attorney General is the guardian ad litem of the person under disability or the court otherwise directs, file an affidavit by the person on whom the document was served stating whether the contents of the document were, or its purport was, communicated to the person under disability and, if not, the reasons for not doing so.

91. Application for annulment order on ground of mental disorder

(1) Where an application for an annulment order has been made on the ground that at the time of the marriage the respondent was suffering from mental disorder within the meaning of the Mental Health Act 1998 of such a kind or to such an extent as to be unfitted for marriage, then, whether or not the respondent gives notice of intention to defend, the applicant shall not proceed with the case without the leave of the court.

(2) The court may make it a condition of granting leave under paragraph (1) that some proper person be appointed to act as guardian ad litem of the respondent.

92. Guardian ad litem

(1) Without prejudice to rule 56, if in any proceedings to which these Rules apply it appears to the court that any child ought to be separately represented, the court may appoint—

- (a) the Attorney General, or
- (b) some other proper person,

(provided, in either case, that he consents) to be the guardian ad litem of the child, with authority to take part in the proceedings on the child's behalf.

(2) An order under paragraph (1) may be made by the court of its own motion or on the application of a party to the proceedings or of the proposed guardian ad litem.

(3) The court may at any time direct that an application be made by a party for an order under paragraph (1) and may stay the proceedings until the application has been made.

(4) Unless otherwise directed, on making an application for an order under paragraph (1) the applicant shall —

- (a) unless he is the proposed guardian ad litem, file a written consent by the proposed guardian to act as such;
- (b) unless the proposed guardian ad litem is the Attorney General, file a certificate by an advocate that the proposed guardian has no interest in the proceedings adverse to that of the child and that he is a proper person to be a guardian.

(5) Unless otherwise directed, a person appointed under this rule to be the guardian ad litem of a child in proceedings to which these Rules apply shall be treated as a party for the purpose of any provision of these rules requiring a document to be served on or notice to be given to a party to the proceedings.

Evidence

93. Evidence by affidavit

(1) On any application 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.

(2) Paragraph (1) does not apply to matrimonial proceedings, except proceedings on an application to which Part 3 applies.

94. Evidence of marriage outside the Island

(1) The celebration of a marriage outside the Island and its validity under the law of the country where it was celebrated may, in any 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 paragraph (1) is not in English it shall, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.

Miscellaneous

95. Notice of intention to defend

(1) In these rules any reference to a notice of intention to defend is a reference to an acknowledgment of service in Form 6 containing a statement to the effect that the person by whom or on whose behalf it is signed intends to defend the proceedings to which the acknowledgment relates, and any reference to giving notice of intention to defend is a reference to returning such a notice to the General Registry.

(2) In relation to any person on whom there is served a document requiring or authorising an acknowledgment of service to be returned to the General Registry, references in these rules to the time limited for giving notice of intention to defend are references—

- (a) to 7 days after service of the document, in the case of notice of intention to defend an application under Part 2, and
- (b) in any other case, to 14 days or such other time as may be fixed.

- (3) Subject to paragraph (2) a person may give notice of intention to defend even though he has already returned to the General Registry an acknowledgment of service not constituting such a notice.

96. Orders for transfer of proceedings

- (1) In this rule "order for transfer" means —
 - (a) an order under section 58(2) of the Act that a matter be reheard and determined by a court of summary jurisdiction;
 - (b) an order under section 91(3) of the Act that an application be heard and determined by a court of summary jurisdiction.
- (2) The court shall not, either of its own motion or on the application of any party, make an order for transfer unless the parties have either—
 - (a) had an opportunity of being heard on the question, or
 - (b) consented to such an order.
- (3) Where the parties, or any of them, desire to be heard on the question of an order for transfer, the Chief Registrar shall give the parties notice of a date, time and place at which the question will be considered.
- (4) Where an order for transfer is made, the Chief Registrar shall, unless otherwise directed, give notice of the transfer to the parties.

97. Orders: general

- (1) A copy of every divorce order, annulment order, separation order or order of presumption of death and dissolution of marriage shall be sent by the Chief Registrar to every party to the proceedings.
- (2) Where any other order made in proceedings to which these Rules apply has been drawn up, the Chief Registrar shall, unless otherwise directed, send a copy of the order to every party affected by it.
- (3) Where a party against whom the order is made is acting by an advocate, a copy may, if the Chief Registrar thinks fit, be sent to that party as if he were acting in person, as well as to his advocate.
- (4) 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 sent.
- (5) A sealed or other copy of an order made in open court shall be issued to any person requiring it on payment of the prescribed fee.
- (6) This rule is without prejudice to rule 49.

98. No notice of intention to proceed after year's delay

Order 47 rule 11 of the Rules of Court (notice of intention to proceed after a year's delay) shall not apply to any proceedings to which these Rules apply.

99. Appeals from Chief Registrar

- (1) Any party may appeal to a Deemster from an order or decision made or given by the Chief Registrar in proceedings to which these Rules apply.

(2) On hearing an appeal under this rule the Deemster may exercise his own discretion in substitution for that of the Chief Registrar.

(3) Unless the court otherwise orders, any notice under this rule must be issued within 7 days of the order or decision appealed against and served not less than 14 days before the day fixed for the hearing of the appeal.

(4) Appeals under this rule shall be heard in chambers unless the Deemster otherwise directs.

(5) Unless the court otherwise orders, an appeal under this rule shall not operate as a stay of proceedings on the order or decision appealed against.

100. Inspection etc of documents retained in court

(1) Subject to rule 101 —

(a) a party to any proceedings to which these Rules apply or his advocate, or

(b) the Attorney General, or

(c) a person appointed under rule 92 to be the guardian ad item of a child in any proceedings,

may have a search made for, and may inspect and bespeak a copy of, any document filed in those proceedings.

(2) Any person not entitled to a copy of a document under paragraph (1) who intends to make an application under the Hague Convention in a Contracting State other than the United Kingdom shall, if he satisfies the Chief Registrar that he intends to make such an application, be entitled to obtain a copy bearing the seal of the court of any order relating to the custody of the child in respect of whom the application is to be made.

In this paragraph "the Hague Convention" and "Contracting State" have the meanings given by sections 23 and 24 respectively of the Child Custody Act 1987²⁰.

(3) Except as provided by rules 34(4) and 80(10) and paragraphs (1) and (2), no document filed other than an order made in open court shall be open to inspection by any person without the leave of the Chief Registrar, 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.

101. Disclosure of addresses

(1) Nothing in these rules shall be construed as requiring any party to reveal the address of his 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 paragraph (1), he shall give notice of that address to the court in Form 35 and that address shall not be revealed to any person save by order of the court.

²⁰ 1987 c.11

SCHEDULE 1

FORMS

Form 1

General heading of proceedings

No.

IN THE HIGH COURT OF JUSTICE OF THE ISLE OF MAN

FAMILY DIVISION

Applicant	<i>Full name of applicant</i>
Respondent	<i>Full name of respondent</i>
[Co-respondent]	<i>Full name of co-respondent</i>

Rule 6(1).

Form 2

Initial application

[Heading as in Form 1]

APPLICATION FOR [DIVORCE ORDER] or as the case may be*

1.	The applicant was lawfully married to the respondent on <i>[date]</i> at <i>[place]</i>
2.	The applicant and the respondent last lived together as husband and wife at <i>[place]</i>
3.	The Court has jurisdiction on the ground that the [applicant] [respondent] [at the date of this application is domiciled in the Isle of Man] [has been habitually resident in the Isle of Man throughout the period of one year ending with the date of this application] The [respondent] [applicant] [at that date is domiciled in <i>[country]</i>] [has been habitually resident in <i>[country]</i>] throughout that period] <i>or as the case may be</i>
4.	The applicant is <i>[occupation]</i> and resides at <i>[address]</i>
5.	The respondent is <i>[occupation]</i> and resides at <i>[address]</i>
6.	There are [no] [the following] living children of the family [namely — <i>[full name of each child and date of birth and, if aged 16 or 17, whether receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation]</i>]
7.	There are [no] [the following] proceedings in a court in the Isle of Man 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 — <i>[nature of proceedings, with date and effect of any decree or order]</i>
8.	The said marriage has broken down irretrievably.
9.	The fact on which the applicant relies is that [the respondent has committed adultery and the applicant finds it intolerable to live with the respondent.] [the respondent has behaved in such a way that the applicant cannot reasonably be expected to live with the respondent.] [the respondent has deserted the applicant for a continuous period of at least 2 years immediately preceding the date of this application.] [the applicant and the respondent have lived apart for a continuous period of at least 2 years immediately preceding the date of this application and the respondent consents to a divorce order being made.] [the applicant and the respondent have lived apart for a continuous period of at least 5 years immediately preceding the date of this application.]
10.	Particulars: <i>[details of adultery, behaviour, desertion or separation]</i>
11.	The applicant applies for the following — (a) a divorce order dissolving the said marriage; (b) <i>[particulars of any order under Part 1 or Part 2 of the Children and Young Persons Act 2001 applied for]</i> (c) an order that the respondent pay the costs of the proceedings; (d) the following orders for financial provision — <i>or as the case may be</i>

Rules of the High Court (Matrimonial Proceedings) 2004

12.	The names and addresses of the persons to be served with this application are:
13.	The applicant's address for service is <i>[name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]</i>
Date	Signed [Advocate for] Applicant

**Note: This form is to be suitably adapted according to the kind of order(s) applied for, the grounds of the application and the circumstances of the case, but must in any case include the matters specified in Schedule 2, as appropriate.*

Rule 6(3).

