

Family Law

Cap. 214.

FAMILY LAW RULES, 1982

1982/18.

Authority: These rules were made on 1st February, 1982 by the Judicial Advisory Council under section 98 of the *Family Law Act*.

Judicial Advisory Council: The power to make rules is now vested in the Rules Committee under the *Supreme Court of Judicature Act Cap. 117A*.

Commencement: 1st February, 1982.

Preliminary

1. These Rules may be cited as the *Family Law Rules, 1982*.

Citation.

Interpretation

2. In these rules

Definitions.

"address for service" means, in relation to a party to proceedings, an address for service given in accordance with rule 19;

"answer" means an answer filed by a respondent or an intervener, and includes a cross-application;

"applicant" means a person who institutes or has instituted proceedings under the Act or is an applicant in pending proceedings under the former Act;

"application" means an application to a court for the purpose of instituting proceedings under the Act or an application made under these rules to the appropriate officer;

"appropriate officer" means the Registrar of the Supreme Court or the Clerk of a Magistrate's Court;

"certified copy" means a copy of an order, decree or document certified to be a true copy by an officer of the court that made the order or by which the order has been registered or confirmed or, in the case of an overseas order, by the Registrar;

"filed" means filed in the appropriate office of a court;

"guardian *ad litem*" includes next friend;

"intervener" means, in relation to proceedings, the Attorney-General or any other person when intervening or applying to intervene under section 71 or 72 of the Act, or a child separately represented under section 44 of the Act;

"party to proceedings" means an applicant, respondent or intervener in proceedings under the Act;

"pleading" means an application, answer, affidavit or document filed by an applicant, respondent or intervener;

"respondent" means, in relation to proceedings, a party to the proceedings other than an applicant or an intervener;

"sealed" means sealed with the seal of the court or otherwise endorsed by an officer of the court.

PART I

Conciliation

Nomina-
tion of
person to
assist re-
conciliation.

3. Where a judge or magistrate acting under section 12(2) of the Act nominates a person other than a marriage counsellor or approved marriage counselling organisation to assist the parties in considering a reconciliation, he shall furnish that person with a notice signed by him in accordance with Form 1.

Notice
seeking
counselling.

4. A notice that may be filed in the court under section 14(1) of the Act by a party to a marriage that he or she intends to seek the assistance of the counselling facilities of the court shall be in accordance with Form 2.

Advice as
to effect of
proceedings.

5. (1) Documents setting out the matters referred to in sub-rule (2) shall be made available to courts exercising jurisdiction under the Act and to attorneys-at-law.

(2) The matters to be set out in the documents in accordance with section 16 of the Act are as follows:

- (a) the legal and possible social effects of proposed proceedings (including the consequences for the children of the marriage); and
- (b) the counselling and welfare facilities available within the Family Services Division and elsewhere.

(3) Where an application to institute proceedings under the Act is prepared by an attorney-at-law, the attorney-at-law shall, before filing the application, furnish to the applicant a copy of each of the documents referred to in sub-rule (1).

(4) Where an application to institute proceedings under the Act is filed by the applicant, the appropriate officer of the court shall furnish to the applicant a copy of each of the documents referred to in sub-rule (1).

(5) Where an application for dissolution of marriage is served on a respondent, there shall, at the same time, be served on the respondent a copy of each of the documents referred to in sub-rule (1).

(6) Compliance with sub-rule (3) or (4) is not required where an application for dissolution of the marriage has already been filed.

(7) Unless exempted by sub-rule (6), an attorney-at-law acting for an applicant instituting proceedings under the Act shall state in the application that he has complied with sub-rule (3).

(8) The person serving an application for dissolution on a respondent shall state in the affidavit evidencing service that he or she has complied with sub-rule (5).

PART II

Institution of Proceedings

6. (1) Proceedings may be instituted by filing an application in the proper office of a court having jurisdiction under the Act:

Institution
of proceed-
ings.

(2) The application must state whether either party to the marriage has the status specified in paragraph (a), (b), (c), or (d) of section 20(2) of the Act or in the case of an application for proceedings within paragraphs (a) to (i) and (k) of the definition of matrimonial cause in section 2(1) of the Act other than proceedings for a decree of dissolution of marriage, whether any of the provisions of paragraphs (a) to (c) of section 20(3) of the Act applies.

7. (1) A document to be filed in, or issued out of, the office of a court must be suitably described in accordance with Form 3.

Title to
proceed-
ings.

(2) Where proceedings are transferred to another court, the title to the proceedings shall be changed accordingly.

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Proceedings to be numbered.

8. (1) The appropriate officer of the court in which proceedings are instituted, or to which proceedings are transferred, shall cause a distinguishing number to be allotted to the proceedings.

(2) A document filed in, or issued out of, the office of a court in connection with any proceedings, or any further proceedings relating to the same parties, shall have the distinguishing number allotted to the proceedings endorsed on it.

(3) This rule extends to decrees, orders and agreements registered under rule 120 and documents filed under rule 129.

Application for dissolution of marriage.

9. (1) An application for a decree of dissolution of marriage shall be in accordance with Part 1 of Form 4, shall be verified by affidavit in accordance with Part 2 of that Form and shall contain a declaration in accordance with Part 3 or 4, as the case requires, of that Form and a notice to the respondent in accordance with Part 5 of that Form.

(2) An application for a decree of dissolution of marriage shall bear the date on which it is filed.

Application for annulment of marriage.

10. (1) An application for a decree of nullity shall be in accordance with Part 1 of Form 5, shall be verified by affidavit in accordance with Part 2 of that Form and shall contain a declaration in accordance with Part 3 or 4, as the case requires, of that Form and a notice to the respondent in accordance with Part 5 of that Form.

(2) The application shall bear the date on which it is filed.

Application for declaration under section 85.

11. (1) An application for a declaration under section 85 of the Act shall state

- (a) whether the applicant is a citizen of, or is present in, Barbados;
- (b) details of the marriage, dissolution or annulment that is the subject of the application; and
- (c) whether the applicant has instituted or proposes to institute any other proceedings under the Act.

(2) The application shall bear the date on which it is filed.

(3) Upon filing the application, the applicant shall obtain an appointment with a judge for a preliminary hearing of the application.

(4) At the preliminary hearing, which may be *ex parte*, the judge may give such direction as to service, presentation of evidence and the further hearing of the proceedings as he thinks fit.

12. (1) An application, other than an application by which proceedings for principal relief are commenced,

(a) shall be made in accordance with Form 6;

(b) shall bear the date on which it is filed; and

(c) shall state precisely the orders sought by the applicant.

(2) Where the application relates to the welfare or custody of, or access to a child, the application shall be accompanied by an affidavit setting out concisely the arrangements proposed for the child and the facts to be relied on in support of the application.

(3) Where the application relates to an order under section 52, 57 or 62 of the Act, the application shall be accompanied by a statement filed in accordance with rule 5.

(4) An application for leave under section 23(3) of the Act shall state that the leave of the court is sought and shall be accompanied by an affidavit setting out the facts and circumstances relied upon for the obtaining of leave.

(5) Where rule 5(3) or 5(4) applies to an application under this rule, a declaration in accordance with Part 3 or Part 4 of Form 4 shall be endorsed on the application.

(6) An application for an injunction shall be accompanied by an affidavit setting out concisely the circumstances of the matter and the facts to be relied on in support of the application.

13. (1) Where an application has been filed, the applicant shall, subject to these rules, cause a sealed copy of the application and of the documents filed in support of the application to be served on each other party to the application.

(2) If a copy of an affidavit filed in support of the application cannot be served on the respondent or intervener at the time of service of the application, it may be served within a reasonable

Applica-
tions other
than for
principal
relief.

Service of
applications.

time before the hearing of the proceedings instituted by the application.

Date of hearing.

14. (1) Subject to these rules, the date for the hearing of an application shall be fixed by the appropriate officer of the court in which the application is filed and shall be

- (a) where the application is under rule 9 or 10 not earlier than 14 days after the time allowed under rule 17 for the filing of an answer; and
- (b) in all other cases
 - (i) where the respondent is in Barbados at least 14 days from the date of filing the application; or
 - (ii) where the respondent is not in Barbados at least 28 days from the date of filing the application.

(2) The appropriate officer may alter the date for the hearing and may authorise the applicant to make corresponding alterations in any copy for service of the application.

Child subject to child welfare order.

15. (1) Where an application is made in respect of a child who is a ward of court and in respect of whom a public authority has wardship, a sealed copy of the application and of each of the affidavits in support of the application must be served in accordance with rule 20, upon the public authority.

(2) If, on an application by the public authority for leave to intervene under section 71 of the Act, the court does not grant leave, it may adjourn the further hearing of the proceedings and give notice to the Attorney-General of its refusal to grant leave and of the date to which the proceedings are adjourned.

Marriage certificate to be filed with application.

16. (1) Where an application is filed in the registry of a court, the applicant shall, unless he is unable to do so, also file a marriage certificate in respect of the marriage concerned.

- (2) Sub-rule (1) does not apply
 - (a) where the marriage certificate has already been filed in respect of another application in the same registry or where the marriage between the applicant and the respondent has been dissolved or annulled;
 - (b) where documents are filed in accordance with rule 5.

(3) If the marriage certificate filed in accordance with sub-rule (1) is not in the English language, a translation in the English language of the marriage certificate shall also be filed at the same time.

(4) A translation of a marriage certificate filed under sub-rule (3) shall be verified as a translation by the person who made the translation by an affidavit in which that person also states that he or she is competent to make a translation of the marriage certificate.

(5) Where

(a) an applicant and a respondent were married in a country the public records of which are not kept in the English language; and

(b) a marriage certificate relating to the marriage that is filed in accordance with sub-rule (1) was issued in that country in 2 or more languages, including the English language, it is not necessary to comply with sub-rule (3) or (4).

(6) Where an applicant is unable, for any reason, to comply with sub-rule (1), the court may receive evidence from the applicant or any other person relating to the marriage of the applicant and the respondent.

(7) Where the court from evidence before it or from its own knowledge is satisfied that a marriage certificate not in the English language is a certificate or record of the marriage of the applicant and the respondent, it may receive the certificate in evidence notwithstanding that sub-rules (3) and (4) have not been complied with.

(8) In this rule, "marriage certificate", in relation to a marriage whether solemnized in Barbados or elsewhere, means

(a) the original certificates or record of the marriage; or

(b) a certified copy of the certificate or record of the marriage or of an entry of the marriage in an official register of marriages.

17. Where an application under rule 9 or 10 is served on the respondent, he or she has the following time in which to file an answer to the application:

(a) if the respondent is served in Barbados 14 days; or

Time for answer to application for a divorce or nullity.

(b) if the respondent is served outside Barbados 28 days, after the day on which the application is served.

PART III

Ex Parte Orders

Ex parte orders.

18. (1) In a case of urgency, a court may make an *ex parte* order

(a) concerning the welfare or custody of, or access to, a child of a marriage or union other than a marriage; or

(b) in accordance with section 55, 64 or 91 of the Act.

(2) An application under this rule may be made in writing or in such form as the court considers appropriate.

(3) The court may give such directions with respect to the filing of an application, the service of the application and the further hearing of the application as it thinks fit.

(4) An order under sub-rule (1) shall be expressed to operate only until a specified time or the further order of the court.

(5) Where a court makes an order under sub-rule (1), it may give directions with respect to

(a) the service of the order and such other documents as it thinks fit; and

(b) the hearing of an application for a further order.

PART IV

Service

Address for service.

19. (1) Unless the court or a registrar otherwise orders, a person is not entitled to file a document for the purposes of proceedings unless in that document he or she gives, or by a document previously filed he or she has given, an address for service.

(2) A person may give an address for service (otherwise than in an application the form for which requires an address for service to be given) by filing a notice in accordance with Form 7 and serving a copy of the notice on each other party to the proceedings who has filed such a notice.

(3) A person who has given an address for service may change that address by filing a notice in accordance with Form 8 and serving a copy of the notice on each party to the proceedings who has filed a notice giving an address for service.

20. Where service of a document is required by these rules to be effected on a person, service may, subject to these rules that limit the methods of service of particular classes of documents, be effected, either in or outside Barbados

Manner of service.

- (a) by delivering the document to the person personally;
- (b) if the person has an address for service for the purpose of the proceedings by delivering the document at that address;
- (c) by delivering the document at the last address known to the person on whose behalf the document is being served.

21. (1) Service of a document on a person by delivering it to him or her personally shall not be effected by the person on whose behalf the document is being served but may be effected by another person in his or her presence.

Personal service.

(2) A person may acknowledge that he or she has been personally served with a document by signing a form in accordance with Form 9.

22. Where prompt service of a document cannot be effected in the manner specified in paragraph (a), (b) or (c) of rule 20, the court may on application made *ex parte*, make an order for substituted or other service in accordance with Order 8 of the *Rules of the Supreme Court*.

Substituted service.

23. Service of an application referred to in rules 9 and 10 shall be effected on a respondent by serving a sealed copy of the application on him in a manner referred to in rule 20(a).

Service of applications for dissolution and nullity.

24. Service of an application referred to in rule 11 shall be effected on each other party to the application by serving on him or her, in a manner referred to in rule 20(a) or (b)

Service of other applications.

- (a) a sealed copy of the application; and
- (b) a sealed copy of any affidavit filed with the application.

Proof of
personal
service of
document.

25. (1) Where service of a document is effected in accordance with rule 20(a), the due service of the document may be proved in oral evidence before the court or by the affidavit of the person who served the document.

(2) The affidavit of service shall state

(a) the date on which and the place at which the document was so delivered; and

(b) the means by which he or she established that the person to whom the document was delivered was the person required to be served with the document.

(3) An affidavit of service of a document on a person personally shall be in accordance with Form 11.

Service of
pleadings.

26. (1) A party who files a pleading in proceedings shall cause a copy of the pleading to be served in accordance with rule 20(b), on each other party to the proceedings who has, at the date on which the pleading is filed, an address for service filed with the court in which the proceedings are brought.

(2) Where no such address for service is filed, the party shall cause service of the pleading to be effected in accordance with rule 20(a) or (c).

(3) Service of a pleading referred to in this rule shall be made on the day on which the pleading is filed or as soon thereafter as possible.

(4) This rule does not apply to an affidavit referred to in rule 25.

PART V

Further Pleadings

Answer.

27. (1) The respondent to proceedings referred to in rule 9 or 10 may, by a document in accordance with Part I of Form 12, file an answer to the application.

(2) The respondent shall, by affidavit in accordance with Part II of Form 12, verify the facts stated in the answer.

(3) An answer shall bear the date on which it is filed and shall be served on the applicant on the day or as soon thereafter as possible.

28. (1) A respondent to proceedings referred to in rule 9 or 10 who wishes to contest the jurisdiction of the court shall file an answer under protest in accordance with Form 14 objecting to the jurisdiction of the court.

