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TUESDAY 9TH FEBRUARY, 2016

THE OFFICIAL GAZETTE 9TH FEBRUARY, 2016
LEGAL SUPPLEMENT — B

GUYANA

No. 1 of 2016

RULES OF COURT

MADE UNDER

THE HIGH COURT ACT, CAP. 3:02

IN EXERCISE OF THE POWERS CONFERRED UPON THE RULES COMMITTEE BY SECTIONS 67 AND 68 OF THE HIGH COURT ACT, CHAPTER 3:02, WE, CARL ASHOK SINGH, OR, CCH, CHANCELLOR (ACTING), IAN NEVILLE CHANG, SC, CCH, CHIEF JUSTICE (ACTING), YONETTE CUMMINGS-EDWARDS, JUSTICE OF APPEAL, ROXANE GEORGE, PUISNE JUDGE, [TIMOTHY MUNROE JONAS AND TENI HOUSTY], ATTORNEYS-AT-LAW, BEING THE MEMBERS OF THE RULES COMMITTEE CONSTITUTED UNDER SECTION 67 OF THE SAID HIGH COURT ACT DO HEREBY MAKE THE FOLLOWING RULES OF COURT:-

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The overriding objective

- 1.1 (1) The overriding objective of these Rules is to enable the court to deal with family matters-
- (a) justly; and
 - (b) in a way which, in proceedings affecting any child or relating to the welfare of any child, gives first and paramount consideration to the best interest of that child.
- (2) Dealing justly with the case includes -
- (a) ensuring, so far as is practicable, that the parties are on an equal footing and are not prejudiced by their financial position;
 - (b) encouraging settlement of any disputes by negotiation or mediation or other means of alternative dispute resolution;
 - (c) saving expense;
 - (d) dealing with the case in ways which are proportionate -
 - (i) to the nature, importance and complexity of the issues; and
 - (ii) to the financial position of each party; and
 - (e) ensuring that it is dealt with expeditiously and fairly; and
 - (f) allotting to it an appropriate share of the court's resources while taking into account the need to allot resources to other cases.
- (3) Giving first and paramount consideration to the best interest of any child where any question relating to the welfare, custody or supervision of, or access to, that child is concerned includes -
- (a) seeking so far as practicable to encourage -
 - (i) better relationships between parents and others involved in caring for the child and in particular communication and cooperation with regard to the parenting of such child; and
 - (ii) improving and developing the relationship between each parent and others and the child;
 - (b) taking account of all the circumstances including in particular -
 - (i) the ascertainable wishes and feelings of the child concerned (considered in the light of that child's age and understanding);
 - (ii) the child's physical, emotional and educational needs;
 - (iii) the child's cultural and ethnic background;
 - (iv) the likely effect on the child of any change in that child's circumstances;
 - (v) the child's age, sex, background and any characteristics of that child which the court considers relevant;
 - (vi) any harm which the child has suffered or is at risk of suffering; and

- (vii) how capable are the parents or any other person in relation to whom the court considers the question to be relevant of meeting the needs of the child.

Application by the court of the overriding objective

- 1.2 The Court shall seek to give effect to the overriding objective when it –
- (a) exercises any discretion given to it by these Rules; or
 - (b) interprets the meaning of any rule.

Duty of the parties

- 1.3 The parties are required to help the court to further the overriding objective.

**PART 2
APPLICATION AND INTERPRETATION OF THE RULES**

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Citation and Commencement

- 2.1 (1) These Rules may be cited as the High Court (Family Proceedings and Procedure) Rules 2016.
- (2) These Rules shall come into operation on a date as the Chancellor may, by Practice Direction, appoint, acting on the decision of the Rules Committee.