Form 3

Statement of arrangements for children

[Heading as in Form 1]

STATEMENT OF ARRANGEMENTS FOR CHILDREN

Matrimonial Proceedings Act 2003

You must complete this form if you or the respondent have any children —

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

Please use black ink.

Please complete Parts 1, 2 and 3.

Before you make an application for a divorce order 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 make your initial application.

Please refer to the explanatory notes issued regarding completion of paragraph 11 of the initial application if you are asking the court to make any order regarding the children.

The Court will only make an order if it considers that an order will be better for the child(ren) than no order.

If you wish to apply for any of the orders which may be available to you under Part 1 or 2 of the Children and Young Persons Act 2001, you are advised to see an advocate.

You should obtain legal advice from an advocate. Addresses of advocates and advice agencies can be obtained from the Court office.

To the Respondent

The applicant has completed Part 1, 2 and 3 of this form which will be sent to the Court at the same time that the application for a divorce order is made.

Please read all parts of the form carefully.

If you agree with the arrangements and proposals for the children you should sign Part 4 of the form.

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

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 application for a divorce order 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 only of any children born to you and the Respondent or adopted by you both)		
	<i>Forenames</i>	<i>Surname</i>	<i>Date of birth</i>
(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)			
	<i>Forenames</i>	<i>Surname</i>	<i>Date of birth</i>	<i>Relationship to Yourself Respondent</i>
(i)				
(ii)				
(iii)				
(iv)				
(v)				

3.	Other children who are not children of the family (Give details of any other children born to you or the Respondent who have not been treated as children of the family or adopted by you both)		
	<i>Forenames</i>	<i>Surname</i>	<i>Date of birth</i>
(i)			
(ii)			
(iii)			
(iv)			
(v)			

PART 2 — 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?	<input type="checkbox"/> No <input type="checkbox"/> 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?	<input type="checkbox"/> No <input type="checkbox"/> 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?	<input type="checkbox"/> No <input type="checkbox"/> Yes (Please give details)
(c)	Is the school, college or place of training, fee-paying? Are the fees being regularly paid?	<input type="checkbox"/> No <input type="checkbox"/> Yes (Please give details of how much the fees are per term/year) <input type="checkbox"/> No <input type="checkbox"/> Yes (Please give details)
(d)	Will there be any change in these arrangements?	<input type="checkbox"/> No <input type="checkbox"/> 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?	<input type="checkbox"/> No <input type="checkbox"/> Yes (Please give details of his/her hours of work)

Rules of the High Court (Matrimonial Proceedings) 2004

(c)	Does someone look after the children when the parent is not there?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details)
(d)	Who looks after the children during school holidays?		
(e)	Will there be any change in these arrangements?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details)

7.	Maintenance (please tick the appropriate boxes)		
(a)	Does your husband/wife pay towards the upkeep of the children? If there is another source of maintenance, please specify.	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details of how much)
(b)	Is the payment made under a court order?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details, including the name of the court and case number)
(c)	Has maintenance for the children been agreed? If not, will you be applying for a maintenance order for the children?	<input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> Yes (Please give details)

8.	Details for contact with the children (please tick the appropriate boxes)		
(a)	Do the children see your husband/wife?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details of how often and where)
(b)	Do the children ever stay with your husband/wife?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details of how much)
(c)	Will there be any change in these arrangements?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details of the proposed arrangements for contact and residence)

9.	Details of health (please tick the appropriate boxes)		
(a)	Are the children generally in good health?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details of any serious disability or chronic illness)
(b)	Do the children have any special health needs?	<input type="checkbox"/> No	<input type="checkbox"/> 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 Department of Health and Social Security, or under the supervision of the Department or a probation officer?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details, including any court proceedings)

(b)	Are there or have there been any proceedings in any court involving the children, for example adoption, custody or residence, access or contact, wardship, care, supervision or maintenance?	<input type="checkbox"/> No	<input type="checkbox"/> Yes (Please give details, and send a copy of any order to the Court)
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PART 3 — To the Applicant

Conciliation	
If you and your husband/wife do not agree about the arrangements for the child(ren), would you agree to discuss the matter with a Conciliator and your husband/wife?	<input type="checkbox"/> No <input type="checkbox"/> Yes

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

PART 4 — To the Respondent

I agree with the arrangements and proposals contained in Parts 1 and 2 of this form.	
Date	Signed Respondent

Rule 9(2).

Form 4

Certificate as to reconciliation

[Heading as in form 1]

I am the advocate acting for the applicant in the above proceedings.

I certify that I [have] [have not] discussed with the applicant the possibility of a reconciliation and that I [have] [have not] given to the applicant the names and addresses of persons qualified to hold effect a reconciliation.

Date

Signed

Advocate for Applicant

Rule 9(5).

Form 5

Notice of proceedings

[Heading as in form 1]

NOTICE OF PROCEEDINGS

Matrimonial Proceedings Act 2003

An application for a divorce order has been made to this Court. A copy of it [and a copy of the applicant's Statement of Arrangements for the child(ren)] [is][are] delivered with this notice.

1. You must complete the accompanying acknowledgement of service and send it so as to reach the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR, within 14 days after you receive this notice. Delay in returning the form may add to the costs.

2. If you intend to instruct an advocate to act for you, you should at once give him all the documents which have been served on you, so that he may send the acknowledgement to the Chief Registrar on your behalf. If you do not intend to instruct an advocate, 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. Changes of address should be notified to the Chief Registrar.

NOTES ON QUESTIONS IN THE ACKNOWLEDGEMENT OF SERVICE

3. If you answer Yes to Question 4 or 7 you must, within 35 days after you receive this notice, file in the Court office an answer to the petition together with a copy for every other party to the proceedings.

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 applicant is entitled to rely and may result in an order for costs being made against you;
- (c) if you are in any doubt about the answer to give you should consult an advocate.

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

- (a) if the applicant satisfies the Court that the applicant and you have been living apart for 2 years immediately before the making of the application and that you consent to a divorce order, the Court will make one unless it considers that the marriage has not broken down irretrievably;
- (b) a final divorce order 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 applicant dies;
 - (iii) any rights of occupation you may have in the matrimonial home under Part 5 of the Matrimonial Proceedings Act 2003 will cease unless the Court has ordered otherwise before the order is made;
- (c) once the Court makes a final divorce order or a separation order, you will lose your right to inherit from the applicant if he or she dies without having made a will, and if the applicant has made a will a final divorce order will deprive you of any right which you may have under that will to act as executor or take any gift under the will, unless a contrary intention appears in the will;
- (d) a divorce order 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 an advocate.

6. If after consenting you wish to withdraw your consent you must immediately inform the Chief Registrar and give notice to the applicant.

Delete paragraph 7 unless application is based on 5 years' separation

7. The applicant relies in support of the application on the fact that the parties to the marriage have lived apart for at least 5 years. Section 9 of the Matrimonial Proceedings Act 2003 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 provisional divorce order based on 5 years' separation only cannot be made unless the Court is satisfied that the applicant has or will make proper provision for the respondent, or else that the applicant should not be required to make any financial provision for the respondent. The application will tell you whether the applicant proposes to make any financial provision for you. It is important that you should consider this information carefully before answering Question 8 in the acknowledgement.

8. If you answer Yes to Question 8 you must, before the divorce order is made final, make application to the Court by filing and serving on the applicant a notice in Form 8, which may be obtained from the Court office.