Answer
under
protest.

(2) An answer under protest shall bear the date on which it is filed and shall be served on the applicant on that day or as soon thereafter as possible.

(3) Upon the hearing of the issue of jurisdiction, the court may proceed to hear and determine the issue, or may give directions as to the manner in which disputed questions are to be determined.

(4) Where the court has overruled an objection to its jurisdiction, the respondent may, within such time as the court allows, file an answer under rule 27.

29. (1) Subject to rules 27 and 28, a respondent to, or intervener in, proceedings may, before the hearing of the application or, by leave of the court or Registrar by whom the application is heard, during the hearing of the application, file an affidavit in answer to an affidavit in support of the application.

Affidavit
in answer.

(2) Where a party seeks an order different from that sought in the application, that party shall set out in an affidavit filed under sub-rule (1) precise details of the different order sought.

(3) A respondent or intervener filing an affidavit in answer shall cause a copy of the affidavit to be served on each other party to the application who has an address for service as soon as practicable after the affidavit in answer has been filed.

(4) A party on whom a copy of an affidavit in answer is served may, before the hearing of the application or, by leave of the court or Registrar by whom the application is heard, during the hearing of the application, file an affidavit in reply to that affidavit.

(5) A party filing an affidavit in reply to an affidavit filed by another party to the application shall cause a copy of the affidavit in reply to be served on each other party who has an address for service as soon as practicable after the affidavit in reply has been filed.

30. (1) Where a fact is alleged in a pleading and a party files a pleading in answer to that pleading and does not, in the pleading so filed

When allegations
in pleadings
deemed to
be admitted.

- (a) deny the fact, either expressly or by necessary implication;
- (b) state that he does not know and cannot admit the truth of the fact; or

(c) admit the truth of the fact, he or she shall be presumed to have admitted the fact for the purposes of the proceedings.

(2) Such a presumption may be rebutted by evidence before the court.

Withdrawal
of pleading.

31. (1) A party to proceedings on whose behalf a pleading has been filed may withdraw the pleading at any time.

(2) Withdrawal of a pleading does not preclude any other party to the proceedings from relying upon the pleading and using it in cross-examination or in evidence.

(3) Where a pleading is withdrawn, the court or Registrar may make such order as to the hearing or further hearing of the proceedings as the court or Registrar considers just and equitable in all the circumstances.

Amend-
ments of
pleadings.

32. (1) Subject to sub-rule (2), a party to proceedings may amend his or her pleadings at any time.

(2) An affidavit shall not be amended except by the leave of the court or Registrar, and upon such conditions as to re-swearing, re-affirming or verification by oral evidence as the court or Registrar thinks fit.

(3) When a pleading is amended, the court or Registrar may make such order as to the hearing or further hearing of the proceedings as the court or Registrar considers just and equitable in all the circumstances.

Failure to
file answer
within due
time.

33. (1) Where a respondent to proceedings instituted under rule 9 or 10 files an answer after the time provided for in rule 17 has expired, the applicant in those proceedings may continue the proceedings as if the answer had not been filed unless

- (a) the applicant consents to the late filing of the answer; or
- (b) the court or Registrar otherwise orders.

(2) Consent to the late filing of an answer may be given by an applicant and shall be in writing and may be endorsed on the answer.

PART VI

Affidavits

34. (1) An affidavit shall state the full name, address and occupation of the deponent, and be made in the first person. Affidavits.

(2) The body of an affidavit shall be divided into paragraphs numbered consecutively; each paragraph being as far as possible confined to a distinct portion of the subject matter.

(3) Where it appears to the person before whom an affidavit is sworn or affirmed that the deponent is illiterate or blind, he shall certify in or below the jurat that

- (a) the affidavit was read in his presence to the deponent; and
- (b) the deponent appeared to understand the nature and contents of the affidavit.

(4) Each page of an affidavit shall be signed by the deponent and by the person before whom it is sworn or affirmed.

(5) Any alterations, interlineations or erasures in the affidavit shall be initialled by the deponent and by the person before whom it is sworn or affirmed.

(6) A document to be used in conjunction with an affidavit shall, where convenient, be annexed to the affidavit.

(7) Where annexure is inconvenient, a document to be used in conjunction with an affidavit may be made an exhibit to the affidavit.

(8) An exhibit to an affidavit shall be identified by the title and number of the proceedings in which the affidavit is filed, and a certificate signed by the person before whom the affidavit is sworn or affirmed shall identify the exhibit as the particular exhibit referred to in the affidavit.

(9) An affidavit shall contain a back sheet carrying the following particulars:

- (a) the title of the proceedings;
- (b) the name of the deponent;
- (c) the date the affidavit was sworn or affirmed; and
- (d) the party on behalf of whom it is to be filed.

(10) An affidavit that is irregular as to form may be used in evidence unless the court otherwise orders.

(11) An affidavit (other than an affidavit evidencing service) that has not been filed and served shall not be accepted in evidence without the leave of the court.

(12) Where an affidavit contains material that, in the opinion of the court, is scandalous, irrelevant or otherwise offensive, the court may order that

(a) the material be struck out; or

(b) the affidavit shall not form part of the pleadings.

(13) A party to proceedings may require that the deponent of an affidavit attend for cross-examination and, if the deponent fails to attend, the court may refuse to allow the affidavit to be used in the proceedings, or may adjourn the hearing until the deponent attends for cross-examination.

(14) Where the court adjourns the hearing under sub-rule (13), it may make such orders providing for the attendance of the deponent and the provision of his out-of-pocket expenses as it thinks fits.

Document
to be
produced
if extract
set out in
affidavit.

35. Where the text of a document, or a portion of a document is set out in an affidavit, the party filing the affidavit shall cause the document to be produced at the hearing of the proceedings in connection with which the affidavit is filed.

Before
whom
affidavit
may be
sworn.

36. (1) An affidavit may be sworn or affirmed at a place in Barbados before a person having authority under any law to administer on oath or take an affirmation at that place.

(2) An affidavit may be sworn or affirmed at a place outside Barbados before a Barbadian consular officer or diplomatic officer, a judge, magistrate, justice of the peace or a notary public.

(3) The title of the person before whom an affidavit is sworn or affirmed, and the date on which and place at which the affidavit is sworn or affirmed, shall be stated in the jurat of the affidavit.

(4) Where an affidavit purports to have been sworn or affirmed at a place before a person before whom an affidavit is permitted to be sworn or affirmed at that place, the affidavit shall, without proof of that person or his title, be presumed, for the

purposes of these rules, until the contrary is proved, to have been sworn or affirmed before such a person.

37. (1) Subject to sub-rule (2), where an affidavit is sworn or affirmed by 2 or more deponents, the full name of each deponent shall be stated at the beginning of the affidavit and in the jurat.

Affidavit
made by 2
or more
deponents.

(2) If all the deponents swear or affirm the affidavit at the same time and before the same person, it is sufficient for the jurat to show that the affidavit was sworn or affirmed by all of the "abovenamed" deponents.

PART VII

Minors and Persons of Unsound Mind

38. (1) Subject to this rule, a minor may institute or continue proceedings.

Parties who
are minors.

(2) Where a person who is a party to proceedings is a minor, the court shall satisfy itself that the person fully understands the nature and possible consequences of the proceedings.

(3) If the court is not so satisfied, it shall give such directions as it thinks fit, including directions as to the representation of the person, or for providing that the person confer with a welfare officer, or other person appointed by the court.

(4) Where the respondent to an application, being apparently a minor, has not filed an answer or responding affidavit or has not appeared in the proceedings in person or by an attorney-at-law, the court or Registrar shall summon the respondent into court, or direct that a welfare officer or other person appointed by the court, interview the respondent and thereafter report to the court, or take such other action so that the court may satisfy itself as required by sub-rule (2), as it thinks fit.

39. (1) Unless the court or Registrar otherwise orders, service of an application shall be effected upon a person of unsound mind by serving in the manner referred to in rule 20(a) or (c) a sealed copy of the application

Service of
applica-
tions on
persons
of unsound
mind.

(a) if there is a committee of the person of unsound mind, on that committee;

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- (b) if there is no such committee, but there is a committee of the estate of the person of unsound mind, on that committee;
- (c) in any other case, on the person with whom the person of unsound mind is residing or the person under whose care he or she is.

(2) For the purposes of sub-rule (1), a person of unsound mind who is a patient in an institution shall be deemed to be in the care of the superintendent or other person in direct charge of the institution.

When service on person of unsound mind deemed not to have been effected.

40. Service of an application shall be deemed not to have been effected on a person of unsound mind in accordance with rule 39(1) unless the court is satisfied, by affidavit of the person on whom the application is actually served or otherwise that the nature and contents of the application were brought to the notice of the person of unsound mind or that the mental condition of that person was such that he or she could not comprehend the nature and contents of the application.

Institution or continuance of proceedings by a person of unsound mind.

41. (1) Proceedings in a matrimonial cause may be instituted or continued by a person of unsound mind

- (a) if there is a committee of that person who is able and willing to act for the person of unsound mind in connection with the proceedings, by that person;
- (b) by a person authorized by the Attorney-General in accordance with rule 44; or
- (c) by a person willing to act as guardian *ad litem* for the person of unsound mind, and so appointed under rule 45.

(2) Where proceedings under the Act are instituted or continued by a person referred to in sub-rule (1) (a), (b) or (c), that person shall for the purposes of the proceedings, be deemed to be the guardian *ad litem* of the person of unsound mind.

Intervention by person of unsound mind.

42. A guardian *ad litem* of a person of unsound mind may apply for leave to intervene, and may intervene, under section 71 of the Act, in proceedings on behalf of that person.

43. (1) Where a person of unsound mind is a party to proceedings, a reference in these rules to an affidavit of the party shall be read as including a reference to an affidavit sworn or affirmed by the guardian *ad litem* of the party.

Applica-
tion of
rules to
persons of
unsound
mind.

(2) The court or Registrar may, in a particular case, order that an affidavit required by or under these rules to be sworn or affirmed by the guardian *ad litem* of a party be sworn or affirmed by the party.

44. (1) The Attorney-General may, by writing under his hand, appoint a person including a public authority, to be an authorised person for the purposes of this rule either generally or in respect of a particular person of unsound mind.

Attorney-
General
may ap-
point
guardian
ad litem
of person
of unsound
mind.

(2) A person authorised under sub-rule (1) may consent to act as guardian *ad litem* of a person of unsound mind by instrument in accordance with Form 14.

45. (1) Where

- (a) a party to proceedings is a person of unsound mind;
- (b) an authorised person has not filed a consent under rule 44;
and
- (c) there is no committee of the party who is able and willing to act for the party,

Appoint-
ment of
person or
corporation
as guardian
ad litem of
person of
unsound
mind.

any fit and proper person (including a public authority) may apply to the court or Registrar to be appointed the guardian *ad litem* of the party for that purpose.

(2) Except where the application is made by a public authority so authorised, there shall be filed, in support of the application under this rule, an affidavit by a credible person deposing to the fitness of the applicant to act as guardian *ad litem* of the person of unsound mind.

(3) An application under this rule may be made *ex parte*.

(4) Where, upon application made under this rule, the court or Registrar is satisfied that it is desirable that the applicant be appointed the guardian *ad litem* of the person of unsound mind for the purpose of the proceedings, the court or Registrar shall appoint the applicant accordingly.

Removal
of guardian
ad litem.

46. The court may, subject to such conditions as the court thinks fit, remove a person from the office of guardian *ad litem* of a person of unsound mind if

- (a) the person makes application to retire from the office; or
- (b) the court considers that it is desirable that the person should be removed from the office.

Notice of
appoint-
ment of
guardian
ad litem.

47. A person who becomes the guardian *ad litem* of a respondent or intervener shall serve notice of the fact on the other parties to the proceedings as soon as possible after he becomes the guardian *ad litem*.

Default in
pleading by
person of
unsound
mind.

48. (1) Where the respondent to an application is a person of unsound mind, proceedings against the respondent shall not be continued unless and until a guardian *ad litem* has been appointed for the respondent and the guardian *ad litem* has filed an answer or responding affidavit.

(2) Where a guardian *ad litem* has not been appointed, the court or Registrar, of its or his own motion, may take steps to have a guardian *ad litem* appointed.

PART VIII

Interventions

Interven-
tion by
Attorney-
General.

49. (1) Subject to rule 51, where the Attorney-General proposes to intervene in any proceedings, he shall file a notice stating

- (a) that he proposes to intervene in the proceedings;
- (b) the reasons that justify his intervention; and
- (c) any orders that he seeks upon intervention.

(2) A notice referred to in sub-rule (1) shall be served upon the other parties to the proceedings in which the Attorney-General proposes to intervene.

Interven-
tion by
other
persons.

50. (1) A person, not being a party to the marriage, who wishes to intervene in proceedings other than proceedings for principal relief, shall file an application to the court for leave to intervene and in that application shall state

- (a) his relationship, if any, to the parties or a party to the marriage;
- (b) the reasons why he wishes to intervene; and
- (c) the orders sought by him upon intervention, if leave is granted.

(2) The application shall be verified by the affidavit of the applicant for leave to intervene.

(3) The application and verifying affidavit shall be served upon each party to the proceedings who has given or filed an address for service.

51. In proceedings in which the Attorney-General intervenes or in which the court grants leave to intervene, the court may give such directions as to the further conduct and hearing of the proceedings as it thinks fit.

Directions where intervention.

PART IX

Ancillary Procedures

52. (1) The court may, on the hearing of an application, permit a further application to be instituted orally, without the filing of any pleading, upon such conditions as the court thinks fit.

On hearing of proceedings further application may be made.

(2) When an application is before it, the court may make orders without formal application with respect to

- (a) the service of documents and dispensing with the service of documents;
- (b) the discovery, inspection and production of documents;
- (c) admissions of fact or of documents;
- (d) particulars;
- (e) the presentation of evidence by affidavit or in other documentary form;
- (f) directions to answer specific questions;
- (g) the consolidation of proceedings;
- (h) conferences between the parties with a view to settlement of differences relating to financial and custodial matters;

- (i) conferences with probation welfare officers or marriage counsellors;
- (j) the obtaining of a welfare officer's report in accordance with section 37 of the Act;
- (k) a direction under rule 128; or
- (l) any other matter relating to procedure that will enable costs or delay to be reduced, and will help to achieve a prompt hearing of matters at issue between the parties.

Particulars.

53. (1) A party to proceedings may serve on another party a request for further particulars of any allegation in a pleading filed by that party.

(2) A party so requested shall, within 14 days after service of the request, or within such further time as the requesting party, the court or Registrar allows, give to the party who served the request

- (a) the further particulars requested or the grounds on which he or she objects to giving, or is unable to give, the further particulars; or
- (b) such further particulars as he or she is willing and able to give, and the grounds on which he or she objects to giving, or is unable to give, any further particulars of the allegation.