Application of the Rules

- 2.2 (1) These Rules apply to any family matter commenced in the Registry of the High Court on or after the date of the coming into force of these Rules.
- (2) Subject to sub-rule (5), these Rules shall also apply to family matters commenced before the date of the coming into force of these Rules if -
- (a) any party to such matters at any time after the close of the pleadings and before the case has been listed for trial, files a request at the Registry for a directions hearing under Part 12; or
 - (b) (i) some step required to be taken by a party has not been taken within six months of the time prescribed for taking it; or

- (ii) a case has not been listed for trial for more than three years after being set down for trial; and
 - (c) in both paragraphs (a) and (b) the Registry issues a notice to all parties requiring them to attend a directions hearing.
- (3) In these Rules –
- “family matter”** means any cause, matter or legal proceeding –
- (a) in connection with or arising out of matrimonial or other domestic relationships; or
 - (b) concerning the welfare, maintenance, guardianship, parentage, custody of or access to children; and
 - (c) in particular, to relevant proceedings arising out of laws including the following statutes –
 - (i) Applications under section 37 of the High Court Act, Cap. 3:02;
 - (ii) Child Care and Development Services Act, No.12 of 2011;
 - (iii) Childcare and Protection Agency Act, Chapter 46:07;
 - (iv) Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011;
 - (v) Family and Dependents Provision Act, Chapter 12:24;
 - (vi) Infancy Act, Cap. 46:01;
 - (vii) Marriage Act, Cap. 45:01;
 - (viii) Married Persons Property Act, Cap. 45:04;
 - (ix) Matrimonial Causes Act, Cap 45:02;
 - (x) Protection of Children Act, Chapter 46:06;
 - (xi) Status of Children Act, Chapter 46:05.
- (4) A reference to Part XX, rule xx or sub-rule xx is a reference to the Part, rule or sub-rule so numbered in these Rules.
- (5) Except as provided in sub-rule (2), the relevant Rules of Court and other statutory provisions shall continue to apply to family matters commenced in the High Court before the coming into force of these Rules.

Interpretation

2.3 In these Rules –

“adopted” has the same meaning as in section 2 of the Adoption of Children Act, Cap. 46:04;

“alternative dispute resolution” means methods of resolving a dispute, including mediation, other than through the normal court process;

“answer” is the means by which a respondent defends a petition for divorce, judicial separation or nullity whether or not it includes a cross-petition for divorce etc., and includes a response to an application under Part 11 and Part 20 where the context so admits;

“applicant” and **“respondent”** have the meanings assigned to them by rule 8.2;

“**assess**” in relation to costs means the taxation of costs as provided for in the Rules of the High Court, Cap. 3:02;

“**attorney**” means attorney-at-law and includes legal practitioner and legal representative;

“**cause**” means any proceedings for a decree of divorce, of nullity or of judicial separation;

“**certificate of marriage**” means a certificate of marriage certified by the Registrar General or, in the case of any overseas marriage, by the appropriate authority in the country where the marriage took place;

“**Chancellor**” includes, in relation to any period in which the office of Chancellor shall be vacant, the person for the time being performing the functions of the Chancellor;

“**Chief Justice**” includes, in relation to any period in which the office of Chief Justice shall be vacant, the person for the time being performing the functions of the Chief Justice;

“**child**” includes a child as defined in the law or statute under which the proceeding is brought;

“**child of the family**” includes a child of the family as defined in the law or statute under which the proceeding is brought;

“**court**” means the High Court;

“**cross-petition**” means a petition for divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights or declaration of legitimacy of marriage made by a respondent whether or not contained in an answer;

“**defended cause**” means a cause which is not an undefended cause;

“**decree proceedings**” means proceedings in which a party is seeking a decree;

“**filing**” in relation to a document, means delivering it or posting it to the appropriate Registry and shall not be complete until the document is received at that Registry;

“**guardian ad litem**” means a person appointed to separately represent the interests of a child;

“**Marshal**” has the same meaning as in section 2 of the High Court Act, Cap. 3:02;

“**minor**” means a person under 18 years of age;

“**next friend**” has the meaning assigned to it by Part 5;