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 Court 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 applicant and yourself, be fixed by the Court, or will be settled by the Court after lodgement of the applicant'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(c) is YES please make sure that you sign the form at 12A.

11. If you wish to contest the applicant's financial or property claim you will have an opportunity of doing so when you receive a notice stating that the applicant 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.

12. 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 an advocate.

13. If you wish to make an application for —

- a residence order
- a contact order
- an order under section 11(1)(c) of the Children and Young Persons Act 2001 (a 'prohibited steps order')
- an order under section 11(1)(d) of that Act (a 'specific issue order')

in respect of a child, you will have to make a separate application on a form corresponding to Form CHA10(D) contained in the Family Proceedings Rules 1991 (for England and Wales). You can get this form from the Court office. Before you apply for any of these orders or any other order which may be available to you under Part 1 or 2 of the Children and Young Persons Act 2001 you are advised to see an advocate.

[date]

Rule 9(5).

Form 6

Acknowledgement of service

[Heading as in Form 1]

ACKNOWLEDGEMENT OF SERVICE

IF YOU INTEND TO INSTRUCT AN ADVOCATE TO ACT FOR YOU, GIVE HIM OR HER THIS FORM IMMEDIATELY.

READ CAREFULLY THE NOTICE OF PROCEEDINGS BEFORE ANSWERING THE FOLLOWING QUESTIONS

PLEASE COMPLETE USING BLACK INK

1.	Have you received the application for a divorce order with this form?	
2.	On which date and at what address did you receive it?	Date: Address:
3.	Are you the person named as the respondent in the application?	
4.	Do you intend to defend the case?	
5.	<i>(In the case of an application alleging adultery)</i> Do you admit the adultery alleged in this application?	
6.	Do you consent to a divorce order being made?	
7.	Do you intend to oppose the making of a divorce order 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 provisional divorce order being made on the basis of 2 years' separation coupled with the respondent's consent, or 5 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 the child(ren)? (b) What was the date of the Statement of Arrangements? <i>(the date beside the Applicant's signature at Part 3)</i> (c) Do you agree with the proposals in that Statement of Arrangements?	

	<p>Notes:</p> <p>If NO you may file a written statement of your views on the present and the proposed arrangements for the children.</p> <p>It would help if you sent that statement to the Court office with this form.</p> <p>You can get a form from the Court office.</p>	
11.	<p><i>(In the case of proceedings relating to a polygamous marriage)</i></p> <p>If you have any wife/husband in addition to the applicant who is not mentioned in the application, what is the name and address of each such wife/husband and the date and place of your marriage to her/him?</p>	
12A.	<p><i>You must complete this part if—</i></p> <ul style="list-style-type: none"> • <i>you answered YES to Question 5 or</i> • <i>you answered YES to Question 6 or</i> • <i>you answered YES to Question 10(c) or</i> • <i>you do not have an advocate acting for you.</i> 	
	Date	Signed
	<p>Address for service:</p> <p>Note If you are acting on your own you should also put your place of residence, or if you do not reside in the Isle of Man the address of a place in the Isle of Man to which documents may be sent to you.</p> <p>If you subsequently wish to change your address for service, you must notify the Chief Registrar.</p>	
12B.	<p>I am/We are acting for the Respondent in this matter.</p>	
	Date	Signed
		Advocate(s) for the Respondent
	<p>Address for service:</p> <p>Note If your client answered YES to question 5, question 6 or question 10(c) your client must sign and date at 12A.</p>	

Rule 26(3)(a).

Form 7(a)

Affidavit by applicant in support of application under s.2(2)(a) (Adultery)

[Heading as in Form 1]

AFFIDAVIT BY APPLICANT

	<i>Question</i>	<i>Answer</i>
	<i>About the Application for a Divorce Order</i>	
1.	Have you read the application made in this case?	
2.	Do you wish to alter or add to any statement in the application? If so, state the alterations or additions.	
3.	Subject to these alterations (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4.	State briefly your reasons for saying that the respondent has committed the adultery alleged.	
5.	On what date did it first become known to you that the respondent had committed the adultery alleged?	
6.	Do you find it intolerable to live with the respondent?	
7.	Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.	
	<i>About the children of the family</i>	
8.	Have you read the Statement of Arrangements filed in this case?	
9.	Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.	
10.	Subject to these alterations and addition(s) (if any), is everything stated in your application [and Statement of Arrangements for the child(ren)] true and correct to the best of your knowledge and belief?	

I (<i>full name</i>)	
of (<i>address</i>)	
(<i>occupation</i>)	
MAKE OATH and say as follows	
1.	I am the applicant in this case
2.	The answers to Questions 1 to 10 are true.

Rules of the High Court (Matrimonial Proceedings) 2004

3.	I identify the signature* appearing on the copy acknowledgement of service now produced to me and marked 'A' as the signature of my husband/wife, the respondent in this case.	<i>Delete if the acknowledgement is signed by an advocate. *Insert name of the respondent exactly as it appears in the acknowledgment of service.</i>
4.	I identify the signature* appearing at the foot of the document now produced to me and marked 'B' as the signature of the respondent	<i>Insert where confession is exhibited. *Insert name of the respondent exactly as it appears on the confession signed by him/her.</i>
5.	I identify the signature* appearing at Part 4 of the Statement of Arrangements dated now produced to me and marked 'C' as the signature of the respondent.	<i>* Insert name of the respondent exactly as it appears on the Statement of Arrangements signed by him/her.</i>
6.		<i>Exhibit any other document on which the applicant wishes to rely.</i>
7.	I ask the Court to make an order dissolving my marriage with the respondent* on the grounds stated in my application [and to order the respondent/co-respondent to pay the costs of this case]§	<i>*If the applicant seeks judicial separation, amend accordingly. §Amend or delete as appropriate.</i>

TAKEN and SWORN at

on

Before me

A Commissioner for Oaths

Rule 26(3)(a).

Form 7(b)

Affidavit by applicant in support of application under s.2(2)(b) (behaviour)

[Heading as in Form 1]

AFFIDAVIT BY APPLICANT

	<i>Question</i>	<i>Answer</i>
	<i>About the Application for a Divorce Order</i>	
1.	Have you read the application made in this case?	
2.	Do you wish to alter or add to any statement in the application? If so, state the alterations or additions.	
3.	Subject to these alterations (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.	
4.	If you consider that the respondent's behaviour has affected your health, state the effect that it has had.	
5.	(i) Is the respondent's behaviour (as set out in your application and particulars) continuing? (ii) If the respondent's behaviour is not continuing, what was the date of the final incident relied upon by you in your application?	
6.	(i) Since the date given in answer to question 5 or, if no date is given in answer to that question, since the date of the petition have you lived at the same address as the respondent for a period of more than 6 months, or for periods which together amount, to more than 6 months? (ii) If so, state the address and the period or periods, giving dates to the best of your knowledge or belief, and describe the arrangements for sharing the accommodation. [State: <ul style="list-style-type: none"> • whether you have shared a bedroom; • whether you have taken your meals together; • what arrangements you have made for cleaning the accommodation and for other domestic tasks; • what arrangements you have made for the payment of household bills and other expenses.]	
	<i>About the children of the family</i>	
7.	Have you read the Statement of Arrangements filed in this case?	
8.	Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.	

9.	Subject to these alterations and addition(s) (if any), is everything stated in your application [and Statement of Arrangements for the child(ren)] true and correct to the best of your knowledge and belief?	
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I (<i>full name</i>)		
of (<i>address</i>)		
(<i>occupation</i>)		
MAKE OATH and say as follows		
1.	I am the applicant in this case	
2.	The answers to Questions 1 to 9 are true.	
3.	I identify the signature* appearing on the copy acknowledgement of service now produced to me and marked 'A' as the signature of my husband/wife, the respondent in this case.	<i>Delete if the acknowledgement is signed by an advocate. *Insert name of the respondent exactly as it appears in the acknowledgment of service.</i>
4.	I exhibit marked 'B' a certificate/report of Dr	<i>Exhibit any medical report or document on which the applicant wishes to rely</i>
5.	I identify the signature* appearing at Part 4 of the Statement of Arrangements dated now produced to me and marked 'C' as the signature of the respondent.	<i>* Insert name of the respondent exactly as it appears on the Statement of Arrangements signed by him/her.</i>
6.	I ask the Court to make an order dissolving my marriage with the respondent* on the grounds stated in my application [and to order the respondent/co-respondent to pay the costs of this case]§	<i>*If the applicant seeks judicial separation, amend accordingly. §Amend or delete as appropriate.</i>

TAKEN and SWORN at

on

Before me

A Commissioner for Oaths

Rule 26(3)(a).