(3) The further particulars shall be verified by the affidavit of the party giving them filed within the time applicable under sub-rule (2).

(4) Where a party refuses or fails to give further particulars as requested by another party within the time applicable under sub-rule (2), the court may make such orders as to the giving of particulars, the continuance of the proceedings, and the right of a party to continue the proceedings, as the court thinks fit.

Discovery.

54. (1) A party to proceedings who has filed a pleading in the proceedings may serve on another party to the proceedings a request to make discovery on oath or affirmation of the documents that are, or have been, in his possession, custody or power relating to any matter in question in the proceedings.

(2) A request under this rule shall be in accordance with Form 15.

(3) A party to proceedings on whom a request under this rule has been served shall make discovery of documents by filing an affidavit of discovery, and serving a copy of the affidavit on the party who made the request, within 14 days after service upon him, or within such further time as the requesting party, the court or Registrar, allows.

(4) An affidavit of discovery shall be in accordance with Form 16 and shall comply with rule 55.

(5) Where a party refuses or fails to give an affidavit of discovery as requested by another party within the time specified in sub-rule (3) or files an affidavit of discovery that does not comply with rule 55, the court may make such orders as to discovery, the continuance of the proceedings, and the right of a party to continue the proceedings, as the court thinks fit.

55. Subject to any order made under rule 54(5) in a particular case, an affidavit of discovery by a party shall

*Affidavit
of discovery.*

- (a) specify the documents relating to matters in question in the proceedings that are in the possession, power or custody of the party;
- (b) specify the documents relating to matters in question in the proceedings that are not, but have been, in the possession, custody or power of the party and state, to the best of the knowledge and belief of the party, whether they are still in existence, and, if so, the person who has possession of them;
- (c) if such is the case, specify the documents that he or she objects to producing upon the ground that the documents are
 - (i) professional communications of a confidential character made to the party by his or her attorney-at-law, or made by the party to his or her attorney-at-law, for the purpose of giving legal advice,
 - (ii) cases for the opinion of the attorney-at-law, or instructions to the attorney-at-law, prepared and

given in anticipation of, or during the progress of, the proceedings,

- (iii) letters or copies of letters from the party to his or her attorney-at-law or from the attorney-at-law to the party in anticipation of, or during the progress of, the proceedings,
 - (iv) drafts or memoranda made by the attorney-at-law to the party for the purpose of the proceedings,
 - (v) letters or copies of letters or other documents sent to or received from a probation or welfare officer or other person acting under section 12, 14 or 41 of the Act or to whom section 17 of the Act applies;
- (d) if such is the case, specify the documents that he or she objects to producing on any other ground and the ground on which he or she so objects; and
- (e) if such is the case, state that he or she has not, at the time of making the affidavit and has never had, in his or her possession, custody or power, or in the possession, custody or power of an attorney-at-law, agent, or other person in his or her behalf, any document that relates to the matters in question in the proceedings or in which an entry relating to such a matter has been made, or a copy of, or extract from, any such document, that is not specified in the affidavit.

Mutual and informal discovery and inspection.

56. (1) The parties to proceedings may agree to mutual and informal discovery and inspection of documents that relate to any matter in question in the proceedings.

(2) Discovery and inspection may be had on such terms as the parties agree upon.

(3) A party to proceedings or his or her attorney-at-law who has agreed under this rule to mutual and informal discovery and inspection of documents that relate to matters in question in the proceedings shall not wilfully and knowingly withhold such a document from discovery or inspection.

(4) Any person referred to in sub-rule (3) who wilfully and knowingly contravenes sub-rule (3) is liable on summary conviction to a fine of \$500.

57. (1) A party to proceedings who has filed a pleading in the proceedings may serve on another party to the proceedings a request to make discovery on oath or affirmation that a particular document specified in the request is, or has been, in his or her possession, custody or power.

Discovery
of particu-
lar document.

(2) A request referred to in sub-rule (1) may only be made where the document relates to a matter in question in the proceedings.

(3) Rules 54 and 55 apply in so far as they are applicable to a request made under this rule.

58. Where

- (a) a party to proceedings has filed an affidavit of discovery;
- (b) a document relating to a matter in question in the proceedings was, at the time the party swore or affirmed the affidavit, in the possession, custody or power of the party or such a document was not at the time, but had been, in the possession, custody or power of the party; and
- (c) the document was not referred to in that affidavit of discovery or in any other affidavit of discovery filed by that party in pursuance of an order of the court,

Failure to
discover
documents.

the party is not entitled, except by leave of the court, to put the document or a copy of the document in evidence, or to furnish or cause to be furnished evidence of the document, at the hearing of the proceedings.

59. (1) A party to proceedings may, by notice in writing to another party, request the other party to produce, for inspection by the party giving the notice, a document specified in the notice, being a document that is referred to in a pleading filed on behalf of that party or in further particulars given by that party in pursuance of a request or order under rule 53.

Inspection
of docu-
ments.

(2) A document referred to in an affidavit of discovery filed on behalf of a party shall not be specified in a notice given to the party under sub-rule (1), if, in the affidavit, the party

- (a) objected to producing the document on a ground stated in the affidavit; or

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(b) stated that the document was not in his or her possession, custody or power.

(3) A party to whom a notice under sub-rule (1) has been given shall, within 7 days after receipt of the notice, or within such further time as the requesting party, the court or Registrar allows, specify, in writing to the party who gave the notice

(a) the ground on which he or she objects to the production of a document specified in the notice; or

(b) the time and place at which he or she will produce the document for inspection.

(4) A document produced for inspection in pursuance of a notice under sub-rule (1) may be inspected and copied by the party to whom it is produced.

(5) Where a party to proceedings to whom a notice to produce a document under sub-rule (1) has been given fails to produce the document for inspection and copying, the party is not entitled, except by leave of the court, to put the document or a copy of the document in evidence, or to furnish or cause to be furnished evidence of the document, at the hearing of the proceedings.

(6) Where a party to proceedings to whom a notice to produce a document under sub-rule (1) has been given, refuses or fails to produce the document for inspection and copying, and the court is satisfied that the party is not excused by law from producing the document for inspection, the court may make such orders as to inspection, the continuance of proceedings and the right of a party to continue the proceedings, as the court thinks fit.

Copies
of certain
books.

60. (1) The parties may agree, or the court or Registrar may order, that a party furnish a copy of an entry in a book used for the purposes of trade or business, verified as a true copy of the entry of which it purports to be a copy.

(2) A copy of an entry furnished under sub-rule (1) shall be deemed not to be a true copy of the entry unless particulars of any erasures, alterations or interlineations are clearly shown on the copy.

(3) The court or Registrar may make an order for the production for inspection of a book notwithstanding that a copy of

an entry in the book has been furnished in accordance with sub-rule (1).

61. Where, upon application for an order for the production of documents, a respondent to the application claims that he or she is excused, by reason of privilege, from producing a particular document, the court may require the respondent to produce that document to the court, and the court may inspect the document for the purpose of determining whether the respondent is so excused.

Privilege.

62. (1) A court may direct a party to proceedings to answer specific questions relevant to a matter before it.

Direction to answer specific questions.

(2) Unless the court otherwise orders, a party shall, within 14 days after being so directed to answer questions, furnish the answers to the questions to all other parties and to the court.

(3) Unless the court otherwise orders, the answer shall be verified by the affidavit of the person furnishing the answers.

63. (1) Where, on application by a party, it appears to the court that a person other than a party has within his or her possession, custody or power a document or thing relating to a matter in question in the proceedings, and it is appropriate that the parties should be aware of the contents of the document or the nature of the thing prior to the determination of the proceedings, the court may order the person to produce the document or thing to the Registrar or other officer of the court at a time and place specified in the order.

Production of documents from persons other than parties.

(2) Before making an order under sub-rule (1), the court may require steps to be taken to ascertain whether any privilege is claimed in relation to the document or thing, and, thereupon, the court may place such restrictions upon viewing and copying the document or thing or part of it as the court considers appropriate.

(3) The document or thing may be inspected at the specified time and place, or at such other time and place as may be ordered or agreed upon, by any party to the proceedings or his or her attorney-at-law in the presence of the Registrar or an officer of the court.

(4) Where a person incurs expense in complying with an order under this rule, the court shall order that he or she be paid the

amount equal to the expense incurred in such manner as the court thinks fit.

(5) An order made under sub-rule (1) may require the party serving the order to tender reasonable expenses to the person who is the subject of the order to enable him or her to comply with the order.

Particulars
as to em-
ployment.

64. (1) Where it appears to a court or the Registrar that a party to proceedings under Part III of the Act is employed, the court or a registrar may order that party to furnish to the court within a specified time a statement in writing signed by him specifying

- (a) the name and address of his employer, or, if he has more employers than one, of each of his employers;
- (b) particulars as to his earnings; and
- (c) such other particulars as the court or Registrar thinks necessary to enable him to be identified by any of his employers.

(2) Where it appears to a court or Registrar that a person is an employer of a party to proceedings under Part V of the Act, the court or Registrar may order that person to furnish to the court, within a specified time, a statement signed by him or her or on his or her behalf containing such particulars as are specified in the order of his or her indebtedness to the employee, of the employee's present rate of earnings, or of all the earnings of the employee that became payable to him or her during a specified period, as the case may be.

(3) A document purporting to be a statement within the meaning of sub-rule (1) or (2) may be admitted in evidence as proof of its contents.

- (4) A person shall not
 - (a) without reasonable cause or excuse, refuse or fail to comply with an order under this rule that is applicable to him or her; or
 - (b) make under this rule to a court having jurisdiction under the Act a statement in writing that he or she knows to be false or misleading in a material particular or does not believe on reasonable grounds to be true.

(5) Any person who contravenes sub-rule (4) is liable on summary conviction to a fine of \$500.

65. At any time before or during the hearing of proceedings, a party may

- (a) admit facts; or
- (b) call upon another party to admit facts.

Admissions and notices to admit.

66. (1) A party to proceedings may, by notice in writing served on another party to the proceedings, require the other party to produce, at the hearing of the proceedings a document or thing specified in the notice, being a document or thing that is in the possession, custody or power of that other party.

Notice to produce documents & c.

(2) The party served shall, unless the court otherwise orders, produce the document or thing in accordance with the notice.

(3) A party to proceedings or his or her attorney-at-law shall not wilfully fail to produce a document or thing in accordance with a notice under sub-rule (1).

(4) Where a party served with a notice under sub-rule (1) has failed to produce a document or thing, the court may order its production at some later hearing of the proceedings.

(5) A notice to produce a document or thing shall be in accordance with Form 17.

(6) Any person referred to in sub-rule (3) who wilfully contravenes sub-rule (3) is liable on summary conviction to a fine of \$500.

67. (1) Where the court or Registrar is of the opinion that it may be advantageous or advisable to do so, the court or Registrar may order the parties to confer and make a *bona fide* endeavour to reach agreement on matters in issue between them.

Conferences between parties.

(2) A party may attend the conference in person and either with or without an attorney-at-law.

(3) If either party requests, or the court or Registrar so orders, the conference shall be held in the presence of the Registrar or another officer of the court specified in the order.

(4) A conference ordered under sub-rule (1) may be adjourned from time to time and from place to place.

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(5) Evidence of anything said, or of any admission made, in the course of the conference is not admissible in any court.

(6) Sub-rule (5) does not prevent evidence of anything said, or of any admission made, in the course of such a conference being admitted in evidence in a court upon the trial of a person for an offence committed at the conference.

In financial matters applicant to file statement of financial circumstances.

68. (1) This rule applies where an applicant seeks an order under section 52, 57 or 62 of the Act.

(2) Where this rule applies, the applicant shall file a statement of financial circumstances in accordance with Form 18.

(3) The contents of the statement filed in accordance with sub-rule (2) shall be verified on affidavit.

(4) Where the application is for maintenance, the applicant shall also file an affidavit setting out all relevant matters referred to in sections 53(2) and 54 of the Act upon which the applicant wishes to rely, other than those dealt with in the statement of financial circumstances.

(5) Where the application is for an alteration of interests in property, the applicant shall also file an affidavit setting out

(a) all relevant matters referred to in section 57(3) of the Act upon which the applicant wishes to rely, other than those dealt with in the statement of financial circumstances; and

(b) particulars of title to the property, an estimate of the value of it together with details of the basis upon which that estimate was made, and details of any charge or encumbrance on the property (including a statement of the amount currently outstanding under any such charge or encumbrance).

(6) Where the application is for a declaration or alteration of interests in property, there shall be filed with the application proof of service on any mortgagee or encumbrancee of notice of the orders sought in relation to the property and a copy of any communication received in reply to the notice.

(7) Where the parties have agreed as to proposed orders in respect of any financial matter, compliance with this rule shall not be required except in relation to an application for a declaration or

alteration of interests in property or so far as is necessary to furnish particulars concerning financial matters about which the parties are not in agreement.

(8) Where the applicant is a controlling or majority shareholder or a governing or managing director in a company, he shall file with his application the balance sheets of the company for the financial year or such longer period as the court specifies, last preceding the application.

69. (1) This rule applies where an application has been filed seeking an order under Part VI of the Act and the respondent to the application wishes to contest the order or submit that the court should make a different order.

Statement
by respon-
dent.

(2) Where this rule applies, the respondent shall file a statement of financial circumstances in accordance with Form 18.

(3) Rule 68 applies in relation to a respondent to which this rule applies as if he or she were an applicant for an order referred to in sub-rule (1) of that rule.

70. (1) This rule applies to proceedings for an order under Part VI or XI of the Act.

Financial
enquiry on
behalf of
the court.

(2) In proceedings to which this rule applies, the court may, of its own motion or at the request of either party

(a) request the Registrar or other person specified in its order to make a full enquiry into the financial resources of the parties or of any of them or such partial enquiry as the court may direct;

(b) make any other order (including an order as to costs of the inquiry) as it thinks fit.

(3) In making an order under sub-rule (2) (a), the court may specify that the inquiry be made by an accountant or other suitable person, and, if it does so, may make such order as to fees, costs and expenses as it thinks fit.

(4) In making an order under sub-rule (2), the court may specify whether it requires a report to be made to it by the person making the inquiry or examination.

Consolidation of proceedings.

71. (1) Where more than one application relating to a marriage or union other than a marriage has not been determined, the court or Registrar may order that the applications be heard together.

(2) An order under this rule may specify the party who shall be deemed to have the conduct of the consolidated proceedings.

Transmission of court records.

72. (1) Where an order to transfer proceedings is made under section 24 or 25 of the Act, the court records shall be transmitted by the appropriate officer to the court to which the proceedings have been transferred.

(2) The court to which the proceedings have been transferred shall proceed as if the proceedings had been originally instituted in that court.