“**notice of intention to defend**” has the meaning assigned to it by Part 10;

“**order**” includes any judgment, order, decision, direction or decree;

“**parental responsibility**” includes parental authority, or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child;

“**patient**” means a person who by reason of mental disorder is incapable of managing that person’s own affairs and includes any person who has been adjudged to be of unsound mind under the Mental Hospital Ordinance, Cap. 140;

“**petition**” is the means by which a party to a marriage seeks a decree of divorce, judicial separation or nullity, restitution of conjugal rights, jactitation of marriage or declaration of legitimacy of marriage;

“**practice form**” means a form which the Chancellor designates by practice direction to be a practice form;

“**relevant child**” in relation to the parties to a marriage includes –

- (a) any child of the family who is –
 - (i) under the age of sixteen; or
 - (ii) receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not that child is also in gainful employment; and
- (b) any other child of the family to whom the court directs that sections 19 and 30 of the Matrimonial Causes Act, Cap. 45:02 and the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011 apply;

“**Registrar**” includes the Deputy Registrar;

“**undefended cause**” includes undefended proceedings within the meaning assigned to it by rule 16.1; and

“**welfare**” includes the custody, education and financial provision for a child.

Who may exercise the powers of the court

- 2.4 (1) Except where statute, rule or practice direction provide otherwise, the functions of the High Court may be exercised by any Judge of that court.
- (2) The Chief Justice may by direction allocate the work of the court among Judges.

Court Staff

- 2.5 Where these Rules refer to the Registry or require or permit an act of a formal or administrative character, that act may be performed by the Registrar or a member of the court staff authorised by the Chief Justice.

Court's discretion as to where it deals with cases

- 2.6 (1) The court may deal with a case at any place that it considers appropriate.
(2) In considering what place may be appropriate the court shall consider the convenience of such place to any child of the parties, the parties and their attorneys.

Time - court to state calendar date and time

- 2.7 When making any judgment, order or direction which imposes a time limit for doing any act the court shall state the calendar date by which such act is to be done.

Time - computation

- 2.8 (1) This rule shows how to calculate any period of time for doing any act which is fixed by –
(a) these Rules;
(b) any Practice Direction; or
(c) any order or direction of the court.
(2) All periods of time expressed as a number of days shall be computed as clear days.
(3) In this rule 'clear days' means that in computing the number of days –
(a) the day on which the period begins; and
(b) if the end of the period is defined by reference to any event, the day on which the event occurs,
are not included.

Example

Notice of an application shall be served at least 3 days before the hearing. Application is to be heard on Friday 20 October. The last date for service is Monday 16 October.

- (4) Where the specified period is 5 days or less and includes -
(a) a Saturday or Sunday; or
(b) any other day on which the Registry is closed,
that day does not count.
- (5) When the period fixed by -
(a) these Rules;
(b) any practice direction; or
(c) any direction or order,
for doing any act at court ends on a day on which the registry is closed, that act will be in time if done before 4:00 p.m. on the next day on which the registry is open.
- (6) When the period fixed by these Rules, any practice direction or any order for doing any act which does not need to be done at Court ends -
(a) on a Saturday or Sunday;
(b) on any public holiday; or
(c) on any day which the Chancellor may direct that the registry shall be closed,
it shall be done before 4:00 pm on the next day on which the registry is open.

Dates for compliance to be calendar dates and to include time of day

- 2.9 (1) Where the court makes an order or gives a direction which imposes a time limit for doing any act, the last date for compliance shall, wherever practicable -
- (a) be expressed as a calendar date; and
 - (b) include the time of day by which the act shall be done.
- (2) Where the date by which an act shall be done is inserted in any document, the date shall, wherever practicable, be expressed as a calendar date.

Meaning of 'month'

- 2.10 Where 'month' occurs in any order or any other document, it means a calendar month.