Form 7(c)

Affidavit by applicant in support of application under s.2(2)(c) (desertion)

[Heading as in Form 1]

AFFIDAVIT BY APPLICANT

	<i>Question</i>	<i>Answer</i>	
	<i>About the Application for a Divorce Order</i>		
1.	Have you read the application made in this case?		
2.	Do you wish to alter or add to any statement in the application? If so, state the alterations or additions.		
3.	Subject to these alterations (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.		
4.	State the date on which you and the respondent separated and, if different, the date on which the alleged desertion began. Did you agree to the separation?		
5.	State briefly the facts you rely on in support of the allegation that the respondent deserted you, and your reason for saying that the desertion continued up to the making of the application.		
6.	Did the respondent ever offer to resume cohabitation?		
7.	State as far as you know the various addresses at which you and the respondent have respectively lived since the last date given in the answer to question 4, and the periods of residence at each address:		
		<i>Petitioner's address</i>	<i>Respondent's address</i>
	From	From	
	to	to	
8.	Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.		
	<i>About the children of the family</i>		
9.	Have you read the Statement of Arrangements filed in this case?		

Rules of the High Court (Matrimonial Proceedings) 2004

10.	Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.	
11.	Subject to these alterations and addition(s) (if any), is everything stated in your application [and Statement of Arrangements for the child(ren)] true and correct to the best of your knowledge and belief?	

I (<i>full name</i>)		
of (<i>address</i>)		
(<i>occupation</i>)		
MAKE OATH and say as follows		
1.	I am the applicant in this case	
2.	The answers to Questions 1 to 11 are true.	
3.	I identify the signature* appearing on the copy acknowledgement of service now produced to me and marked 'A' as the signature of my husband/wife, the respondent in this case.	<i>Delete if the acknowledgement is signed by an advocate. *Insert name of the respondent exactly as it appears in the acknowledgement of service.</i>
4.	I identify the signature* appearing at Part 4 of the Statement of Arrangements dated now produced to me and marked 'C' as the signature of the respondent.	<i>* Insert name of the respondent exactly as it appears on the Statement of Arrangements signed by him/her.</i>
5.		<i>Exhibit any other document on which the applicant wishes to rely.</i>
6.	I ask the Court to make an order dissolving my marriage with the respondent* on the grounds stated in my application [and to order the respondent/co-respondent to pay the costs of this case]§	<i>*If the applicant seeks judicial separation, amend accordingly. §Amend or delete as appropriate.</i>

TAKEN and SWORN at

on

Before me

A Commissioner for Oaths

Rule 26(3)(a).

Form 7(d)

Affidavit by applicant in support of application under s.2(2)(d) (2 years' separation)

[Heading as in Form 1]

AFFIDAVIT BY APPLICANT

	<i>Question</i>		<i>Answer</i>	
	<i>About the Application for a Divorce Order</i>			
1.	Have you read the application made in this case?			
2.	Do you wish to alter or add to any statement in the application? If so, state the alterations or additions.			
3.	Subject to these alterations (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.			
4.	State the date on which you and the respondent separated.			
5.	State briefly the reason or main reason for separation.			
6.	State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.			
7.	State as far as you know the various addresses at which you and the respondent have respectively lived since the last date given in the answer to question 4, and the periods of residence at each address:			
		<i>Petitioner's address</i>		<i>Respondent's address</i>
	From to		From to	
8.	Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.			
	<i>About the children of the family</i>			
9.	Have you read the Statement of Arrangements filed in this case?			
10.	Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.			
11.	Subject to these alterations and addition(s) (if any), is everything stated in your application [and Statement of Arrangements for the child(ren)] true and correct to the best of your knowledge and belief?			

I (full name)		
of (address)		
(occupation)		
MAKE OATH and say as follows		
1.	I am the applicant in this case	
2.	The answers to Questions 1 to 10 are true.	
3.	I identify the signature* appearing on the copy acknowledgement of service now produced to me and marked 'A' as the signature of my husband/wife, the respondent in this case.	<i>Delete if the acknowledgement is signed by an advocate. *Insert name of the respondent exactly as it appears in the acknowledgement of service.</i>
4.	I identify the signature* appearing at Part 4 of the Statement of Arrangements dated now produced to me and marked 'C' as the signature of the respondent.	<i>* Insert name of the respondent exactly as it appears on the Statement of Arrangements signed by him/her.</i>
5.		<i>Exhibit any other document on which the applicant wishes to rely.</i>
6.	I ask the Court to make an order dissolving my marriage with the respondent* on the grounds stated in my application [and to order the respondent/co-respondent to pay the costs of this case]§	<i>*If the applicant seeks judicial separation, amend accordingly. §Amend or delete as appropriate.</i>

TAKEN and SWORN at

on

Before me

A Commissioner for Oaths

Rule 26(3)(a).

Form 7(e)

Affidavit by applicant in support of application under s.2(2)(e) (5 years' separation)

[Heading as in Form 1]

AFFIDAVIT BY APPLICANT

	<i>Question</i>	<i>Answer</i>												
	<i>About the Application for a Divorce Order</i>													
1.	Have you read the application made in this case?													
2.	Do you wish to alter or add to any statement in the application? If so, state the alterations or additions.													
3.	Subject to these alterations (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.													
4.	State the date on which you and the respondent separated.													
5.	State briefly the reason or main reason for separation.													
6.	State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.													
7.	State as far as you know the various addresses at which you and the respondent have respectively lived since the last date given in the answer to question 4, and the periods of residence at each address:													
	<table border="1"> <tr> <td></td> <td><i>Petitioner's address</i></td> <td></td> <td><i>Respondent's address</i></td> </tr> <tr> <td>From</td> <td></td> <td>From</td> <td></td> </tr> <tr> <td>to</td> <td></td> <td>to</td> <td></td> </tr> </table>		<i>Petitioner's address</i>		<i>Respondent's address</i>	From		From		to		to		
	<i>Petitioner's address</i>		<i>Respondent's address</i>											
From		From												
to		to												
8.	Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.													
	<i>About the children of the family</i>													
9.	Have you read the Statement of Arrangements filed in this case?													
10.	Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.													
11.	Subject to these alterations and addition(s) (if any), is everything stated in your application [and Statement of Arrangements for the child(ren)] true and correct to the best of your knowledge and belief?													

I (full name)		
of (address)		
(occupation)		
MAKE OATH and say as follows		
1.	I am the applicant in this case	
2.	The answers to Questions 1 to 10 are true.	
3.	I identify the signature* appearing on the copy acknowledgement of service now produced to me and marked 'A' as the signature of my husband/wife, the respondent in this case.	<i>Delete if the acknowledgement is signed by an advocate. *Insert name of the respondent exactly as it appears in the acknowledgment of service.</i>
4.	I identify the signature* appearing at Part 4 of the Statement of Arrangements dated now produced to me and marked 'C' as the signature of the respondent.	<i>* Insert name of the respondent exactly as it appears on the Statement of Arrangements signed by him/her.</i>
5.		<i>Exhibit any other document on which the applicant wishes to rely.</i>
6.	I ask the Court to make an order dissolving my marriage with the respondent* on the grounds stated in my application [and to order the respondent/co-respondent to pay the costs of this case]§	<i>*If the applicant seeks judicial separation, amend accordingly. §Amend or delete as appropriate.</i>

TAKEN and SWORN at

on

Before me

A Commissioner for Oaths

Rule 43(1).

Form 8

Application under rule 43

[Heading as in form 1]

APPLICATION BY RESPONDENT TO CONSIDER FINANCIAL POSITION AFTER DIVORCE

Matrimonial Proceedings Act 2003

The respondent applies to the Court under section 9(2) of the Matrimonial Proceedings Act 2003 for the Court to consider the financial position of the respondent after the divorce.	
Date	Signed [Advocate for] Applicant

To the applicant:

The application will be heard by a Deemster in chambers at the Isle of Man Courts of Justice, Douglas on [a date to be fixed] [*date and time* The time allowed for the hearing of the application will be [*period*].]

[*Unless the applicant has already filed an affidavit in connection with an application for financial provision under rule 56(3), add —*

You must send to the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR so as to reach him within 14 days after you receive this notice, an affidavit giving full particulars of your property and income. You must at the same time send a copy of your affidavit to the [advocate for] the respondent. A standard form of affidavit may be obtained from the Court office.

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

Rule 47(1).