(3) Where further proceedings between parties are instituted in a court other than the court in which earlier proceedings were heard and determined, the appropriate officer of the first-mentioned court may request the appropriate officer of the other court to transmit to him the court records in the earlier proceedings, and the appropriate officer of that other court shall comply with the request.

PART X

Hearing and Evidence

Right of appearance.

73. A party to the proceedings, or an officer of the court or the Chief Welfare Officer or officer of the Child Care Board may appear personally or by an attorney-at-law in proceedings for the enforcement of a decree.

Right to be present.

74. Where a court is exercising jurisdiction under section 73 of the Act, or in any other case where the parties consent and the court considers that it is desirable in the public interest, the court may direct that a person may be present in court during the whole or such part of the proceedings as the court thinks fit.

Hearing of undefended applications for divorce.

75. (1) Where an application for a decree of dissolution of marriage is not defended, the court may hear and determine the application on affidavit evidence.

(2) Where there is no child of the marriage to whom section 42 of the Act applies, a party who is represented by an attorney-at-law is not required to attend the hearing unless the court otherwise directs.

(3) Where there is a child of the marriage to whom section 42 of the Act applies, the court shall, subject to sub-rule (4), require a party to the marriage to be present at the hearing and give oral evidence concerning the welfare of the child.

(4) Sub-rule (3) does not apply where the court is satisfied by affidavit or any other material before it that the attendance of a party to the marriage is not necessary to enable the court to make a determination under section 42 of the Act.

76. Unless the court otherwise directs, evidence in an application for a decree of dissolution of marriage that is defended or in an application for a decree of nullity shall be given orally.

Hearing of applications for nullity or defended divorce.

77. (1) In applications other than applications referred to in rules 75 and 76, evidence may be given orally or by affidavit, as the court directs.

Hearing of other applications.

(2) On the hearing of such an application, the court may, with the consent of the parties to the proceedings

(a) dispense with such procedures and formalities as it thinks fit; and

(b) inform itself on any matter in such manner as it thinks just notwithstanding any rules of evidence to the contrary.

(3) On the hearing of such an application, the court may request any other court having jurisdiction under the Act

(a) to take evidence from any person including a party to the application;

(b) to report upon any such evidence; or

(c) to make recommendations with respect to the application.

(4) Where the court has been furnished with a report or recommendations under sub-rule (3), it may not proceed with the hearing of the application unless any person adversely affected by the report or recommendations has been served with a copy or service of the copy has been dispensed with.

(5) Where the court makes a request under sub-rule (3), it may request that, if practicable, the evidence be recorded by videotape, film, sound recording or other electronic means and that the recording, certified to be an authentic recording by the court taking the evidence, be transmitted to it.

Consent
orders.

78. (1) Nothing in these rules prevents the court or Registrar, as the case may be, from making, with the consent of the parties to the proceedings and in accordance with the practice of the court, an order determining the proceedings or relating to the proceedings.

(2) This rule does not apply to orders in proceedings for principal relief, or to orders for approval of maintenance agreements, cohabitation agreements or separation agreements under section 67 of the Act.

Addresses.

79. On an application, addresses of the parties or their attorneys-at-law shall be made in such order as the court directs.

Court
may call
evidence.

80. (1) In proceedings before it, the court may, of its own motion, call any person before it as a witness.

(2) Where such a person is called, the court may give such directions as to examination and cross-examination as it thinks fit.

(3) The court may make such order against a party to the proceedings as to the expenses of the attendance of the witness as it thinks fit.

Separate
representa-
tion of
children.

81. (1) An application under section 44 of the Act by or on behalf of a child may be dealt with by the court notwithstanding the fact that a guardian *ad litem* has not been appointed for the child.

(2) Where the court orders that a child be separately represented in accordance with section 44 of the Act, it may request that the representation be arranged under the *Community Legal Services Act*.

Act
Cap. 112.

Summons
to appear
and pro-
duce docu-
ments.

82. (1) The Registrar or other appropriate officer may, on the direction of the court or at the request of a party to the proceedings, issue a summons on behalf of the court to a person to

attend before the court at the time and place specified in the summons and then and there to give evidence and to produce any books or documents or other things in his or her custody or control that is required by the summons to produce.

(2) A summons under sub-rule (1) shall be in accordance with Form 19.

(3) Service of a summons issued under sub-rule (1) shall be effected by serving a sealed copy of the summons on the person named in the summons in accordance with paragraph 20(a).

(4) At the time of service, the person serving the summons shall tender to the person named in the summons sufficient money to enable him or her to travel between his or her place of residence or employment (whichever is appropriate) and the court.

(5) Where a person named in a summons for the production of any book, document or other thing is not a party to the proceedings, the summons may, unless the Registrar otherwise orders, permit him or her to produce the book, document or thing to an officer of the court at the place stated in the summons not later than the day before the date specified in the summons for the production of the book, document or thing.

(6) A summons under this rule may be issued by the appropriate officer of a court having jurisdiction under the Act.

83. (1) A person summoned under rule 82

(a) to attend shall not, unless excused by the court or other appropriate officer, fail to appear in obedience to the summons, at the time and place specified in the summons and then from day to day;

(b) to produce a book, document or thing to the court shall not, without reasonable cause or excuse, fail to produce the book, document or thing in obedience to the summons.

(2) If a person so summoned does not appear, a judge or magistrate, may on being satisfied that the person was duly served and tendered expenses in accordance with rule 81(4), issue a warrant for the arrest of that person.

(3) A warrant so issued authorises the arrest and bringing of the person before the court and his or her detention in custody until released by the court.

Duty of witness to attend and remain in attendance.

(4) The court may, pending the hearing of the proceedings for which the summons was issued

(a) direct that the person be kept in custody; or

(b) direct that the person be released with or without security in such sum as the court may specify for the attendance of that person at the hearing.

(5) A warrant so issued may be executed by any member of the police force, or by the marshal to whom it is addressed.

Expenses
for wit-
nesses.

84. (1) A person who attends in obedience to a summons under rule 82 is entitled to be paid the witness fees and travelling allowances according to the scale of fees and allowances payable to witnesses in the court in which he or she is required to attend, or, in special circumstances, such fees and allowances as the court or Registrar directs (less any amount previously paid to him in accordance with rule 82(4)).

(2) Unless the court or Registrar otherwise orders, the fees and allowances are payable by the person at whose request the witness was summoned.

Children
at court.

85. (1) A judge or magistrate may interview in chambers or elsewhere any child who is the subject of proceedings under Part V of the Act.

(2) The interview may be in the presence of a welfare or probation officer or another person specified by the judge or magistrate.

(3) Evidence of anything said at the interview is not admissible in any court.

(4) Where a child is separately represented under section 44 of the Act, that child may not be interviewed under sub-rule (1) unless his or her attorney-at-law is present.

(5) A minor may not be called as a witness or remain in a court exercising jurisdiction under this Act unless the court otherwise orders.

Reports of
welfare
officers.

86. Where a report has been obtained from a welfare officer in accordance with section 41(4) or 42(2) of the Act, the court may

- (a) furnish copies of the report to the parties or their attorneys-at-law, or to an attorney-at-law separately representing a child under section 44 of the Act;
- (b) receive the report in evidence;
- (c) permit oral examination of the person making the report; or
- (d) give such directions as to the future disposition of the report and any copies of the report as it thinks fit.

87. (1) A court may, at any stage of proceedings

- (a) order the examination of any person upon oath or affirmation, orally or on interrogatories, before a judge, a magistrate, an officer of the court or any person named in the order and at any place in Barbados; or
- (b) order a commission to be issued to any person either within or outside Barbados authorising that person to take the evidence of any person upon oath or affirmation, orally or on interrogatories.

Order for
examina-
tion of wit-
nesses and
letters of
request.

(2) The court may

- (a) give any necessary directions concerning the time, place and manner of such examination or taking of evidence, including a request that, if practicable, the examination or taking of evidence be recorded by videotape, film sound recording, or other electronic or mechanical means; or
- (b) receive in evidence in the proceedings the record so taken on such terms as the court thinks fit.

(3) A court may, for the purpose of proceedings in that court, and at any stage of the proceedings, make an order for the sending of a letter of request to the judicial authorities of another country to take, or cause to be taken, the evidence of any person.

(4) Upon the making of an order under sub-rule (3) for the sending of a letter of request, the party obtaining the order shall

(a) lodge with the Registrar

- (i) a form of the appropriate letter of request,
- (ii) the interrogatories (if any) and cross-interrogatories (if any) to accompany the letter of request, and

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- (iii) where English is not an official language of the country to whose judicial authorities the letter of request is to be sent, a translation of each of the documents mentioned in sub-paragraphs (i) and (ii) in an official language appropriate to the place where the evidence is to be taken; and

(b) file

- (i) a copy of each of the documents referred to in sub-rule (4) (a), and
- (ii) unless the court otherwise directs, an undertaking by the party obtaining the order to be responsible for all expenses incurred by the court or by any person at the request of the court in respect of the letter of request and on being given notice of the amount of any such expenses, to pay the amount to the Registrar.

(5) A translation lodged under sub-rule (4) (a) (iii) shall be certified by the person making it to be a correct translation, and the certificate shall state the translator's full name and address and his or her qualifications for making the translation.

(6) Upon receipt of the documents referred to in sub-rule (4) (a), the Registrar shall seal the documents with the seal of the court and transmit them through the appropriate channels to the judicial authority of the other country.

(7) The court may empower a party to put in evidence in the proceedings any evidence taken by virtue of an order under sub-rule (3) on such terms as the court thinks fit.

Powers of Registrar in hearing applications.

88. (1) Where under these rules, the Registrar has power to hear a matter, that power includes the power to summon witnesses and examine the witnesses on oath or affirmation.

(2) The Registrar has, in the performance of his functions in connection with the hearing of a matter, the same protection and immunity as a judge.

(3) A party, attorney-at-law or witness appearing before the Registrar has the same protection and immunity as a party, attorney-at-law or witness has in appearing in proceedings in a court having jurisdiction under the Act.

PART XI

Appeals

89. (1) An appeal from a decision of the High Court under section 73 of the Act shall be instituted by the filing of a notice of appeal in accordance with Form 20. Appeals.

(2) The appellant shall cause a copy of the notice of appeal to be served on the other parties to the proceedings in accordance with rule 20(a) or (b).

(3) The judge may direct that the notice of appeal be served on any other person.

(4) The notice of appeal shall state

(a) whether the whole, or part only, and what part of the decree is appealed from;

(b) briefly, but specifically, the grounds relied upon in support of the appeal; and

(c) what decree the appellant seeks *in lieu* of that appealed from.

(5) The original notice of appeal and a copy of the notice shall be filed in the registry of the court appealed from.

(6) The notice of appeal shall be filed and served

(a) within 28 days after the date when the decree appealed from was pronounced; or

(b) within such further time as the judge may direct.

(7) Unless the judge otherwise directs, an appeal does not operate as a stay of proceedings or invalidate any intermediate act or proceeding.

(8) Where a party other than the appellant desires to cross-appeal, he shall

(a) within 14 days after service upon him of the notice of appeal; or

(b) within such further time as the judge may direct,

file in the Registry a notice of cross-appeal and a copy of the notice of cross-appeal and serve a copy of the notice upon all other parties to the proceedings in accordance with rule 20(a) or (b).

(9) Sub-rules (3) and (4) apply in relation to a notice of cross-appeal as if it were a notice of appeal.

Record of
appeal and
fixing of
hearing.

90. (1) Upon the filing of a notice of appeal in accordance with rule 89, the Registrar shall

- (a) obtain from the court appealed from the original or a copy of the transcript of the proceedings in that court;
- (b) obtain from the appropriate officer of the court appealed from
 - (i) the exhibits and a list of exhibits certified by such officer,
 - (ii) a certificate from such officer as to the whereabouts of exhibits not immediately available,
 - (iii) all the other documents before the court appealed from and a list thereof certified by such officer, and
 - (iv) the reason for judgment (if any) in the court appealed from certified by such officer or a judge's clerk; and
- (c) obtain from the person in whose custody they are, the exhibits referred to in sub-rule (1)(b) (ii).

(2) The Registrar shall retain the documents and exhibits obtained under sub-rule (1) until the disposal of the appeal and shall thereupon return them to the officers or persons from whom he obtained them.

(3) The Registrar shall appoint a time and place for the settlement of the record of appeal and shall in writing request the parties to the appeal to attend the appointment to settle the record.

- (4) At the appointment to settle the record, the Registrar shall
- (a) determine what documents and other material shall be included in the record of appeal, the order of inclusion, the indexing, and such other matters as he thinks fit concerning the preparation of copies of the record;
 - (b) note any correction to the transcript; and
 - (c) if practicable and, subject to any general or specific direction from the Chief Justice, fix a date and place for the hearing of the appeal.

(5) The record of appeal may be prepared by the Registrar or, at his direction, by a party to the appeal.

(6) When the record of appeal has been prepared, the appellant shall

(a) file one copy in the Registry;

(b) lodge with the Registry such number of copies as the Registrar may direct; and

(c) serve 2 copies on each other party to the appeal.

(7) For the purposes of this rule, "exhibit" includes a document or thing marked for identification, notwithstanding that it was not admitted in evidence.

(8) Where an appellant fails to prosecute an appeal with reasonable diligence, the Registrar shall report the matter to the Chief Justice, and the Chief Justice may

(a) call upon the appellant to show cause why the appeal should not be dismissed;

(b) dismiss the appeal; or

(c) take such steps, or make such orders as the Chief Justice thinks fit.

91. (1) An appeal from the decision of a court of summary jurisdiction under section 73 of the Act shall be instituted by the filing of a notice of appeal in accordance with Form 21.

Appeal
from courts
of summary
jurisdiction.

(2) A notice of appeal under sub-rule (1) shall be filed within 14 days after the making of the decree appealed from, in the court that is to hear the appeal.

(3) Within 7 days after the filing of a notice of appeal in accordance with sub-rule (2), a copy of the notice of appeal shall be served in accordance with rule 20(a) or (b) on the other parties to the proceedings and a further copy shall be lodged in the office of the court appealed from.

(4) A notice of cross-appeal shall be served in accordance with rule 20(a) or (b) on the other parties to the proceedings and a copy lodged in the office of the court appealed from, within 7 days of the receipt of the notice of appeal.

Decision
of
Registrar.

92. (1) Where the Registrar hears an application made to him under these rules, a party to the application who is aggrieved by the decision of the Registrar may, within 14 days after the decision is given, file a request for a review of that decision in accordance with Form 22.

(2) The request shall be served on the other parties to the proceedings in accordance with rule 20(a) or (b).

(3) The review by the court of a decision of the Registrar shall be by way of a re-hearing and the court may permit evidence additional to evidence that was given before the Registrar to be given on the re-hearing.