Documents

- 2.11 (1) So far as practicable, every document prepared for use in the court shall be -
- (a) on letter size paper, approximately 11 inches long by 8.5 inches wide;
 - (b) with margins of 1 inch at the top and bottom and of 1.5 inches at each side.
- (2) Every document to be filed at the Registry shall be headed with the title of the proceedings and -
- (a) a description of the document;
 - (b) a statement of the nature of the case;
 - (c) be endorsed at the top right hand corner with -
 - (i) the name;
 - (ii) the firm's name;
 - (iii) the address;
 - (iv) telephone and fax numbers (if any); and
 - (v) e-mail address (if any),
 of the attorney filing the document.

PART 3 FORMS

Contents of this Part

Chancellor designates practice forms	Rule 3.1
Forms	Rule 3.2
Documents to be attached to a form	Rule 3.3

Chancellor designates practice forms

- 3.1 The Chancellor may by practice direction give directions for the use of any form which shall be designated a practice form.

Forms

- 3.2 (1) Any reference to a form in these Rules is a reference to a form set out in the Schedule to these Rules or to the appropriate practice form.
- (2) Where appropriate, the forms may be used in the cases to which they apply.
- (3) A form may be varied if the variation is required by the circumstances of a particular case.

- (4) Notwithstanding sub-rule (3), a form shall not be varied so as to leave out any information or guidance which the form gives to the intended recipient of the form.
- (5) Where these Rules require a party to send a blank form to any other party, that party shall send it without variation except the insertion of the title of the case and the Registry address to which that document is to be returned.
- (6) A form marked with the word 'Seal' shall bear the seal of the High Court.

Documents to be attached to a form

- 3.3 Subject to any rule or practice direction, unless the court directs otherwise, a form shall have attached to it any documents which, in the form, are -
- (a) stated to be required; or
 - (b) referred to.

PART 4
PRACTICE DIRECTIONS AND GUIDES

Contents of this Part

Who may issue practice directions	Rule 4.1
Scope of practice directions	Rule 4.2
Publication of practice directions	Rule 4.3
Date from which practice directions take effect	Rule 4.4
Compliance with practice directions	Rule 4.5
Practice guides	Rule 4.6

Who may issue practice directions

- 4.1 Practice directions may only be issued by the Chancellor.

Scope of practice directions

- 4.2 (1) A practice direction may be issued in any case where provision for such a direction is made by these Rules.
- (2) Where there is no express provision in these Rules for such a direction, the Chancellor may give directions as to the practice and procedure to be followed in the court.

Publication of practice directions

- 4.3 Practice directions shall be -
- (a) published in the *Official Gazette*; and
 - (b) displayed and made available for sale at the Registry or Sub-Registries of the High Court.

Date from which practice directions take effect

- 4.4 A practice direction takes effect from the date of publication in the *Official Gazette* unless the direction gives some other later date.

Compliance with practice directions

- 4.5 (1) A party shall comply with any relevant practice directions unless there are good reasons

- for not doing so.
- (2) If a party fails to comply with a practice direction, the court may make an order against that party under Part 14 (Case Management and Sanctions - the Court's Powers) or Part 36 (Costs - General).

Practice guides

- 4.6 (1) The Chancellor may issue practice guides to assist parties in the conduct of litigation.
- (2) Parties shall have regard to any relevant practice guide.
- (3) The court may take into account the failure of any party to comply with any practice guide when deciding whether or not to make an order under Part 14 (Case Management and Sanctions – the Court's Powers) or Part 36 (Costs – General).