Form 9

Application for provisional order to be made final

[Heading as in form 1]

APPLICATION FOR PROVISIONAL ORDER TO BE MADE FINAL

Matrimonial Proceedings Act 2003

The [applicant] [respondent] applies for the provisional [divorce] [annulment] order made in these proceedings on [<i>date</i>] to be made final.	
Date	Signed [Advocate for] [Applicant] [Respondent]

Rule 49(2).

Form 10

Certificate of final divorce order

[Heading as in form 1]

CERTIFICATE OF FINAL DIVORCE ORDER

Matrimonial Proceedings Act 2003

A provisional divorce order was made in this case on *[date of provisional order]* by which it was ordered that the marriage solemnized on *[date of marriage]* at *[place]* between the applicant and the respondent be dissolved unless sufficient cause be shown to the Court within *[time]* from the date of the order why the order should not be made final.

No such cause having been shown, it is hereby certified that the order was on *[date of final order]* made final and that the said marriage was thereby dissolved.

Dated

Note: Divorce affects inheritance under a will.

Where a will has already been made by either party to the marriage then, by virtue of section 8 of the Wills Act 1985, from the above date on which the divorce order was made final —

- (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;*

unless a contrary intention appears in the will.

Rule 49(2).

Form 11

Certificate of final annulment order

[Heading as in form 1]

CERTIFICATE OF FINAL ANNULMENT ORDER

Matrimonial Proceedings Act 2003

In case of void marriage

[A provisional annulment order was made in this case on *[date of provisional order]* whereby it was ordered that the marriage solemnized on *[date of marriage]* at *[place]* between the applicant and the respondent be declared to have been by law void and the applicant *[name]* be pronounced to have been and to be free of all bond of marriage with the respondent *[name]* unless sufficient cause be shown to the court within *[time]* from the making thereof why the order should not be made final.

No such cause having been shown, it is hereby certified that the order was on the *[date of final order]* made final and that the said marriage was by law void and that the said petitioner has been and is free from all bond of marriage with the respondent.]

In case of voidable marriage

[A provisional annulment order was made in this case on *[date of provisional order]* whereby it was ordered that the marriage solemnized on *[date of marriage]* at *[place]* between the applicant and the respondent be annulled unless sufficient cause be shown to the Court within *[time]* from the date of the order why the order should not be made final.

No such cause having been shown, it is hereby certified that the order was on *[date of final order]* made final and that the applicant was from that date and is free from all bond of marriage with the respondent.]

Dated

Note: Annulment affects inheritance under a will.

Where a will has already been made by either party to the marriage then, by virtue of section 8 of the Wills Act 1985, from the above date on which the order was made final —

- (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;*

unless a contrary intention appears in the will.

Rule 52

Form 12

Application for financial provision

[Heading as in form 1]

APPLICATION FOR FINANCIAL PROVISION

Matrimonial Proceedings Act 2003

The [applicant] [respondent] applies for [<i>financial provision claimed, stating the terms of any agreement as to the order which the Court is to be asked to make and, in the case of an application for a property adjustment order or an avoidance of disposition order, the nature of the adjustment proposed or the disposition to be set aside</i>].

Date	Signed [Advocate for] [Applicant] [Respondent]
------	---

To the [respondent] [applicant]:

The application will be heard by a Deemster in chambers at the Isle of Man Courts of Justice, Douglas on [a date to be fixed] [*date and time*] The time allowed for the hearing of the application will be [*period*].

[*Unless the parties are agreed upon the terms of the proposed order, or the application is for a variation order, add —*

You must send to the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR so as to reach him within 14 days after you receive this notice, an affidavit giving full particulars of your property and income. You must at the same time send a copy of your affidavit to the [advocate for] the [applicant] [respondent]. A standard form of affidavit may be obtained from the Court office.

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

Rule 57(1).

Form 13

Notice of intention to proceed with application for financial provision made in initial application or answer

[Heading as in form 1]

NOTICE OF INTENTION TO PROCEED WITH APPLICATION FOR FINANCIAL PROVISION

The [applicant] [respondent], having applied in [his][her] [initial application][answer] for the following financial provision, intends to proceed with that application, namely [*here set out the financial provision claimed and intended to be proceeded with, stating the terms of any agreement as to the order which the court is to be asked to make.*]

Date	Signed [Advocate for] [Applicant] [Respondent]
------	---

To the [respondent] [applicant]:

[Add where applicable:—

The application will be heard by a Deemster in chambers at the Isle of Man Courts of Justice, Douglas on [a date to be fixed] [*date and time*] The time allowed for the hearing of the application will be [*period*].]

[Unless the parties are agreed upon the terms of the proposed order, or the application is for a variation order, continue as in Form 12]

Rule 59(1).

Form 14

Notice of allegation in proceedings for financial provision

[Heading as in form 1]

NOTICE OF ALLEGATION

TAKE NOTICE that this affidavit has been filed in proceedings for [*state nature of application*] and that if you wish to be heard on any matter affecting you in the proceedings you may intervene by applying to the Court, within 14 days after you receive this notice, for directions as to the filing and service of pleadings and as to the further conduct of the proceedings.

Date	Signed [Advocate for] [Applicant] [Respondent]
------	---

Rule 65(2).

Form 15

Notice of request for periodical payments order at same rate as order for maintenance pending suit
[Heading as in form 1]

NOTICE OF REQUEST

To the [respondent] [applicant]

The [applicant][respondent] on [date] obtained an order for payment by you of maintenance pending suit at the rate of £ , and in [his][her] [initial application][answer] applied for a periodical payments order for [himself][herself],

The [applicant][respondent] has requested the Court to make a periodical payments order for [himself][herself] providing for payments by you at the same rate as those mentioned above.

If you object to the making of such a periodical payments order, you must give notice to that effect to the Chief Registrar and the [applicant] [respondent] within 14 days after service of this notice on you, and if you do not do so, the Court may make such a periodical payments order without further notice to you.

Date

Signed

[Advocate for] [Applicant] [Respondent]

Rule 68(1).

Form 16

Application for financial provision on ground of failure to provide reasonable maintenance
[Heading as in Form 1]

APPLICATION FOR FINANCIAL PROVISION

(Matrimonial Proceedings Act 2003 s.38)

1.	The applicant is the [wife][husband] of the respondent.
2.	The applicant claims that the respondent has failed to provide reasonable maintenance for [her] [him] [and has failed to provide, or to make a proper contribution towards, maintenance for the child[ren] of the family, namely <i>[full names of children]</i>
3.	The applicant applies for an order for <i>[financial provision claimed]</i>
4.	The applicant's address for service is <i>[name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]</i>
Date	Signed [Advocate for] Applicant

Rules 68(4) & 69(3).

Form 17

Notice of application under rule 68 or 69

[Heading as in Form 1]

NOTICE OF APPLICATION [FOR FINANCIAL PROVISION] [TO VARY MAINTENANCE AGREEMENT]

This application will be heard at the Isle of Man Courts of Justice [on *[date]* at *[time]*] [on a day to be fixed], and if you do not attend at that place and time, such order will be made as the Court thinks just.

A copy of the application [and of the affidavit in verification] is delivered with this notice.

You must complete the accompanying acknowledgement of service and send it so as to reach the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR, within 14 days after you receive this notice. Delay in returning the form may add to the costs.

[Where application is under rule 68] If you wish to challenge the jurisdiction of the court to hear this application you must file an affidavit stating the grounds of your challenge. In any other case (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 or of an improper association with a named person, the affidavit must be accompanied by an extra copy for service on that person.

[Where application is under rule 69] You must also 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. You must send the affidavit so as to reach the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR, within 14 days after the time allowed for sending the acknowledgement of service, and at the same time serve a copy on the applicant.

If you intend to instruct an advocate 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.

Date

Signed

[Advocate for] Applicant

To the Respondent

[Here set out Form 6]

Rule 69(1)

Form 18

Application for alteration of maintenance agreement during parties' lifetime

[Heading as in Form 1]

APPLICATION FOR ALTERATION OF MAINTENANCE AGREEMENT

(Matrimonial Proceedings Act 2003 s.50)

1.	The applicant is the [wife][husband] of the respondent.
2.	The applicant was lawfully married to the respondent on [date] at [place]
3.	The applicant resides at [address]
4.	The respondent resides at [address]
5.	<i>Unless both parties are resident in the Isle of Man</i> The applicant and the respondent are both domiciled in the Isle of Man <i>or as the case may be</i>
6.	There are [no] [the following] living children of the family [namely — <i>[full name of each child and date of birth and, if aged 16 or 17, whether receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation]</i>]
7.	There are [no] [the following] proceedings in a court in the Isle of Man 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 — <i>[nature of proceedings, with date and effect of any decree or order]</i>
8.	The applicant applies for an order altering the maintenance agreement made between the applicant and the respondent on [date], as follows — <i>[particulars of alteration applied for]</i>
9.	The applicant's means are as follows:
10.	The facts on which the applicant relies to justify the alteration are as follows:
11.	The applicant's address for service is <i>[name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]</i>
Date	Signed [Advocate for] Applicant

Rule 70(1).