(4) Upon review of a decision of the Registrar, the court may affirm, reverse or vary the decision that is the subject of the review and may make such order as, in the opinion of the court, ought to be made.

PART XII

Decrees

Decree of
dissolution
of marriage.

93. A decree of dissolution of marriage shall be in accordance with Form 23.

Decree
of nullity.

94. A decree of nullity of marriage shall be in accordance with Form 24.

Death of
party after
decree nisi
but before
decree
absolute.

95. (1) Where, after a decree of dissolution of marriage has been made but before the decree has become absolute, it comes to the notice of any person that a party to the marriage has died, that person may file an affidavit or certificate stating particulars of the date and place of the death.

(2) Where the Registrar is satisfied that a party to the marriage has died, he shall endorse the court records to that effect.

Decree
absolute.

96. (1) A memorandum referred to in section 36(1) of the Act shall be in accordance with Form 25.

(2) A certificate referred to in section 36(2) of the Act

(a) shall be in accordance with Form 26; or

(b) shall be a certificate, endorsed on a copy of the decree *nisi*, in accordance with Form 27.

97. (1) Except where the court or Registrar otherwise directs, all decrees made by a court having jurisdiction under the Act shall be drawn up and signed by the appropriate officer of the court.

Certificate
of decree
or order.

(2) If a party wishes to claim that the decree as signed contains an error, he or she shall draw the attention of the appropriate officer to the error as soon as possible.

(3) The appropriate officer shall rectify any error on the face of the decree, and in a case of doubt shall refer it to the judge or magistrate who dealt with the matter, who shall take such steps to rectify the decree as the judge or magistrate thinks fit.

98. (1) A decree made under the Act (other than a decree for principal relief) may be registered in any court having jurisdiction under the Act by filing a sealed copy of the decree in that court.

Registra-
tion of
decrees.

(2) A decree may be filed under sub-rule (1) by

- (a) a party to the proceedings in which the decree was made;
- (b) a child of the marriage or union who is a beneficiary under the decree;
- (c) an officer of the court;
- (d) an authority or person entitled under section 87 of the Act to take proceedings for the enforcement of the decree; or
- (e) any other person with the leave of the court.

(3) A decree so filed and registered shall be numbered in accordance with rule 8.

99. An application for rescission of a decree *nisi* under section 37 of the Act may be supported by the joint affidavit of the parties, affidavits from each of them, or oral evidence.

Rescission
where par-
ties recon-
ciled.

100. (1) A party to proceedings who makes application for the rescission under section 38 of the Act of a decree *nisi* shall file an affidavit stating the facts and circumstances upon which he or she relies.

Rescission of
decree *nisi*
on ground
of miscarriage
of justice.

(2) The application and affidavit shall be served on the other party to the proceedings in accordance with rule 20(a).

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(3) This rule also applies to the Attorney-General where he intervenes to have a decree *nisi* set aside.

PART XIII

Enforcement

Enforce-
ment of
mainten-
ance fines
and penal-
ties.

101. (1) This rule applies to

- (a) an order that a party to a marriage or union pay maintenance or other money for the benefit of the other party to the marriage or union or of a child of the marriage or union;
- (b) an order for costs under section 94(2) or 95 of the Act;
- (c) an order that a person pay a fine under section 48(6) or 91(4) of the Act;
- (d) an order that a person pay a fine under these rules; or
- (e) an order under section 61(7) of the Act for the recovery of moneys.

(2) Where a court orders a person to pay maintenance or other money for the benefit of a party or child of a marriage or union, the court shall in its order, stipulate

- (a) the time or times by which the maintenance or money is to be paid;
- (b) the person, authority or court to whom the maintenance or money is to be paid; and
- (c) where necessary, the means by which the payment shall be made or disbursed.

(3) Where a court imposes a fine, the court shall specify the time in which, or the instalments by which, the fine is to be paid, and shall further order that the fine be paid into the registry of that court.

(4) Where the person ordered to pay maintenance or other money, or a fine, is not present or represented by his or her attorney-at-law in court when the order is made, a sealed copy of the order shall be served on that person in accordance with rule 20(a) or (b)

- (a) an officer of the court in case of a fine imposed by the court; or

(b) a representative or agent of the person for whose benefit the order was made, in any other case.

(5) An order to which this rule applies may be enforced by one or more of the following means:

(a) garnishment;

(b) seizure of property;

(c) sequestration of property.

(6) Where a person ordered to pay maintenance or other money for the benefit of a party or child fails or refuses to make the payment, proceedings for the enforcement of the payment may be taken by the party or child for whose benefit the order was made or on behalf of that party or child by an officer of the court or an authority or person referred to in sub-rule (7).

(7) For the purposes of section 87(b) of the Act, any person performing the functions of

(a) clerk of court;

(b) Chief Welfare Officer; or

(c) principal executive officer of the Child Care Board,

is a person or authority entitled to take proceedings for the enforcement of payment of moneys payable under a maintenance order under Part VI on behalf of the person entitled to those moneys.

(8) Where a person ordered to pay a fine fails or refuses to do so, proceedings for the enforcement of the payment of that fine may be taken by the appropriate officer of the court and not by a party.

(9) Where, immediately before the date of the coming into force of the Act, an order that a party to a marriage pay maintenance or other money for the benefit of the other party to the marriage or of a child of the marriage was made by a court that has jurisdiction under the Act, that order may be enforced in accordance with this rule as if it were an order made by that court in accordance with these rules.

(10) An application for the enforcement of an order under this rule shall state whether any other decree is in force for the enforcement of the order.

Oral
examina-
tion.

102. (1) In matters to which rule 101 applies, the appropriate officer shall, on the application of the person or authority entitled to institute proceedings for enforcement of decrees, issue for service on the respondent a notice in accordance with Form 28.

(2) In matters to which this rule applies, the appropriate officer or other person or authority entitled to institute proceedings for enforcement of decrees may apply to the court for an order that the person who has failed or refused to comply with an order of the court

- (a) attend before the court or appropriate officer and be orally examined on all matters relating to his failure or refusal to comply with the order; or
- (b) produce any document or thing in his possession, power or custody relating to his failure or refusal to comply with the order

and the court may, as it thinks fit, make such an order.

(3) An application under sub-rule (2) may be made *ex parte*.

(4) In making an order referred to in sub-rule (2), the court shall give such directions as to service, notices to produce, summonses, and any other matters as it thinks fit.

(5) A person shall not, without reasonable cause or excuse, fail to attend on an examination or produce a document or answer a question as required by an order under sub-rule (2).

(6) Where a person fails to attend on an examination as required by an order under sub-rule (2), a court may, for the purpose of giving effect to the order, issue a warrant directing that the person be taken into custody and brought before the court for examination.

(7) The court may, pending examination

(a) direct that the person be kept in custody; or

(b) direct that the person be released with or without security in such sum as the court directs that he or she will attend in person for the examination.

(8) The court may, during or at the conclusion of an examination under this rule, make such orders to enable enforcement of the court's orders and to prevent the dissipation of property or the wasting of assets as it thinks fit.

103. (1) In this ruleGarnish-
ment.

"applicant" means a person or authority instituting proceedings under sub-rule (2);

"garnishee" means a person from whom the applicant claims that money is due or accruing to the respondent, and, in the case of a respondent employed by the government or by any agency of the government, includes the Accountant-General or principal executive officer of that agency;

"respondent" means the person who has refused or failed to comply with an order of the court specified in rule 101.

(2) In matters to which rule 101 applies, a party to the proceedings that resulted in the making of the order of a person referred to in rule 101 (7) may apply to the court for a garnishment order.

(3) An application for a garnishment order may be made *ex parte*.

(4) The following moneys may be the subject of an application under sub-rule (2);

(a) a sum standing to the credit of the respondent in a bank, building society, credit union, investment fund or corporation, that is payable to the respondent on call or on notice;

(b) the earnings of the respondent from any wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary), pension, annuity, moneys payable *in lieu* of leave or retirement benefits due or accruing to the respondent;

(c) any debt or other sum of money due or accruing to the respondent.

(5) An application for garnishment order shall state

(a) particulars of the moneys payable by the respondent;

(b) efforts made by the applicant or any other person to obtain payment of those moneys;

(c) details of any relevant information furnished by the respondent in response to a notice under rule 102 (1) or obtained in an examination under that rule;

- (d) particulars of the moneys referred to in sub-rule (4); and
- (e) the order sought against the garnishee.

(6) Where the application for a garnishment order is made by a person other than the appropriate officer, it shall be verified by affidavit.

(7) The court shall, in respect of an application for a garnishment order

- (a) make the order sought; or
- (b) dismiss the application.

(8) The court may, in proceedings on an application for a garnishment order

- (a) adjourn the proceedings and require the garnishee and the respondent or either of them to be served with a copy of the application;
- (b) give directions as to service and the further hearing of the proceedings; and
- (c) make such other order as it thinks necessary to prevent the moneys, which are the subject of the application, disappearing or being dissipated.

(9) Where the court makes a garnishment order attaching the earnings of the respondent, it shall

- (a) specify the periodic amount to be deducted from the respondent's earnings in satisfaction of the order, and the amount so specified may be referred to as the "normal deduction rate";
- (b) subject to the *Protection of Wages Act*, fix an amount below which the respondent's earnings shall not be reduced by compliance with the order and the amount so fixed may be referred to as the "protected earnings rate";
- (c) specify the person to whom, the place at which and the manner of payment of amounts to be paid by the garnishee under the order;
- (d) specify the amount that the garnishee may deduct from the normal deduction rate referred to in paragraph (a) for administrative expenses; and

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(e) specify the date from which the payments shall commence.

(10) A sealed copy of an order under sub-rule (7) shall be served on the garnishee and on the respondent in accordance with rule 20(a).

(11) A garnishee who has been served with a garnishment order

(a) may apply to the court disputing his liability to make payments under the order; or

(b) shall comply with the order.

(12) If the garnishee applies to the court disputing the order, he or she shall

(a) file an affidavit setting out the facts and circumstances upon which the order is disputed; and

(b) serve a copy of the affidavit on the applicant and the respondent in accordance with rule 20.

(13) On the hearing of an application by a garnishee disputing his or her liability to make payments under a garnishment order, the court

(a) may proceed with the hearing and determination of the dispute notwithstanding that the respondent has not been served with the application; and

(b) shall hear and determine the matter in dispute and make such order, including an order as to costs, as it thinks fit.

(14) Where a person complies with an order under sub-rule (7), the compliance with the order shall be a valid discharge of his or her indebtedness to the respondent to the extent of the amount paid under the order.

(15) The court may on application, or of its own motion, vary or discharge an order under sub-rule (7) upon such conditions as it thinks fit.

(16) Where an order is varied or discharge under sub-rule (15), the court shall give such orders as to service of the new order on the garnishee and other persons as it thinks fit.

(17) Sub-rule (11) applies, insofar as it is applicable, to an order that has been varied or discharged under sub-rule (15).

(18) An amount standing to the credit of a respondent in an account in a bank, building society, co-operative housing society or similar society, credit union or credit society, or investment fund or corporation, that is payable to the respondent on call or on notice shall, for the purposes of this rule, be a debt due, owing or accruing to the respondent, notwithstanding that any condition relating to the account or a demand for payment under the account is unsatisfied.

(19) Subject to this rule, a garnishee shall not, without reasonable cause or excuse

- (a) fail to comply with an order made under sub-rule (7), (13) or (15); or
- (b) dismiss a respondent from his employment, injure a respondent in his employment, or alter the respondent's position to his prejudice, by reason of an order made under this rule.

(20) A garnishee who contravenes sub-rule (19) is liable on summary conviction to a fine of \$500.

(21) A conviction against sub-rule (20) does not limit, restrict or otherwise affect any obligation that the garnishee may have in relation to the respondent or any right or remedy that the respondent may have against the garnishee under any other law.

(22) A pension, annuity or allowance that is protected from garnishment or encumbrance under any law shall not be subject to an order under this rule.

(23) Where an order under this rule is in force and the respondent ceases to be employed by the garnishee, the respondent and the garnishee shall within 10 days after the respondent ceases to be so employed, each give notice to the court

- (a) that the respondent has ceased to be employed by the garnishee;
- (b) specifying the date on which the employment ceased;
- (c) specifying the new employer (if any) and place of employment of the respondent; and
- (d) specifying his or her earnings from the new employer.

(24) A respondent or garnishee who contravenes sub-rule (25) is liable on summary conviction to a fine of \$500.

(25) Where the court receives a notice under sub-rule (23), it shall notify the applicant in writing and, if no written objection is received from the applicant or the respondent within a reasonable time, it may, of its own motion, issue a fresh order similar to the order then existing naming the new employer as garnishee in the order.

104. (1) In matters to which rule 101 applies, the person or authority entitled under that rule to take proceedings for enforcement may apply to the court for an order for seizure of personal property belonging to a person who has failed or refused to comply with an order of the court specified in that rule.

Application
for
seizure of
personal
property.

(2) An application under sub-rule (1) may be made *ex parte*.

(3) An application for seizure of property under sub-rule (1) shall state

(a) particulars of the moneys not paid by the person against whom the order is sought;

(b) efforts made by the applicant or another person to obtain payment of the moneys;

(c) details of any relevant information furnished by the respondent in response to a notice under rule 102 (1) or obtained in an examination under that rule; and

(d) details of personal property owned or believed to be owned by the person against whom the order is sought.

(4) Where the application is made by a person other than the appropriate officer, it shall be verified by affidavit.

(5) Where an application is made under sub-rule (1), the court may order an officer of the court or other person specified in the order to seize some or all of the personal property of the person named in the order.

(6) An order made under sub-rule (5) shall specify the amount owing by the person named in the order and may include such further amount to cover the expenses of obtaining and executing the order as the court thinks fit.

(7) If the person named in the order pays to the officer or other person specified in the order or into court the total of the amounts specified under sub-rule (6), the order shall be deemed to have been complied with and no further steps shall be taken under it.

(8) Where it appears to the officer or other person specified in the order that the property ordered to be seized in accordance with sub-rule (5) is substantially greater in value than the amounts specified under sub-rule (6), the officer shall first seize and realise so much of the property as appears to him to be sufficient.

(9) The officer or other person specified in the order shall seize or realise the property

(a) in such order as seems to him best for the speedy execution of the order without undue expense;

(b) subject to paragraph (a), in such order as the person named in the order may direct; and

(c) subject to paragraphs (a) and (b), in such order as appears to him best for minimising hardship to the person named in the order and any other person affected.

(10) The officer or other person specified in the order shall in relation to property seized by him follow the procedure specified in Part IV of the *Court Process Act* relating to the sale of goods.