PART 5 REPRESENTATION OF MINORS OR PATIENTS

Contents of this Part

Scope of this Part	Rule 5.1
Requirement of next friend in proceedings by or against minors or patients	Rule 5.2
Stage of proceedings at which next friend necessary	Rule 5.3
Who may be a minor's next friend	Rule 5.4
Who may be a patient's next friend	Rule 5.5
Conditions for being a next friend without a court order	Rule 5.6
How a person becomes a next friend without a court order	Rule 5.7
How a person becomes a next friend by a court order	Rule 5.8
Court's power to change next friend or to prevent a person acting as next friend	Rule 5.9
Appointment of next friend by court order – supplementary	Rule 5.10
Cessation of appointment as next friend	Rule 5.11
Settlement, compromise or payment by or on behalf of minor or patient	Rule 5.12
Control of money to be paid to or for a minor or patient	Rule 5.13
Separate representation of a minor or patient	Rule 5.14

Scope of this part

- 5.1 This Part -
- (a) contains special provisions which apply in proceedings to which minors and patients are parties;
- (b) sets out how a person becomes a minor's or patient's next friend; and
- (c) deals with the separate representation of minors.

Requirement of next friend in proceedings by or against minors or patients

- 5.2 (1) A next friend shall conduct proceedings on behalf of a minor or patient.
- (2) However, the court may, on the application of a minor, make an order permitting the minor to conduct proceedings without a next friend.
- (3) An application for an order under sub-rule (2) may be made without notice.

- (4) Where -
 - (a) the court has made an order under sub-rule (2); and
 - (b) it subsequently appears to the court that it is desirable for a next friend to conduct the proceedings on behalf of the minor,
the court may appoint a person to be the minor's next friend.
- (5) A next friend shall act by an attorney-at-law.

Stage of proceedings at which next friend necessary

- 5.3 (1) A minor or patient shall have a next friend in order to issue proceedings except where the court has made an order under rule 5.2(2).
- (2) A person may not -
 - (a) make any application against a minor or patient before proceedings have started;
or
 - (b) take any step in proceedings except -
 - (i) issuing and serving a petition or application; or
 - (ii) applying for the appointment of a next friend under rule 5.8,
until the minor or patient has a next friend.
- (3) If a person becomes a patient during proceedings no party may take any step in the proceedings apart from applying to the court for the appointment of a next friend, until the patient has a next friend.
- (4) Any step taken before a minor or patient has a next friend shall be of no effect unless the court otherwise orders.

Who may be a minor's next friend

- 5.4 (1) A minor's next friend may be a person appointed by the court.
- (2) A person who satisfies the conditions set out in rule 5.6(2) may act as a minor's next friend without a court order appointing that person, unless -
 - (a) the court has already appointed a next friend; or
 - (b) the court makes or has made an order under rule 5.9.

Who may be a patient's next friend

- 5.5 (1) A person authorised by the Court to conduct legal proceedings in the name of the patient or on that patient's behalf, is entitled to be the next friend of the patient in any proceedings to which that person's authority extends.
- (2) If no one is authorised under sub-rule (1) -
 - (a) the Public Trustee, on the production of a consent (if the Public Trustee consents), is to be the next friend of the patient; or
 - (b) a person who satisfies the conditions set out in rule 5.6(2) may apply under rule 5.8 to be a patient's next friend.

Conditions for being a next friend without a court order

- 5.6 (1) Sub-rule (2) specifies the conditions to be satisfied for the purposes of -
 - (a) rule 5.4(2), (minor's next friend without court order);

- (b) rule 5.5(2), (patient's next friend without court order if nobody is authorised by the court and the Public Trustee does not consent to act).
- (2) A person may act as a next friend if that person -
 - (a) can fairly and competently conduct proceedings on behalf of the minor or patient; and
 - (b) has no interest adverse to that of the minor or patient.