Form 19

Application for alteration of maintenance agreement after death of one party

[Heading as in Form 1]

APPLICATION FOR ALTERATION OF MAINTENANCE AGREEMENT

(Matrimonial Proceedings Act 2003 s.51)

1.	The applicant [is] [are] the [former wife] [former husband] [personal representatives] of [name of deceased] ("the deceased") who died on [date of death] domiciled in the Isle of Man.
2.	The respondent [is] [are] the [personal representatives] [former wife] [former husband] of the deceased.
3.	The [applicant] [respondent] resides at [address]
4.	There are [no] [the following] living children of the family [namely — [full name of each child and date of birth and, if aged 16 or 17, whether receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation]]
5.	There are [no] [the following] proceedings in a court in the Isle of Man or elsewhere with reference to the marriage or to any child of the family or to any property of the deceased — [nature of proceedings, with date and effect of any order]
6.	The applicant applies for an order altering the maintenance agreement made between the [applicant] [respondent] and the deceased on [date], as follows — [particulars of alteration applied for]
7.	If application is made by party to marriage The applicant's means are as follows:
8.	The facts on which the applicant relies to justify the alteration are as follows:
9.	The applicant's address for service is [name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]
Date	Signed [Advocate for] Applicant

Rules of the High Court (Matrimonial Proceedings) 2004

Rule 73(1).

Form 20

Application for summary determination of property dispute

[Heading as in Form 1]

APPLICATION FOR SUMMARY DETERMINATION OF PROPERTY DISPUTE

(Matrimonial Proceedings Act 2003 s.128)

1.	The applicant is the [former] [wife] [husband] of the respondent.
2.	The applicant applies for an order for <i>[set out terms of order sought]</i>
3.	[The title to the land the subject of this application is [unregistered] [registered under title number]]
4.	[The land the subject of this application is subject to a mortgage in favour of <i>[name and address of mortgagee]</i>]
5.	The applicant's address for service is <i>[name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]</i>
Date	Signed [Advocate for] Applicant

Rule 73(2).

Form 21

Application in existing proceedings for summary determination of property dispute

[Heading as in Form 1]

APPLICATION FOR SUMMARY DETERMINATION OF PROPERTY DISPUTE

(Matrimonial Proceedings Act 2003 s.128)

1.	This application is made by the [applicant] [respondent] in these proceedings.
2.	The [applicant] [respondent] applies for an order for <i>[set out terms of order sought]</i>
3.	[The title to the land the subject of this application is [unregistered] [registered under title number]]
4.	[The land the subject of this application is subject to a mortgage in favour of <i>[name and address of mortgagee]</i>]
Date	Signed [Advocate for] [Applicant] [Respondent]

Rule 74(1).

Form 22

Application for occupation order or non-molestation order

[Heading as in form 1]

APPLICATION FOR [OCCUPATION ORDER] [NON-MOLESTATION ORDER]

(Matrimonial Proceedings Act 2003 Part 5)

1.	<p>The applicant and the respondent</p> <p>[are married] [were married]</p> <p>[are cohabiting] [were cohabiting]</p> <p>[are living in the same household] [were living in the same household]</p> <p>[related as <i>[state relationship]</i>]</p> <p>[agreed to marry] [<i>state date of agreement and, if it has ended, when</i>]</p> <p>[are parents of a child] [<i>state name and date of birth</i>]</p> <p>[have parental responsibility for a child] [<i>state name and date of birth</i>]</p> <p><i>or as the case may be</i></p>
<i>If application is for a non-molestation order</i>	
2.	The applicant applies for an order that the respondent shall not [<i>specify terms of order as in Form 27</i>]
<i>If application is for an occupation order</i>	
3.	This application relates to [<i>address of dwelling-house</i>] which [was] [is] [was intended to be] occupied by [the applicant] [the respondent] [the applicant and the respondent]
4.	The applicant [is] [is not] entitled to occupy the dwelling-house [<i>if entitled, state why</i>]
5.	The respondent [is] [is not] entitled to occupy the dwelling-house [<i>if entitled, state why</i>]
6.	<p>The applicant is</p> <p>a. [a spouse who has matrimonial home rights in the dwelling-house]</p> <p>b. [a person who is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract]</p> <p>c. [a former spouse with no existing right to occupy the dwelling-house and the respondent former spouse is entitled to occupy it]</p> <p>d. [a cohabitant with no existing right to occupy the dwelling-house and the respondent cohabitant is entitled to occupy it]</p> <p>e. [a former cohabitant with no existing right to occupy the dwelling-house and the respondent former cohabitant is entitled to occupy it]</p> <p>f. [a spouse who is not entitled to occupy the dwelling-house, where the respondent spouse is also not entitled]</p> <p>g. [a former spouse who is not entitled to occupy the dwelling-house, where the respondent former spouse is also not entitled]</p> <p>h. [a cohabitant who is not entitled to occupy the dwelling-house, where the respondent cohabitant or is also not entitled]</p> <p>i. [a former cohabitant who is not entitled to occupy the dwelling-house, where the respondent former cohabitant is also not entitled]</p>

Rules of the High Court (Matrimonial Proceedings) 2004

7.	<i>If the applicant has matrimonial home rights</i> The title to the dwelling-house is [unregistered] [registered under Land Registry title number]
8.	<i>If dwelling-house is occupied under a tenancy</i> The landlord of the dwelling-house is [name and address]
9.	<i>If dwelling-house is subject to a mortgage</i> The mortgagee of the dwelling-house is [name and address]
10.	The applicant applies for an order that [specify terms of order as in Form 27]
<i>In all cases</i>	
11.	The reasons for applying for this order are [specify grounds of application]
12.	[There are no children] [The following children are] [The following child is] living or staying with, or likely to live with or stay with, the applicant or the respondent [state name(s) and date(s) of birth]
13.	[There is no other person] [The following persons are] [The following person is] living in the same household as the applicant or the respondent [state name(s) and reason for living there]
14.	[There are no other current proceedings or orders in force] [The following [proceedings are current] [orders are in force] involving the applicant and the respondent [state type of proceedings or orders, court and case number]
15.	The names and addresses of the persons to be served with this application are: <i>and/or</i> The applicant requests that this application be heard without notice to the respondent, for the reasons given in the affidavit in support.
16.	The applicant's address for service is [name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]
Date	Signed [Advocate for] Applicant

Rule 74(9).

Form 23

Order transferring proceedings

[Heading as in form 1]

ORDER TRANSFERRING PROCEEDINGS

Matrimonial Proceedings Act 2003 Part 5

By *[name of judge]*

The Court being of the opinion that the application for [an occupation order] [a non-molestation order] in these proceedings would be more conveniently dealt with by a court of summary jurisdiction

IT IS ORDERED that these proceedings be stayed and that the application be heard and determined by the [[Deputy] High Bailiff] [Magistrates' Court sitting at Douglas]

Date

Signed

Deemster

Rule 74(10).

Form 24

Notice to mortgagees and landlords

[Heading as in form 1]

NOTICE TO [MORTGAGEE] [LANDLORD]

Matrimonial Proceedings Act 2003 Part 5

To <i>[name and address]</i>	concerning the dwelling-house at <i>[address]</i>
<p>An [application] [order] has been made in proceedings under Part 5 of the Matrimonial Proceedings Act 2003 which affects the occupation of the above dwelling-house and the payment of the [mortgage] [rent] on it. [A copy of the order is attached.]</p> <p>[The next hearing is at <i>[time and place]</i>]</p> <p>If either the applicant or respondent has matrimonial home rights: you may apply to be made a party to these proceedings if you wish.</p> <p>If neither the applicant nor the respondent has matrimonial home rights, or you do not wish to be made a party: you may make representations to the court about these proceedings. This should be done by letter addressed to the Chief Registrar, Isle of Man Courts of Justice, Douglas IM1 3AR.</p>	
Date	Signed [Advocate for] Applicant

Rule 74(12)

Form 25

Statement of Service

[Heading as in form 1]

STATEMENT OF SERVICE

Matrimonial Proceedings Act 2003 Part 5

I certify that notice of the application in this case was served on the other parties [and on any landlord or mortgagee of the dwelling-house as follows:

<i>Name and address of person served</i>	<i>Means of identification of person, and how, when and where served</i>	<i>Documents served</i>
Date	Signed [Advocate for] Applicant	

Notes

This form must be filed with the Court on or before the first directions appointment or hearing of the proceedings

If the person's advocate was served, give his or her name and address

Indicate the manner, date, time and place of service or, where service was effected by post, the date, time and place of posting

Rule 75(6).