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(11) The officer or other person specified in the order shall pay the proceeds of sale into the registry of the court, whereupon the appropriate officer shall apply those proceeds

(a) first, in or towards the discharge of the amount specified under sub-rule (6) for the expenses of obtaining and executing the order; and

(b) then, in or towards the discharge of the amount specified in the order under that sub-rule as the amount owing by the person named in the order.

(12) The appropriate officer shall

(a) if he or she considers that the person named in the order may have a continuing financial obligation to a party or to a child of the marriage or union retain the balance to be dealt with in accordance with the further order of the court; or

(b) in any other case, pay the balance, if any, to the person named in the order.

(13) Where the appropriate officer retains moneys under sub-rule (12) (a), he or she shall report the matter to the court, whereupon the court, having regard to any continuing financial

obligation that the person named in the order may have to a party or to a child of the marriage or union, shall make such order as to the further disposition of the moneys as it thinks fit.

(14) Where the court makes an order under sub-rule (13), it shall make such further orders as to service of the order and other matters related thereto as it thinks fit.

105. (1) Where a decree has been made under the Act and the person against whom the decree has been made fails or refuses to comply with the decree, the appropriate officer or a party to proceedings under the Act may apply to the court for an order that the property of the person against whom the decree has been made be sequestered.

Sequestration of property.

(2) An application for an order under sub-rule (1) shall state

- (a) particulars of the property sought to be sequestered;
- (b) the precise order sought;
- (c) the reasons for seeking the order; and
- (d) the attempts to obtain compliance with the order by other means.

(3) The application shall be verified by the affidavit of the applicant.

(4) Where an application has been made under sub-rule (1), the court may make an order

- (a) sequestering the property in part or in whole; and
- (b) appointing an officer of the court or other named person receiver of the property.

(5) In urgent cases, the court may hear the application *ex parte* and make an order, but such an order shall be expressed to operate only until the further order of the court.

(6) Where the court makes an order under sub-rule (5), it may give such directions as to service and the further hearing of the application as it thinks fit.

(7) A court may, on application by a person whose estate has been sequestered in pursuance of an order under this rule, discharge the order upon such terms and conditions as the court thinks fit.

Procedure
on con-
tempt
charges.

106. (1) Where it is alleged, or it appears to a court that a person is guilty of contempt in the face of that court, the court may

- (a) order the person to be brought before the court; or
 - (b) issue a warrant for the arrest of that person.
- (2) When the person is before the court, the court
- (a) shall cause him to be informed orally of the contempt with which he or she is charged;
 - (b) may require him or her to show cause why he or she should not be dealt with for the contempt;
 - (c) after hearing him or her and any evidence offered, may determine whether he or she is in contempt, whether he or she has purged the contempt, and whether he or she should be punished for contempt; and
 - (d) may make an order for punishment or discharge, as the court thinks fit.
- (3) The court may, pending disposal of the charge
- (a) direct that the person be kept in custody; or
 - (b) direct that the person be released with or without security in such sum as the court may direct that he or she will appear in person to answer the charge.
- (4) If a person alleges that another person has wilfully disobeyed a decree of a court, he or she may file in that court an application in accordance with Form 6 together with an affidavit setting out the details of the alleged wilful disobedience.
- (5) A copy of the application and affidavit shall be served in accordance with rule 20(a) on the other person.
- (6) If, on the hearing of the application, the other person does not appear, the court may act in accordance with sub-rule (1).
- (7) If, on the hearing of the application, the other person appears, the court may act in accordance with sub-rule (2).

Endorse-
ment of
order or
judge-
ments.

107. Every order or judgement in any proceeding requiring a person to do any act ordered by that order or judgement shall state the time within which the act is to be done and there shall be

endorsed on the copy of the order or judgement served upon the person required to comply, the following words

"If you (A B) neglect to comply with judgement/order you will be liable to process of execution for the purpose of ensuring your compliance."

108. (1) Where an appropriate officer or a public authority is specified in an order of a court as the person to whom maintenance payable under the order is to be paid, that officer or authority shall, at the request of the person who obtained the order, give to that person a certificate

Certificate to payments under maintenance order.

- (a) stating the amount that, according to the records of the court or authority, has been paid under the order; and
- (b) the amount that, according to those records, remains unpaid.

(2) A certificate so given shall be *prima facie* evidence of the matters contained in it.

PART XIV

Overseas Orders

109. (1) Where the Attorney General receives

Registration of overseas custody orders.

- (a) a certified copy of an overseas custody order from a prescribed overseas country; and
- (b) a certificate signed by an officer of a court or by other authority in a prescribed overseas country relating to the order and containing a statement that the order is, at the date of the certificate, enforceable in that country,

the Attorney General shall, if it appears to him that there are reasonable grounds for believing that the child who is the subject of the order, a parent of that child, or a person having the right of custody of, or access to, that child, is present in, or proceeding to, Barbados, send the documents received by him to the Registrar.

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(2) When the Registrar receives from the Attorney General the documents referred to in sub-rule (1), he shall register the order by filing in the court a certified copy of the order and the certificate relating to the order and noting the fact and the date of the registration of the certified copy.

(3) An overseas custody order registered in accordance with this rule is enforceable in Barbados until the registration is cancelled.

(4) Where it appears to a court that the documents referred to in sub-rule (1) have been received by the court other than from the Attorney General the court may, if all other conditions of sub-rule (1) are satisfied, register the order.

(5) Where a court exercising jurisdiction under section 46(3) and (4) of the Act substantially varies the order, the Registrar shall forthwith forward to the court or to the appropriate authority in the prescribed overseas country

- (a) 3 certified copies of the order of the court and the reasons for the order;
- (b) a copy of the depositions; and
- (c) such further material as the court directs.

(6) Nothing in this rule precludes a court having jurisdiction under the Act from receiving evidence of an order made by any overseas country (whether or not such a country is a prescribed overseas country) with respect to the custody of, or access to, a child.

110. (1) Where

- (a) an order made by a court in Barbados with respect to the custody of, or access to, a minor is still in force;
- (b) such an order may be enforced in a prescribed overseas country under provisions corresponding to section 46 of the Act; and
- (c) a person having rights of custody or access in relation to that minor so request in writing,

Trans-
mission of
Barbadian
custody
orders to
overseas
country.

the appropriate officer of the court in which the order was made, registered or last varied shall send to the appropriate court or authority in the prescribed overseas country

- (d) 3 certified copies of the order;
- (e) such information and material (if any) as the Registrar possesses for ascertaining the identity and whereabouts of the minor and any other person who is subject to the order; and
- (f) a request in writing that the order be made enforceable in that prescribed country.

(2) Where a court in a prescribed overseas country has made an order under provisions corresponding to section 46(3) and (4) of the Act, a court having jurisdiction under the Act may thereafter treat the order as an overseas custody order and apply to it the principles set out in that section.

(3) Where a court exercises jurisdiction under sub-rule (2), the appropriate officer shall forthwith forward to the court in the prescribed overseas country

- (a) 3 certified copies of the further order of the court and the reasons for the order; and
- (b) such further material as the court directs.

(4) Nothing in this rule prevents a person having rights of custody or access in relation to a child under the order from

- (a) obtaining certified copies of the order; or
- (b) applying to a court in an overseas country (whether or not it is a prescribed overseas country) for registration and enforcement of the order in that country.

111. (1) An overseas maintenance agreement that has force and effect in a prescribed overseas country may be registered in a court having jurisdiction under the Act.

Registra-
tion of
overseas
main-
tenance
agreements.

(2) Where an overseas maintenance agreement has been registered, section 66 or 67 of the Act applies to the agreement in like manner as if the agreement had been entered into in Barbados.

Transmission of maintenance agreements to prescribed overseas country.

112. (1) Where

- (a) a maintenance agreement registered in a court having jurisdiction under the Act remains in force;
- (b) the agreement may be enforced in a prescribed overseas country under provisions corresponding to section 68 of the Act; and
- (c) a person having rights under the agreement so requests in writing,

the appropriate officer of the court in which the agreement is registered shall send to the appropriate court or authority in the prescribed overseas country

- (d) 3 certified copies of the agreement sealed by the court;
- (e) 3 certified copies of the order, if any, approving the agreement;
- (f) such information and material, if any, as the appropriate officer possesses for ascertaining the identity and whereabouts of the person obliged to make payments under the agreement;
- (g) a certificate stating what moneys are due, payable and accruing under the agreement; and
- (h) a request in writing that the agreement be made enforceable in that country.

(2) Nothing in these rules prevents a party to a registered maintenance agreement or a child who is a beneficiary under such agreement from

- (a) obtaining copies of the agreement sealed by the court and of any order approving the agreement; and
- (b) applying to a court in any overseas country (whether or not such country is a prescribed overseas country) for enforcement of the maintenance agreement in that country.

PART XV

Registrar and Registry

Exercise of powers and functions of Registrar.

113. (1) In relation to a power or function that is expressed by these rules to be conferred upon the Registrar, that power or

function may be exercised by the holders of the following offices and not otherwise:

- (a) in the High Court, by a judge or the Registrar;
- (b) in a court of summary jurisdiction, by a magistrate, the Registrar, or the clerk of court, as the circumstances require.

(2) Where the Registrar is required by any of these rules to do an act of a non-judicial nature, not being the hearing and determination of an application under these rules, it is sufficient if the act is done on behalf of the Registrar by any officer of or above the rank of Assistant Registrar.

114. The seal of a court having jurisdiction under the Act shall be the usual seal of that court. Seal.

115. The appropriate officer of a court exercising jurisdiction under the Act shall Records, registers and indexes.

- (a) keep a book or record in which that officer shall enter every decree of the court; and
- (b) keep such registers and indices of documents filed with the court as may be directed by the Chief Justice.

116. Every document filed in the registry, or transmitted or transferred from another court, in accordance with the Act and these rules, is a record of the court and shall not, without the permission of a judge, be removed from the registry of the court except for the purposes of the Act and these rules.

117. A person other than the Attorney-General, a party to marriage or his or her attorney-at-law shall not search the records of the court relating to proceedings under the Act or inspect any documents filed in relation to those proceedings without the leave of a judge, magistrate or the Registrar. Searches.

118. Where a court makes an order transferring proceedings to another court, a copy of the order shall be retained on record in the first-mentioned court. Record of proceedings transferred.

Copies of orders to be served on authorities.

119. (1) Where an order is made requiring a public authority, trustee or other person to perform an act or receive any moneys, a copy of the order shall be served on the public authority, trustee or person by the appropriate officer or, if so ordered, by a party to the proceedings.

(2) Service of an order under sub-rule (1) may be made in accordance with rule 20.

PART XVI

Miscellaneous

Change of attorney-at-law.

120. (1) A party to proceedings who is represented by an attorney-at-law may change his or her attorney-at-law without an order for that purpose.

(2) Where a party changes his or her attorney-at-law, the new attorney-at-law shall file a notice of such change and serve a copy of the notice on each other party to the proceedings who has an address for service, and on the former attorney-at-law.

(3) Where a party to proceedings who has not been legally represented instructs an attorney-at-law to represent him or her in proceedings, that attorney-at-law shall file a notice of becoming the party's attorney-at-law and serve a copy of the notice on each other party to the proceedings who has an address for service.

(4) Where a party who has been legally represented in proceedings decides to continue the proceedings without being represented, he shall file a notice that he or she is appearing in person and shall serve a copy of the notice on each other party to the proceedings who has an address for service.

(5) Where an attorney-at-law ceases to act for a party in proceedings, he or she shall file a notice to that effect and shall serve a copy of the notice on each other party to the proceedings who has an address for service, and on his former client.

Registration of maintenance agreements etc.

121. (1) A maintenance agreement, cohabitation agreement or separation agreement to which section 66 of the Act applies may be registered in any court having jurisdiction under the Act by filing a copy of the agreement together with an affidavit by one

of the parties to the agreement verifying that the copy is a true copy of the agreement.

(2) Where a maintenance agreement, cohabitation agreement or separation agreement has been registered in accordance with sub-rule (1), the party filing the agreement shall, as soon as practicable after the date of filing, give written notice to all other parties to the agreement that the agreement has been so registered in that court on that date.

122. Each country set out in the Appendix is declared to be a prescribed overseas country for the purposes of sections 46, 47 and 69 of the Act.

Prescribed
overseas
country.
Appendix.

123. (1) For the purposes of these rules, an overseas order including a provisional order or a certificate or notice originating in an overseas country that refers to an amount of money expressed in the currency of the overseas country shall be deemed to refer to the equivalent amount in Barbadian currency on the date on which the order (whether by registration, confirmation or otherwise) becomes an enforceable order in Barbados on the basis of the rate of exchange prevailing at that date as ascertained from any bank licensed under the *Banking Act*.

Conversion
of currency.

Cap. 322.

(2) The Registrar shall ascertain the rate of exchange and endorse upon the order, certificate or notice, the rate of exchange and the conversion of the amount of money to Barbadian currency.

124. (1) Where an order, record, deposition or document received from an overseas country is not in the English language, the court or Registrar may require that the documents be translated into English before they are used by the court or for any other purpose.

Documents
not in
English
language.

(2) The court may direct that the cost of the translation be borne by a party or request the Director of Community Legal Services to obtain a translation.

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PART XVII

Costs

Orders for
costs by
court.

125. (1) Where a court proposes to make an order for costs under section 94(2) of the Act, it may, in making the order

- (a) take into account the financial circumstance of the person against whom the order is to be made;
- (b) take into account the availability of legal aid;
- (c) obtain an assessment of the cost from the party in whose favour the order is to be made or his or her attorney-at-law;
- (d) obtain a report from the appropriate officer of the court as to the proper amount of costs incurred;
- (e) consider the conduct of all parties at the hearing and determination of the proceedings, including their conduct in relation to pleadings, particulars, discovery, inspection, directions to answer questions, admission of facts, production of documents and like matters; and
- (f) take into account all other relevant matters.

(2) As far as practicable, the court shall fix the amount of the order for costs or security for costs without recourse to the taxing of costs.

Attorney-
at-law and
client costs.

126. (1) Subject to this rule, an attorney-at-law may not commence any suit for the recovery from his client of the amount of any bill of costs for any legal business done by him unless the bill of costs is taxed and a copy thereof is served on the client with a demand for payment 15 days before the filing of the suit.

(2) The service of an account must be effected in accordance with rule 20.

(3) The court may on the application of an attorney-at-law authorise him to commence or proceed with a suit for the recovery of any costs before the expiration of 15 days from the delivery of the copy of the bill of costs required by sub-rule (1) if it is satisfied that there is reasonable cause for believing that the client is about

- (a) to leave Barbados;

(b) to become bankrupt; or

(c) to do any other act which would tend to prevent or delay the attorney-at-law from obtaining payment.

(4) In taxing a bill of costs, the Registrar shall have regard to all costs and disbursements properly incurred by the attorney-at-law for the purposes of and incidental to the matter for which the attorney-at-law was retained, the complexity of the matter, the professional time reasonably spent in relation to the matter and other relevant matters.