How a person becomes a next friend without court order

- 5.7 (1) If the court has not appointed a next friend, a person who wishes to act as next friend shall follow the procedure set out in this rule.
- (2) A person authorised under the Mental Hospital Ordinance, Cap. 140, shall file in the Registry an official copy of the order or other document which constitutes that person's authorisation to act.
- (3) Any other person shall -
- (a) file in the Registry a certificate that that person satisfies the conditions specified in rule 5.6(2); and
 - (b) serve a copy of the certificate on every person on whom, in accordance with rule 6.5 (Service of petition on minors and patients) the petition or application should have been served.
- (4) A person who is to act as a next friend for an applicant or petitioner shall file -
- (a) the authorization; or
 - (b) the certificate under sub-rule (3); and
 - (c) a certificate stating that the certificate under sub-rule (3) has been served in accordance with sub-rule (3)(b) at the time when the petition or application is issued.
- (5) A person who is to act as a next friend for a respondent shall file -
- (a) the authorization; or
 - (b) the certificate under sub-rule (3); and
 - (c) a certificate stating that the certificate under sub-rule (3) has been served in accordance with sub-rule (3)(b) at the time when that person first takes a step in the proceedings on behalf of the respondent.

How a person becomes a next friend by a court order

- 5.8 (1) The court may make an order appointing a next friend with or without an application.
- (2) An application for an order appointing a next friend may be made by -
- (a) a person who wishes to be a next friend; or
 - (b) a party.
- (3) Where -
- (a) a person issues a petition or application against a minor or patient;
 - (b) the minor or patient has no next friend; and
 - (c) either -
 - (i) someone who is not entitled to be a next friend files an answer, an answer together with a cross-petition or evidence in answer to an application; or
 - (ii) the petitioner or applicant wishes to take some step in the proceedings,

the petitioner or applicant shall apply to the court for an order appointing a next friend for the minor or patient.

- (4) An application for an order appointing a next friend shall be supported by evidence.
- (5) The court may not appoint a next friend under this rule unless it is satisfied that the person to be appointed complies with the conditions specified in rule 5.6(2).

Court's power to change next friend or to prevent person acting as next friend

- 5.9 (1) The court may -
- (a) direct that a person may not act as a next friend;
 - (b) terminate a next friend's authority to act; or
 - (c) appoint a new next friend in substitution for an existing one.
- (2) The court may make an order under sub-rule (1) with or without an application.
- (3) An application for an order under sub-rule (1) shall be supported by evidence.
- (4) An application to appoint a next friend in substitution for an existing one shall be made on notice to the existing next friend.
- (5) The court may not appoint a next friend under this rule unless it is satisfied that the person to be appointed complies with the conditions specified in rule 5.6(2).

Appointment of next friend by court order – supplementary

- 5.10 (1) An application for an order under rule 5.8 or 5.9 shall be served on every person on whom, in accordance with rule 6.5 the petition or application should have been served.
- (2) An application for an order under rule 5.9 shall also be served on the person who is or who purports to act as next friend.
- (3) On an application for an order under rule 5.8 or 5.9, the court may appoint the person proposed or any other person.

Cessation of appointment as next friend

- 5.11 (1) The appointment of a minor's next friend ceases when a minor who is not a patient reaches the age of 18.
- (2) When a party ceases to be a patient during the course of proceedings, the next friend's appointment continues until it is ended by court order.
- (3) An application for an order made under sub-rule (2) may be made by -
- (a) the former patient;
 - (b) the next friend; or
 - (c) a party.
- (4) The party in respect of whom the appointment to act has ceased shall serve notice on the other parties -
- (a) stating that the appointment of that party's next friend has ceased;
 - (b) giving that party's address for service; and
 - (c) stating whether or not that party chooses to carry on the proceedings.
- (5) If that party does not do so within 28 days after the appointment of the next friend terminates, the court may, on application, strike out any petition, application or answer brought by that party.
- (6) The liability of a next friend for costs continues until -

- (a) the minor or patient for whom the next friend acted serves the notice referred to in sub-rule (4); or
- (b) the next friend serves notice on the other parties that the next friend's appointment to act has ceased.

Settlement, compromise or payment by or on behalf of minor or patient

5.12 When financial relief is claimed by or on behalf of a minor or patient, no settlement, compromise or payment shall be valid, so far as it relates to that person's application, without the approval of the court.