Form 26

Part 5 Order

[Heading as in form 1]

ORDER

Matrimonial Proceedings Act 2003 Part 5

Where order includes a non-molestation order or occupation order

IMPORTANT NOTICE to the respondent *[name]* or as the case may be

This order gives you instructions which you must follow. You should read it all carefully. If you do not understand anything in this order you should go to an advocate.

You have a right to ask the Court to change or cancel the order, but you must obey it unless the Court does change or cancel it.

[If you do not obey the instructions contained in this order, you will be guilty of contempt of court and you may be sent to prison.] *[must be included in case of non-molestation order]*

By *[name of judge]*

On the application of *[name]* the *[applicant]* *[respondent]* in these proceedings or as the case may be

IT IS ORDERED as follows:—

Occupation orders (Matrimonial Proceedings Act 2003 s.95)

1. The Court declares that the applicant *[name]* is entitled to occupy *[address of dwelling-house]* as *[his]* *[her]* home.
2. The Court declares that the applicant *[name]* has matrimonial home rights in *[address of dwelling-house]*
3. The Court declares that the applicant *[name]*'s matrimonial home rights shall not end when the respondent *[name]* dies or their marriage is dissolved and shall continue until *[date or event]* or further order.
4. The respondent *[name]* shall allow the applicant *[name]* to occupy *[address of dwelling-house]*
5. The respondent *[name]* shall allow the applicant *[name]* to occupy part of *[address of dwelling-house]* namely: *[specify part]*
6. The respondent *[name]* shall not obstruct, harass or interfere with the applicant *[name]*'s peaceful occupation of *[address of dwelling-house]*
7. The respondent *[name]* shall not occupy *[address of dwelling-house]*
8. The respondent *[name]* shall not occupy *[address of dwelling-house]* from *[date]* until *[date]*
9. The respondent *[name]* shall not occupy the following part of *[address of dwelling-house]* namely *[specify part]*
10. The respondent *[name]* shall not occupy *[part of]* *[address of dwelling-house]* *[namely: [specify part]]* between *[specify dates or times]*
11. The respondent *[name]* shall leave *[part of]* *[address of dwelling-house]* *[namely: [specify part]]* *[forthwith]* *[within [specify period]]* of service on *[him][her]* of this order.]
12. Having left *[part of]* *[address of dwelling-house]* *[namely: [specify part]]*, the respondent *[name]* shall not return to, enter or attempt to enter *[or go within [specify distance]]* of it.

Occupation orders (Matrimonial Proceedings Act 2003 ss.97 & 98)

13. The applicant *[name]* has the right to occupy *[address of dwelling-house]* and the respondent *[name]* shall allow the applicant *[name]* to do so.

14. The respondent *[name]* shall not evict or exclude the applicant *[name]* from [the following part of] *[address of dwelling-house]* [namely *[specify part]*]
15. The respondent *[name]* shall not occupy *[address of dwelling-house]*
16. The respondent *[name]* shall not occupy *[address of dwelling-house]* from *[date]* until *[date]*
17. The respondent *[name]* shall not occupy the following part of *[address of dwelling-house]* namely *[specify part]*
18. The respondent *[name]* shall leave [the following part of] *[address of dwelling-house]* [namely *[specify part]*] [forthwith] [within *[period]*] of service on [him] [her] of this order.
19. Having left [the following part of] *[address of dwelling-house]* [namely *[specify part]*], the respondent *[name]* shall not return to, enter or attempt to enter [or go within *[specify distance]*] of it.

Occupation orders (Matrimonial Proceedings Act 2003 ss.100 & 101)

20. The respondent *[name]* shall allow the applicant *[name]* to occupy [the following part of] *[address of dwelling-house]* [namely *[specify part]*]
21. The respondent *[name]* shall not obstruct, harass or interfere with the applicant *[name]*'s peaceful occupation of *[address of dwelling-house]*
22. The respondent *[name]* shall not occupy [part of] *[address of dwelling-house]* [namely: *[specify part]*] between *[specify dates or times]*
23. The respondent *[name]* shall leave [part of] *[address of dwelling-house]* [namely: *[specify part]*] [forthwith] [within *[period]*] of service on [him] [her] of this order.]
24. Having left [part of] *[address of dwelling-house]* [namely: *[specify part]*], the respondent *[name]* may not return to, enter or attempt to enter [or go within *[specify distance]*] of it.

Additional provisions which may be included in occupation orders made under Matrimonial Proceedings Act 2003 s.95, 97 or 98

25. The [applicant] [respondent] *[name]* shall maintain and repair *[address of dwelling-house]*
26. The [applicant] [respondent] *[name]* shall pay the rent for *[address of dwelling-house]*
27. The [applicant] [respondent] *[name]* shall make the mortgage payments on *[address of dwelling-house]*
28. The [applicant] [respondent] *[name]* shall pay the following outgoings on *[address of dwelling-house]*: *[specify outgoings]*
29. The [applicant] [respondent] *[name]* shall pay to the [respondent] [applicant] [other party] *[name]* £ each [week] [month] for the occupation of *[address of dwelling-house]*
30. The [applicant] [respondent] *[name]* shall keep and use the [furniture] [contents] *[specify if necessary]* of *[address of dwelling-house]* and the [respondent] [applicant] *[name]* shall return to the [applicant] [respondent] *[name]* the [furniture] [contents] *[specify if necessary]* [not later than *[date]*]
31. The [applicant] [respondent] *[name]* shall take reasonable care of the [furniture] [contents] *[specify if necessary]* of *[address of dwelling-house]*.
32. The [applicant] [respondent] *[name]* shall take all reasonable steps to keep secure *[address of dwelling-house]* and the furniture or other contents *[specify if necessary]*.

Duration: occupation orders (Matrimonial Proceedings Act 2003 s.95)

33. This order shall last until *[specify event or date]*.
34. This order shall last until a further order is made.

Duration: occupation orders (Matrimonial Proceedings Act 2003 ss.97 & 98)

35. This order shall last until *[date not more than 6 months from date of order]*.
36. The occupation order made on *[date]* is extended until *[date not more than 6 months from the date of extension]*.

Duration: occupation orders (Matrimonial Proceedings Act 2003 ss.100 & 101)

37. This order shall last until *[date not more than 6 months from date of order]*.

38. The occupation order made on *[date]* is extended until *[date not more than 6 months from date of extension]* and must end on that date.

Non-molestation orders (Matrimonial Proceedings Act 2003 s.104)

39. The respondent *[name]* is forbidden to use or threaten violence against the applicant *[name]* [or to instruct, encourage or in any way suggest that any other person should do so].

40. The respondent *[name]* is forbidden to intimidate, harass or pester [or *[specify]*] the applicant *[name]* [or to instruct, encourage or in any way suggest that any other person should do so].

41. The respondent *[name]* is forbidden to use or threaten violence against the relevant child[ren] *[name(s) and date(s) of birth]* [or to instruct, encourage or in any way suggest that any other person should do so].

42. The respondent *[name]* is forbidden to intimidate, harass or pester [or *[specify]*] [the relevant child[ren] *[name(s) and date(s) of birth]* [or to instruct, encourage or in any way suggest that any other person should do so].

Power of arrest

If a power of arrest is attached to any provision of the order, set out power of arrest as in Form 28

Date

Signed

Deemster

Rule 75(8).

Form 27

Application in existing proceedings to vary, extend or revoke a Part 5 order

[Heading as in form 1]

APPLICATION TO VARY, EXTEND OR REVOKE AN ORDER

Matrimonial Proceedings Act 2003 Part 5

1.	The person making this application is [the applicant] [the respondent] in these proceedings <i>or as the case may be (if not already a party, give person's name, address and nature of interest in dwelling-house or proceedings)</i>
2.	This application relates to the order made by this Court on [date]
3.	Application is made to [vary] [extend] [revoke] that order <i>[if for variation or extension, specify terms of order applied for]</i>
4.	The reasons for applying for this order are <i>[specify grounds of application]</i>
5.	The names and addresses of the persons to be served with this application are:
6.	The applicant's address for service is <i>[name and address of advocate, or other address in the Isle of Man to which documents for the applicant may be delivered or sent]</i>
Date	Signed [Advocate for] Applicant

Rule 76(1).