(5) On completion of taxation, the Registrar shall certify what costs, if any, should be paid by either party to the other party in relation to costs incurred in the taxation proceedings in such amount as he thinks just.

(6) The Registrar shall issue a certificate specifying the amount if any, payable by either party to the other and such a certificate shall take into account any amount assessed under sub-rule (7).

(7) A certificate for the purposes of sub-rule (7) shall be in accordance with Form 29 and a copy of the certificate shall be furnished to each of the parties to the taxation by the Registrar.

(8) Where a person has been furnished with a certificate in accordance with sub-rule (9), that person shall be taken to have consented to the court making an order in terms of the certificate unless within 14 days after receipt of the certificate, he or she files a notice of objection.

(9) A notice of objection must be in accordance with Form 30 and must be served on the other party to the taxation proceedings.

127. (1) Where a certificate was issued under rule 126 and no notice of objection has been filed, the Registrar shall refer the proceedings for taxation to the court, and the court may, if it thinks fit, without any application being made to it and without a hearing, order the payment of costs in accordance with the terms of the certificate.

Orders for
payment
of costs.

(2) Where a notice of objection is filed under rule 126 or a court does not think fit to make an order under sub-rule (1), the Registrar shall arrange for the proceedings for taxation to be set down for hearing by the court.

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- (3) On a hearing under sub-rule (2), the court may
- (a) receive such evidence as it thinks necessary to do justice between the parties to the taxation;
 - (b) take into account the certificate; and
 - (c) make such order as to all costs (including costs incurred before it) as it thinks fit.
- (4) An order made by the court under sub-rule (1) or (3) shall be deemed to be a judgment for debt immediately due and payable and recoverable as a civil debt.

PART XVIII

General

Directions
as to
practice
and proce-
dure.

128. (1) Where a court is satisfied in the circumstances of a particular case that

- (a) the provisions of the Act and of these rules do not make adequate provision for practice and procedure; or
- (b) a difficulty arises or doubt exists as to practice and procedure,

the court may give such directions with respect to the practice and procedure to be followed in the case as the court considers necessary.

(2) In proceedings to which section 100 of the Act applies, the court or Registrar may give directions in all matters of practice and procedure.

(3) Directions under this rule shall be directed to providing a speedy and inexpensive hearing of the matters in issue between the parties and shall be consistent with these rules.

Require-
ments with
respect to
documents.

129. (1) A pleading, deposition, certificate, decree, notice or other document required or allowed by these rules to be filed or delivered to or served on a person for use in or in connection with proceedings shall, unless the nature of the document renders it in any respect impracticable or these rules otherwise provide

- (a) be legibly and clearly typewritten, or printed, without blotting, erasure or such alterations as cause material disfigurement;
- (b) have a space of not less than 6 millimetres between each line;
- (c) be upon white paper of good and durable quality and capable of receiving ink writing;
- (d) be written with an adequate margin on the left hand side of the paper;
- (e) be folded lengthwise;
- (f) have each page numbered; and
- (g) have a backsheet upon which appears the number and title of the proceedings, a short description of the document, and the name and address of the party or his or her attorney-at-law.

(2) Nothing in this rule prevents the filing of a copy of a document produced by a photographic process if the photographic reproduction is clearly legible and the paper is of a size and quality similar to that specified in sub-rule (1).

(3) A form prescribed by these rules that is printed by the Government Printer shall be deemed to comply with paragraph (1) (b) notwithstanding that the space between the lines is less than 6 millimetres.

130. (1) Subject to this rule, where a document relating to proceedings is required by these rules to be filed, the document shall, unless the contrary intention appears, be filed in the office of the court in which the application instituting the proceedings was filed.

Filing of documents.

(2) Where proceedings have been transferred from a court to another court under section 45 or 46 of the Act, a document relating to the proceedings shall be filed in the office of the court to which the proceedings have been transferred.

(3) During the hearing of any proceedings by a court or the Registrar, a document relating to the proceedings may, by leave of the court or the Registrar, be filed with the court or with the Registrar.

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(4) Documents filed in accordance with this rule shall be numbered in accordance with rule 8.

Sealing of documents.

131. A document filed and each copy of a document for service shall bear the seal of the court in which the document is filed.

Date of filing.

132. The court or Registrar shall cause the date of filing to be written or stamped on every pleading or other document that is filed.

Forms and compliance therewith.

133. (1) Strict compliance with the forms in the *Schedule* is not necessary and substantial compliance, or such compliance as the particular circumstances of the case allow, is sufficient.

(2) Where a person referred to in a form in the *Schedule* is not represented by an attorney-at-law a reference in the form to the attorney-at-law for the person shall be read as a reference to the person.

(3) A form in the *Schedule* shall be completed in accordance with such directions as are specified in the form.

Time to run during court vacation.

134. Except as specifically ordered by the court or Registrar, time runs, in connection with any proceedings in a court, during periods during which the court does not sit.

Court or Registrar may extend or abridge time.

135. (1) Upon application by a party to proceedings, the court or Registrar may extend or abridge the time limited by these rules for the doing of an act or the taking of a step in the proceedings.

(2) An application referred to in sub-rule (1) may be made whether or not the time limited for the doing of the act or the taking of a step in the proceedings has expired.

(3) An extension or abridgement of time may be granted under sub-rule (1) upon such conditions as the court or Registrar thinks fit.

Extension or abridgement of time by consent.

136. (1) The time limited for the doing of an act may be extended or abridged by consent, in writing, of the parties without application to a court or Registrar.

(2) A consent under sub-rule (1) shall be filed.

137. (1) Non-compliance with these rules, or with a rule of practice or procedure in a court exercising jurisdiction under this Act, does not render proceedings in that court void unless the court so directs. Non-compliance with rules.

(2) In exercising its discretion under this rule, the court shall have regard to the real merits of the case, the minimising of expense, and whether any party to the proceedings has suffered injustice or has been prejudicially affected by non-compliance with these rules.

138. (1) Subject to the Act and these rules

(a) the court or Registrar may, at any time, upon such terms as the court or Registrar thinks fit, relieve a party from the consequences of non-compliance with these rules, a rule of practice and procedure of the court applicable to the proceedings or an order made by a registrar; Court or Registrar may relieve from consequences of non-compliance.

(b) the court may at any time, upon such terms as the court thinks fit, relieve a party from the consequences of non-compliance with an order made by a court; and

(c) a court may, upon such terms as the court thinks fit, dispense with the need for compliance by a party with any provision of these rules.

(2) Where these rules fail to make provision on any matter, the court is empowered to give, and shall give, such directions as to practice and procedure as it thinks fit.

139. A judge or magistrate may, at any time after the institution of proceedings, direct a stay of proceedings upon such terms as he thinks fit. Stay of proceedings.

SCHEDULE

FORMS

(Rule 3)

FORM 1

NOMINATION OF PERSON TO ASSIST
RECONCILIATION
(Title)

TO:

I, _____, Judge (or Magistrate)
of the _____ Court have nominated you to assist
and _____ in considering a
reconciliation of their marital differences.

2. The law provides that communications between Mr. and Mrs. _____ and yourself in considering reconciliation are to be treated in the strictest confidence and are not to be revealed in any court or elsewhere.

3. It is not necessary for you to make any report to me or to the court concerning this matter.

Judge (or Magistrate)

(Rule 4)

FORM 2

NOTICE SEEKING COUNSELLING

TO:

THE REGISTRAR, SUPREME COURT

THE CLERK, MAGISTRATE'S COURT

I, (full name, address and occupation) give notice that I seek the assistance of the counselling facilities available to the court in connection with my marriage. Please invite (or do not invite) my husband (or wife) to attend for individual (or joint) counselling.

OR

We, (full name, address and occupation) and (full name, address and occupation) give notice that we seek the assistance of the counselling facilities available to the court in connection with our marriage.

(Rule 7)

FORM 3

TITLE OF PROCEEDINGS

Family Law Act, Cap. 214

IN THE SUPREME COURT OF JUDICATURE

(FAMILY DIVISION) THE HIGH COURT

COURT OF SUMMARY JURISDICTION

**IN THE MARRIAGE OF
AND**

**OF (address) HUSBAND
OF (address) WIFE**

(Rule 9)

FORM 4

APPLICATION FOR DISSOLUTION OF MARRIAGE
(Title)

DATE OF FILING:

APPLICANT'S ADDRESS FOR SERVICE:

PART 1

1. (Full name and occupation)
applies for dissolution of the above-mentioned marriage.

2. The parties were married at
on _____ and, at the time of marriage,
the husband was
*a bachelor
*a widower
*a divorced person
and the wife was
*a spinster
*a widow
*a divorced person

3. The husband was born at _____ on _____

4. The wife was born at _____ on _____

5. The applicant
*is a citizen of Barbados
*is domiciled in Barbados
*is a permanent resident of Barbados
*is an immigrant of Barbados and has resided in Barbados continuously
since _____

FORM 4 (continued)

6. The facts and circumstances of the applicant's citizenship, domicile or residence are:
(set out shortly facts relied upon).
7. The marriage between the parties has broken down irretrievably.
- *8. The parties separated on _____ and have lived separately and apart from that date.
- or
- *8. The parties separated on _____, resumed cohabitation on _____, separated again on _____, and have lived separately and apart since that later date.
9. The circumstances in which the parties last separated are as follows: (set out shortly facts relied upon).
10. There is no reasonable likelihood of cohabitation between the parties being resumed.
- *11. There are no children to whom section 3 of the *Family Law Act* applies.
- or
- *11. (a) The following are the children of the marriage under the age of 18 years:
(full names, dates of birth and where residing)
- (b) The following persons are residing in the same residence as the children:
(full names, ages and relationship)
- (c) The following arrangements are proposed by the applicant for the welfare of the children:
(set out details of housing, maintenance and education).

*Strike out whichever is not applicable.

FORM 4 (continued)

PART 2

AFFIDAVIT

I, (full name, address and occupation of deponent) make oath and say (or affirm):

- 1. I am the applicant herein.
- 2. The facts stated in this application that are within my personal knowledge are true.

All other facts stated in this application are true to the best of my knowledge and belief.

SWORN (or AFFIRMED) by
 the deponent at
 on the day of
 19
 Before me:
 Proper Officer of Court



PART 3

DECLARATION BY ATTORNEY-AT-LAW

(Full name and address) states:

- 1. I am the attorney-at-law for the applicant.
- 2. In compliance with rule 5, I have furnished to the applicant advice as to the effect of proceedings and of the counselling and welfare facilities available.

(Signature of Attorney-at-law)

FORM 4 (*concluded*)

(b) to submit to the court that it should dismiss the application or make any other submissions to the court,

you should file an answer within 14 days after you receive this application.

Your answer must be filed and served in accordance with the rules.

4. YOU MAY FILE YOUR ANSWER IN PERSON OR THROUGH AN ATTORNEY-AT-LAW.

5. IF YOU DO NOT APPEAR AT THE HEARING, THE COURT MAY PROCEED WITH THE APPLICATION IN YOUR ABSENCE.

Registrar

FORM 5 (continued)

PART 2

AFFIDAVIT

I, (full name, address and occupation of deponent) make oath and say (or affirm)

- 1. I am the applicant herein
- 2. The facts stated in this application that are within my personal knowledge are true.

All other facts stated in this application are true to the best of my knowledge and belief.

SWORN (or AFFIRMED) by
 the deponent at
 on the day of
 19
 Before me
 Proper Officer of Court

PART 3

DECLARATION BY ATTORNEY-AT-LAW

(Full name and address) states:

- 1. I am the attorney-at-law for the applicant.
- 2. In compliance with rule 5, I have furnished the applicant an advice as to effect of proceedings and of the counselling and welfare facilities available.

(Signature of Attorney-at-law)

FORM 5 (continued)

PART 4

DECLARATION BY COURT OFFICER

(Full name) Registrar (or other title as the case requires) of the court states:

1. This application was filed by the applicant in person
2. In compliance with rule 5, I have furnished the applicant an advice as to effect of proceedings and of the counselling and welfare facilities available.

Registrar

PART 5

NOTICE TO RESPONDENT

1. This application has been set down for hearing by the court at _____ on the _____ day of _____ 19 _____ at _____ o'clock.

2. If you desire

- (a) to deny any facts alleged in the application or to allege any additional facts for the consideration of the court; or
- (b) to submit to the court that it should dismiss the application or make any other submission to the court,

you should file an answer within _____ days after you receive this application.

FORM 5 (*concluded*)

Your answer must be filed and served in accordance with the rules.

- 3. IF YOU DO NOT APPEAR AT THE HEARING, THE COURT MAY PROCEED WITH THE APPLICATION IN YOUR ABSENCE.**

Registrar

(Rule 12)

FORM 6

APPLICATION

(Title)

DATE OF FILING:

APPLICANT'S ADDRESS FOR SERVICE:

1. (Full name and occupation) applies for the following orders:

(a)

(b)

2. The applicant and the respondent were married at
on

*3. There are no proceedings pending between the parties for dissolution or annulment of the marriage.

*3. An application has been filed in the Court (bearing number)
by the applicant (or respondent) seeking dissolution (or annulment) of the
marriage.
The application has not been disposed of (or on the day of
19 , that court pronounced a decree *nisi* (or pronounced a decree of
nullity)).*4. In compliance with rule 5, I have furnished to the applicant an advice as to
the effect of proceedings and of the counselling and welfare facilities
available.

Attorney-at-law for the Applicant

FORM 6 (continued)

TO THE RESPONDENT

1. This application has been set down for hearing by the court at on
the day of 19 at o'clock.
2. If you do not appear at the hearing, the court may proceed to make the
orders sought, or similar orders, in your absence.

Registrar/Clerk of Court

*Strike out whichever is not applicable.

(Rule 19)

FORM 7

**NOTICE OF ADDRESS FOR SERVICE
(Title)**

***TAKE NOTICE** that the address for service of

is

DATED this day of , 19 .

Attorney-at-law for the

(Rule 19)

FORM 8

**NOTICE OF CHANGE OF ADDRESS FOR SERVICE
(Title)**

***TAKE NOTICE** that the address for service of

is changed to

DATED this day of , 19 .

Attorney-at-law for the

(Rule 21)

FORM 9

ACKNOWLEDGEMENT OF SERVICE
(Title)

I, (full name _____, acknowledge that on the _____ day of _____, 19____, at _____ I received sealed copies of

(a) an application for

*(b) affidavits of (full names).

I also acknowledge that I am the person referred to in the copy of the application as

DATED this _____ day of _____, 19____.

(Signature)

*Strike out if inapplicable.