Control of money to be paid to or for a minor or patient

- 5.13 (1) Where in any proceedings money is to be paid to or on behalf of or for the benefit of a minor or patient that money shall be dealt with in accordance with directions given by the court under this rule and not otherwise.
- (2) Directions given under this rule may provide that the money shall be wholly or partly paid into court and invested or otherwise dealt with.

Separate representation of a minor

- 5.14 (1) If in any matter the court considers that a minor should be separately represented it may -
- (a) appoint the Public Trustee to act as guardian *ad litem* if the Public Trustee consents; or
 - (b) if there is no such consent, on the application of -
 - (i) a party; or
 - (ii) a person who wishes to act as guardian *ad litem*, appoint a guardian *ad litem* with authority to take part in the proceedings on the minor's behalf.
 - (c) A person may act as a guardian *ad litem* if the person -
 - (i) can fairly and competently take part in proceedings on behalf of the minor; and
 - (ii) has no interest adverse to that of the minor.
- (2) The court shall direct that a minor be separately represented on any application for a variation of settlement order unless it is satisfied that any proposed variation will not adversely affect the rights or interests of that minor.

PART 6
SERVICE OF PETITION AND OTHER ORIGINATING
APPLICATIONS

Contents of this Part

Scope of this Part	Rule 6.1
Service of petition - normal method	Rule 6.2
Method of personal service	Rule 6.3
Proof of personal service	Rule 6.4
Service of petition on minors and patients	Rule 6.5
Power of court to make an order for service by a specified method	Rule 6.6

Service out of Guyana – general provisions	Rule 6.7
Translation of petition where party being served does not understand English	Rule 6.8
Power of court of dispense with service	Rule 6.9

Scope of this Part

- 6.1 (1) This part deals with the service of a petition.
(2) Service of any other originating applications, except where filed in existing or pending proceedings, shall be effected in the same way as a petition under this Part.

Service of petition - normal method

- 6.2 (1) The general rule is that the petition shall be served personally.
(2) Service of a petition shall be effected by the Marshal or by a person authorised in writing by the Registrar.
(3) Service shall not be effected by the petitioner but the petitioner may be present when service is effected.

Method of Personal Service

- 6.3 Personal service of a petition shall be effected by delivering to and leaving with the person to be served a copy of the petition bearing the seal of the court and any other documents to be served with the petition.

Proof of personal service

- 6.4 (1) Personal service of any document may be proved by an affidavit sworn by the server of the document stating –
(a) the date and time of service;
(b) the precise place or address at which it was served;
(c) precisely how the person served was identified; and
(d) precisely how service was effected.
- (2) Where the person served was identified by another person (including a petitioner or respondent) that person shall also make an affidavit showing precisely how that person was able to identify the person served.
- (3) (a) Where the server identified the person served by means of a photograph or description there shall also be filed an affidavit by a person verifying the description or photograph of the person to be served and showing how that person is able to do so.
(b) Where the respondent is to be identified by a photograph or a description, the photograph or description shall be filed with the petition.
(c) A practice direction shall specify the dimensions and recency of the photograph to be filed.
- (4) Where the service was effected by a Marshal, that Marshall shall indorse a certificate signed by that Marshall on a copy of the petition so served (the return of service) bearing the particulars of service as stated in sub-rule (1) in the place of the affidavit by the server.

Service of petition on minors and patients

- 6.5 (1) Sub-rules (2) to (5) specify the persons on whom a petition shall be served if it would otherwise be served on a minor or patient.
- (2) A petition which would otherwise be served on a minor who is not also a patient shall be served on one of the minor's parents or guardians or, if there is no parent or guardian, on the person with whom the minor resides (other than the petitioner) or in whose care the is minor.
- (3) A copy of the petition shall also be served on a respondent or petitioner who is a minor but not also a patient.
- (4) If a person is authorised under the Mental Hospital Ordinance, Cap 140 or Part 5 of these Rules to conduct the proceedings in the name of the patient or on that patient's behalf, a petition shall be served on that person.
- (5) If there is no person authorised to accept service on behalf of a patient a petition shall be served on the person with whom the patient resides (other than the respondent) or in whose care the is patient.
- (6) The court may order that, although sub-rules (2) to (4) have not been complied with, the petition is to be treated as if it has been properly served.
- (7) The court may make an order permitting the petition to be served on the minor or patient, or on some other person other than the person specified in sub-rules (2) to (5).
- (8) An application for an order under sub-rules (7) may be made without notice.