Form 28

Power of arrest

[Heading as in form 1]

EXTRACT OF COURT ORDER CONFERRING POWER OF ARREST

Matrimonial Proceedings Act 2003 Part 5

By *[name of judge]*

The Court orders that a power of arrest applies to the following paragraph(s) of an order made under this Act on the *[date]*:

[set out provisions of order to which power of arrest is attached and no others]

The court is satisfied that the respondent has used or threatened violence against *[the applicant]* *[and]* *[the following child[ren] [name(s) and date(s) of birth]]* *[and that there is a risk of significant harm to [the applicant] [and] [or] [the above child[ren]] attributable to the conduct of the respondent if the power of arrest is not attached immediately].*

A power of arrest is attached to the order whereby any constable may (under the power given by section 109(5) of the Matrimonial Proceedings Act 2003) arrest without warrant the respondent *[name]* if the constable has any reasonable cause for suspecting that the respondent may be in breach of any provision to which the power of arrest is attached.

This power of arrest expires on *[date]*

Date

Signed

Deemster

Note to the arresting officer

Where the respondent is arrested under the power given by section 109 of the Matrimonial Proceedings Act 2003, that section requires that the respondent must be brought before a judge of the High Court within 24 hours of the time of his arrest, and if the matter is not then disposed of forthwith, the Court may remand the respondent.

Nothing in section 109 authorises the detention of the respondent after the expiry of the period of 24 hours beginning at the time of his arrest unless remanded by the Court.

The period of 24 hours shall not include Christmas Day, Good Friday or a Sunday.

Rule 76(3).

Form 29

Application for warrant of arrest

[Heading as in form 1]

APPLICATION FOR WARRANT OF ARREST

Matrimonial Proceedings Act 2003 Part 5

1.	On the <i>[date]</i> the Court made an order as follows: <i>[set out provisions of order relevant to this application]</i>
2.	The applicant applies for an order that a warrant be issued for the arrest of the respondent <i>[name]</i>
3.	The respondent has disobeyed the order by <i>[specify the way(s) in which it is alleged that the respondent has disobeyed the order]</i>
Date	Signed [Advocate for] Applicant

Rule 81(1).

Form 30

Application for leave to make application under Part 4

[Heading as in form 1]

APPLICATION FOR LEAVE TO MAKE APPLICATION

Matrimonial Proceedings Act 2003 Part 4

The applicant applies for leave to make an application for an order for financial relief under Part 4 of the Matrimonial Proceedings Act 2003	
Date	Signed [Advocate for] Applicant

Rule 81(1).

Form 31

Application for financial relief under Part 4

[Heading as in form 1]

APPLICATION FOR FINANCIAL RELIEF AFTER FOREIGN DIVORCE

Matrimonial Proceedings Act 2003 Part 4

The applicant applies for the following financial relief under Part 4 of the Matrimonial Proceedings Act 2003 — <i>[specify relief claimed]</i>	
Date	Signed [Advocate for] Applicant

Rule 82(2).

Form 32

Notice of proceedings and acknowledgement of service

[Heading as in form 1]

NOTICE OF PROCEEDINGS

Read carefully this Notice of Proceedings before answering the questions which follow.

TAKE NOTICE that an application [for financial relief][to prevent a transaction] has been presented to this Court. A copy of it and a copy of the applicant's affidavit in support are delivered with this notice.

1. You must complete and detach the acknowledgement of service and send it so as to reach the Chief Registrar, Isle of Man Courts of Justice, Douglas, Isle of Man IM1 3AR within 31 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 wish to dispute the claim made by the applicant you must file in the Court office an affidavit in answer within 28 days after the time allowed for sending the acknowledgement of service.
3. 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 send the acknowledgement to the Court office 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 interest which are sent to you will in fact reach you. This should be your place of residence or, if you do not reside in the Isle of Man, the address of a place in the Isle of Man to which documents may be sent to you. Change of address should be notified to the Chief Registrar.

ACKNOWLEDGEMENT OF SERVICE

[Heading as in form 1]

1.	Have you received a copy of the application and a copy of the supporting affidavit in respect of the proceedings mentioned above?	
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 application?	
4.	Do you intend to defend the case? If your answer to this question is yes you must follow the instructions in paragraph 2 of the Notice of Proceedings.	
5.	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?	
	Date	Signed [Advocate for] Respondent
	Address for service: <i>Note If you are acting on your own you should also put your place of residence, or if you do not reside in the Isle of Man the address of a place in the Isle of Man to which documents may be sent to you.</i> <i>If you subsequently wish to change your address for service, you must notify the Chief Registrar.</i>	

Rule 83(1).

Form 33

Application for order restraining disposition etc.

[Heading as in form 1]

APPLICATION FOR ORDER RESTRAINING DISPOSITION ETC.

Matrimonial Proceedings Act 2003 Part 4

The applicant applies for an order restraining the respondent from making any disposition or transferring out of the jurisdiction or otherwise dealing with any property with intent to defeat a claim for financial relief under Part 4 of the Matrimonial Proceedings Act 2003	
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Date	Signed [Advocate for] Applicant
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Rule 90(2).

Form 34

Notice to be endorsed on document to be served on parent etc. of person under disability

[Heading as in form 1]

To *[name and address]*

TAKE NOTICE that the contents or purport of this document are to be communicated to the *[respondent or as the case may be]*, the said *[name]* if he is over 16 *[add, if the person to be served is by reason of mental disorder within the meaning of the Mental Health Act 1998 incapable of managing and administering his property and affairs]* unless you are satisfied *[after consultation with the responsible medical officer within the meaning of the Mental Health Act 1998 or, if the said [name] is not liable to be detained or subject to guardianship under that Act, his medical attendant]** that communication will be detrimental to his mental condition].

**Delete these words if the document is served on the responsible medical officer or medical attendant.*

Rule 101(2).

Form 35

Notice of address to be kept confidential

[Heading as in form 1]

NOTICE OF ADDRESS TO BE KEPT CONFIDENTIAL

Matrimonial Proceedings Act 2003

The [applicant] [respondent] declines to reveal to any other party to these proceedings [[his] [her] address] [the address of the following child(ren) <i>[name(s)]</i>]	
The address(es) [is] [are] —	
<i>Name</i>	<i>Address</i>
<i>Date</i>	Signed [Advocate for] [Applicant] [Respondent]

Rule 6(2).

SCHEDULE 2

CONTENTS OF APPLICATION

(Unless otherwise directed under rule 6)

1. Every initial application, other than an application under rule 79, shall state—
 - (a) the names of the parties to the marriage and the date and place of the marriage;
 - (b) the last address at which the parties to the marriage have lived together as husband and wife;
 - (c) 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;
 - (d) 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;
 - (e) the occupation and residence of the applicant and the respondent;
 - (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) 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;
 - (h) if it be the case, that there is a dispute whether a living child is a child of the family;
 - (i) 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;
 - (j) 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,

- (k) 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;
 - (l) in the case of an application for a divorce order, that the marriage has broken down irretrievably;
 - (m) 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;
 - (n) any further or other information required by such of the following paragraphs and by rule 78 as may be applicable.
2. 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.
3. 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.
4. Every application shall conclude with —
- (a) 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;
 - (b) 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;
 - (c) 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.

MADE 6th February 2004

J. M. Kerruish

Her Majesty's First Deemster and Clerk of the Rolls

David Doyle

Second Deemster

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules make provision for the procedure in matrimonial and related proceedings in the High Court, mainly under the Matrimonial Proceedings Act 2003. They replace the Matrimonial Causes Rules 1993.

Part 1 (rules 1-4) is introductory. Part 2 (rules 5-49) deals with applications for divorce, annulment and separation orders and orders for presumption of death. Part 3 (rules 50-67) deals with applications for financial provision in proceedings under Part 2. Part 4 (rules 68-84) deals with other family proceedings, including claims for maintenance, applications for alteration of maintenance agreements, property disputes, applications for occupation orders and non-molestation orders, proceedings relating to polygamous marriages, and applications for declarations as to marital status, financial relief after a foreign divorce and consent to the marriage of a minor. Part 5 (rules 85-101) makes general provision as to procedure.