(Rule 23)

FORM 10

REQUEST FOR SERVICE ABROAD
(Title)

TO THE REGISTRAR:

I hereby request that a sealed copy of an application in these proceedings be transmitted through the proper channel to (name of country) for service personally on the respondent at , or elsewhere in in accordance with the Convention with that country relating to the Service Abroad of Judicial and Extra-Judicial Documents in Civil or Commercial Matters, 1965.

I hereby undertake to be responsible personally for all expenses incurred by the Government of Barbados in respect of the service hereby requested, and on receiving due notification of the amount of those expenses I undertake to pay the amount of the expenses to the Accountant-General of Barbados and to produce the receipt for payment to the Registrar.

DATED this day of , 19 .

Attorney-at-law for the Applicant

(Rule 25)

FORM 11

AFFIDAVIT OF PERSONAL SERVICE
(Title)

1, (full name, address and occupation of deponent) make oath and say (or affirm):

1. On the day of , 19 , I duly served and marked with the letter "A" by delivering it to him personally at (address).
2. (Set out the means by which the deponent identified the person served).

SWORN (or AFFIRMED) by the deponent at

on the day of
19

Before me:

Proper Officer of the Court

}
}

(Rule 27)

FORM 12

ANSWER
(Title)

DATE OF FILING:

RESPONDENT'S ADDRESS FOR SERVICE:

PART 1

1. The respondent in answer to the application dated admits the matters set out in paragraphs thereof.
2. The respondent denies the matters set out in paragraphs thereof.
3. The respondent does not admit the matters set out in paragraphs thereof.

THE LAWS OF BARBADOS

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- 4. As to paragraphs , the respondent states as follows:
(Further paragraphs in the application may be similarly dealt with)
- 5. As to the whole application, the respondent relies upon the following further facts:
(set out the facts relied upon)
- 6. The respondent therefore asks the court
 - (a) to dismiss the application;
 - (b) to decline to make any order under section 42 whereby any decree *nisi* pronounced by the court may become absolute; or
 - (c) to grant ancillary relief.

PART 2

I, (full name, address and occupation of respondent) make oath and say (or affirm) as follows:

- 1. I am the respondent herein.
- 2. The facts stated in this answer that are within my personal knowledge are true. All other facts stated in this application are true to the best of my knowledge and belief.

SWORN (or AFFIRMED) by the
deponent at
on the day of
 ,19
Before me:
Proper Officer of Court.

}

(Rule 28)

FORM 13
ANSWER UNDER PROTEST
(Title)

DATE OF FILING:

*RESPONDENT'S ADDRESS FOR SERVICE:

The respondent in answer to the application dated _____ objects to the jurisdiction of the court upon the following grounds: (Set out facts relied upon)

Attorney-at-law for the Respondent

*(N.B. An Attorney's address for service must not exceed a distance of 1 km from the Supreme Court Registry).

(Rule 44)

FORM 14
CONSENT TO ACT AS GUARDIAN *AD LITEM*
(Title)

I, (full name, address and occupation)
authorised person, consent to act as the guardian *ad item* of (full name)

for the purpose of proceedings instituted by (or against) him (or her) under the *Family Law Act*.

DATED this _____ day of _____, 19 ____ .

(Signature)

(Rule 54)

FORM 15
REQUEST FOR DISCOVERY
(Title)

Take notice that the applicant (or as the case may be) requests the respondent (or as the case may be) to make discovery on oath of the documents that are or have been in his possession, custody or power relating to matters that are in question in these proceedings (or the following matters that are in question in these proceedings):

DATED this day of , 19 .

Attorney-at-law for the
(Signature)

(Rule 54)

FORM 16
AFFIDAVIT OF DISCOVERY
(Title)

I, (full name, address and occupation of deponent) make oath and say (or affirm) as follows:

1. I have in my possession, custody or power the documents, relating to matters in question in these proceedings, specified or referred to in the first, second and third parts of Appendix I to this affidavit.
2. I object to producing the documents specified or referred to in the second part of Appendix I to this affidavit on the ground that the documents are privileged and come within the terms of rule 55(c).
3. I object to producing the documents specified (or referred to) in the third part of Appendix I to this affidavit on the ground that

- 4. I have had, but do not now have in my possession, custody or power of the documents relating to matters in question in these proceedings specified or referred to in Appendix II to this affidavit.
- 5. To the best of my knowledge and belief, the documents specified or referred to in Appendix II to this affidavit are, respectively, in the possession of the persons specified in that Appendix in relation to the documents.
- 6. I have not now and have never had in my possession, custody or power or in the possession, custody or power of an attorney-at-law, agent or other person on my behalf any document which relates to matters in question in these proceedings save and except the documents specified or referred to in Appendices I and II to this affidavit.

SWORN (or AFFIRMED) by the
 deponent at
 on the day of
 19
 Before me:
 Proper Officer of Court



(Rule 66)

FORM 17
NOTICE TO PRODUCE
 (Title)

TAKE NOTICE that you are required to produce at the court at o'clock
 on the day of 19 at the hearing of the proceedings therein the
 following:

- (a)
- (b)
- (c)

IF YOU FAIL to produce the documents and things referred to above, you may commit an offence punishable on conviction by a fine not exceeding

DATED this day of , 19 .

Attorney-at-law for the

TO:

(Rule 68)

FORM 18

STATEMENT OF FINANCIAL CIRCUMSTANCES

(Title)

FILED BY OR ON BEHALF OF: (Full name of applicant or respondent)

DATE OF FILING:

ADDRESS FOR SERVICE:

PART A

INCOME AND EXPENDITURE

	HUSBAND	WIFE
	\$	\$
(1) ANNUAL INCOME		
Salary and wages (including commissions, bonuses and overtime) in occupation of as employee of		
Net income from business of		
Maintenance from previous marriage		
Dividends and interest		
Rents		
Payments from all other sources (specify)		
TOTAL ANNUAL INCOME		

(2) EXPENSES

- Income Tax
- Insurance and superannuation
- Medical and hospital benefits.....
- Rent
- Rates and taxes
- Mortgage payments
- House repairs.....
- Food and household supplies
- Electricity, gas and fuel.....
- Telephone
- Laundry and cleaning
- Clothing.....
- Child care and education
- Entertainment
- Fares
- Car maintenance, running, and registration
- Hire purchase payments
- Maintenance for previous marriage.....
- Any other expenses (specify)
- TOTAL ANNUAL EXPENSES

(3) SEPARATE INCOME OF MEMBERS OF HOUSEHOLD whose expenses are included.....

- (a) (list names, ages and relationship of all such members of household).....
- (b) (list details of separate income of any such member of household).....

PART B
ASSETS AND LIABILITIES

(1) PROPERTY

Real estate (specify, giving improved capital value)

Shares and debentures in companies.....
 Credits in bank saving accounts, building societies, etc

Cash on hand.....
 Insurance policies (specify, giving surrender value).....

Motor vehicle (describe, giving present value).....

All other property (specify and give values).....

(2) LIABILITIES not included in item A(2) (specify)

AFFIDAVIT

I, (full name, address and occupation of deponent) make oath and say (or affirm) as follows:

1. I am the applicant (or respondent) herein.
2. The facts and figures set out in this statement which are within my personal knowledge are true.
3. All other facts and figures stated in this statement are true to the best of my knowledge and belief.
4. Where an estimate is given in this statement it is based on knowledge and belief and is given in good faith.

SWORN (or AFFIRMED) by
 the deponent at
 on the day of
 19
 Before me:
 Proper Officer of court



***(b) to produce to the court the following books, documents and writings from your custody and control:**

DATED this day of 19 .

Registrar

NOTE: The rules provide that if a person summoned does not appear, a Judge or Magistrate, may on being satisfied that the person was duly served and tendered expenses, issue a warrant for the apprehension of that person.

You may, if you so desire, produce the books, documents and things referred to herein to an officer of the court at the place specified not later than the day before the day specified above for their production.

***Strike out where not applicable.**

(Rule 89)

FORM 20
NOTICE OF APPEAL
Family Law Act

IN THE SUPREME COURT OF JUDICATURE

FAMILY DIVISION OF THE HIGH COURT

IN THE MARRIAGE OF

HUSBAND and
WIFE

DATE OF FILING:

APPELLANT: (Full name)

RESPONDENT: (Full name)

*APPELLANT'S ADDRESS FOR SERVICE:

The appellant appeals from the decision of (name of Judge) or the following part of the decision of (name of Judge): (state the part).

DATE(S) OF HEARING:

DATE OF DECREE OR JUDGMENT:

FOUNDATIONS: (State briefly but specifically the grounds relied upon in support of the appeal)

ORDERS SOUGHT: (State what decree, order or determination the appellant seeks in place of the decision of the court appealed from).

Appellant's solicitor: (Full name, address and telephone number)

Respondent's solicitor: (Full name, address and telephone number).

DATED this day of ,19 .

Attorney-at-law for the Appellant

*(N.B. An attorney's address for service must not exceed a distance of item from the Supreme Court Registry)

(Rule 91)

FORM 21

APPEAL FROM COURT

(Title)

ON APPEAL FROM MAGISTRATE'S COURT FOR

TAKE NOTICE that (full name, address and occupation) appeals against the order of the abovenamed court of summary jurisdiction made on ordering that

This application for review has been set down for hearing by the court at _____ on the _____ day of _____, 19____ at _____ o'clock.

Registrar

(Rule 93)

FORM 23

DECREE NISI OF DISSOLUTION OF MARRIAGE
(Title)

Before the Honourable

The _____ day of _____, 19____

1. The application of (full name) for dissolution of the marriage of the above-named husband and wife was heard this day.
2. The court was satisfied that the above-named (full name) was a citizen of Barbados (or was domiciled in Barbados or was a permanent resident of Barbados or was an immigrant of Barbados and that resided in Barbados continuously since _____)
3. The court held that the marriage had broken down irretrievably.
4. The court decreed that, upon and subject to the decree of the court becoming absolute, the marriage solemnised on the _____ day of _____, 19____ between the above-named husband and wife be _____ dissolved.

By the Court,

Registrar

NOTES: 1. A party to a marriage who marries again before this decree becomes absolute (unless the other party had died) commits the offence of bigamy.

(Rule 96)

FORM 25

MEMORANDUM THAT DECREE NISI HAS BECOME ABSOLUTE

(Title)

- 1. Date of decree nisi:
- *2. Date of order under section 42:
- *3. Date of determination or discontinuance of appeal:
- *4. Date of order under section 35(2):
- *5. Date on which intervention determined:

The decree *nisi* of dissolution of marriage between the abovenamed husband and wife became absolute on the _____ day of _____, 19__.

DATED this _____ day of _____, 19__

Registrar

***Strike out whichever is inapplicable.**

(Rule 96)

FORM 26

CERTIFICATE THAT DECREE NISI HAS BECOME ABSOLUTE

(Title)

I certify that the decree nisi of dissolution of the marriage between
 and, solemnised on the
 day of , 19 , being the decree that was
 pronounced on the day of , 19
 became absolute on the day of , 19

DATED this day of , 19 .

*Registrar**(Rule 96)*

FORM 27

CERTIFICATE THAT DECREE NISI HAS BECOME ABSOLUTE

(Title)

I certify that the decree nisi of which this decree is a copy became absolute
 on the day of 19

Dated this day of 19

Registrar

(Rule 102)

FORM 28

REQUEST FOR FINANCIAL INFORMATION

(Title)

TO: (Full name)

1. An order was made on (date) that you pay (amount and period) for the benefit of (name).
2. It is alleged that that order is in arrears in the amount of (amount).
3. (Full name) may now seek an order that you personally attend court to be examined as to your financial circumstances. However, if you complete and return this form to the address set out in paragraph 4 within 14 days, a summons to attend may be avoided.
4. The completed form should be returned to (full name and address).

DATED this day of , 19

PART A

INCOME AND EXPENDITURE

	HUSBAND	WIFE
	\$	\$
(1) ANNUAL INCOME		
Salary and wages (including commissions, bonuses and overtime) in occupation of as employee of		
Net income from business of		
Maintenance from previous marriage		
Dividends and interest.....		
Rents.....		
Payments from all other sources (specify)		
TOTAL ANNUAL INCOME		

(2) EXPENSES

- Income Tax.....
- Insurance and superannuation
- Medical and hospital benefits.....
- Rent
- Rates and taxes
- Mortgage payments
- House repairs.....
- Food and household supplies
- Electricity, gas and fuel.....
- Telephone
- Laundry and cleaning
- Clothing.....
- Child care and education
- Entertainment
- Fares
- Car maintenance, running, and registration
- Hire purchase payments
- Maintenance for previous marriage.....
- Any other expenses (specify)
- TOTAL ANNUAL EXPENSES

(3) SEPARATE INCOME OF MEMBERS OF HOUSEHOLD whose expenses are included.....

- (a) (list names, ages and relationship of all such members of household).....
- (b) (list details of separate income of any such member of household).....

PART B

ASSETS AND LIABILITIES

(1) PROPERTY

Real estate (specify, giving improved capital value)

.....

Shares and debentures in companies

Credits in bank saving accounts, building societies, &c.

.....

Cash on hand

Insurance policies (specify, giving surrender value).....

.....

Motor vehicle (describe, giving present value).....

.....

All other property (specify and give values).....

.....

(2) LIABILITIES not included in item A(2) (specify)

.....

(Signature)

(Rule 126)

FORM 29

NOTICE OF ASSESSMENT OF COSTS

In Re

Applicant

And

Attorney-at-Law

IN PURSUANCE OF rule 126 of the Family Law Rules, 1982

- (a) I specify \$ _____ as the proper amount to be paid
by _____ to _____ for
costs of and incidental to the above matter.
- (b) In this assessment I have included the amount of
\$ _____ as the proper amount of costs to be
paid by _____ to _____
in relation to costs incurred in the taxation.

DATED this _____ day of _____, 19 ____ .

Registrar

- NOTES:**
1. A person may, not later than 14 days after the service of a copy of this assessment upon him, file an objection in accordance with Form 31 requesting the Registrar to arrange for the proceedings for taxation to be set down for hearing by the court.
 2. Where no objection has been filed within the time specified, the court may, without further application or hearing, order the payment of costs in accordance with this notice of assessment. The order creates a judgment debt that is due and payable and recoverable in accordance with law.

Registrar

(Rule 126)

FORM 30

NOTICE OF OBJECTION TO ASSESSMENT OF COSTS

*In Re**Applicant**And**Attorney-at-Law*

(Full name, address and occupation), in accordance with rules 126 and 127 of the Family Law Rules, 1982 request that the Registrar arrange for the proceedings for taxation between the applicant and

hearing by the court. be set down for

DATED this day of , 19 .

Applicant

This request has been set down for hearing by the court at
on the day of
 19 at o'clock.

*Registrar**(Rule 122)**Prescribed Overseas Countries*

British Columbia

Manitoba

United Kingdom