Power of court to make an order for service by a specified method

- 6.6 (1) The court may direct that a petition may be served by a method specified in the court's order.
- (2) An application for an order to serve by a specified method may be made without notice, but shall be supported by evidence specifying the method of service and showing that that method of service is likely to enable the respondent or co-respondent to ascertain the contents of the petition.

Service out of Guyana – general provisions

- 6.7 (1) A petition or any other document in family proceedings may be served on a person out of Guyana by any method approved by the court upon an application without notice supported by evidence.
- (2) An order made under sub-rule (1) shall fix a time for giving notice of intention to defend.

Translation of petition where party being served does not understand English

- 6.8 (1) Where there is reason to believe that the respondent or co-respondent does not understand English, every copy of the petition shall be accompanied by a translation of the petition, statement of arrangements for children, notice of proceedings and acknowledgment of service forms.
- (2) The translation shall be in a language which the respondent or co-respondent will understand.
- (3) The petitioner shall file evidence to show that the respondent or co-respondent understands the language into which the petition has been translated.

- (4) Every translation filed under this rule shall be certified by the person making it to be a correct translation, and the certificate shall state -
- (a) the name of the person making the translation;
 - (b) the translator's address; and
 - (c) the translator's qualifications for making a translation.

Power of court to dispense with service

- 6.9 (1) The court may dispense with service of a petition if it is appropriate to do so.
- (2) An application for an order to dispense with service may be made without notice but shall be supported by evidence showing that it is appropriate to make such an order.

PART 7
SERVICE OF OTHER DOCUMENTS

Contents of this Part

Scope of this Part	Rule 7.1
Who is to serve documents in pending proceedings	Rule 7.2
Method of service	Rule 7.3
Address for serving such documents	Rule 7.4
Service of documents on a non-party	Rule 7.5
Method of serving documents where no address for service is given	Rule 7.6
Deemed date for service by post	Rule 7.7

Scope of this Part

- 7.1 This part deals with the service of any document other than -
- (a) a petition;
 - (b) an application under Part 11 (Applications Relating to Children) or Part 20 (Applications for Financial Relief) which is not made in pending proceedings; or
 - (c) any other originating application.

Who is to serve documents in pending proceedings

- 7.2 (1) Any decree, direction or order shall be served by the court, unless the court orders otherwise.
- (2) Any other document in pending proceedings that requires service shall be served by a party, unless the court orders otherwise.

Method of Service

- 7.3 Where these Rules require a document in pending proceedings to be served on any person it may be served by any of the following methods -
- (a) personal service;
 - (b) prepaid post;

- (c) delivery; or
 - (d) uplifting from the Registry by the respective party(ies) to the proceeding(s); or
 - (e) facsimile transmission or other means of electronic communication if permitted by a relevant practice direction,
- unless the court orders otherwise.

Address for serving such documents

- 7.4 (1) If a party has an attorney on record for that party, the documents shall be posted or delivered to the attorney at that address.
- (2) If a party is acting in person and has given an address for service the documents shall be posted or delivered to the party at that address.
- (3) If a party's address for service includes a number for facsimile transmission the documents may be so transmitted to that party at that number in accordance with any relevant practice direction.
- (4) If a party to be served has not given an address to which documents may be sent documents shall be posted or delivered to the address indicated in rule 7.6.

Service of documents on a non-party

- 7.5 If the court or a party is to serve documents on a person who is not a party such documents shall be served by one of the methods specified in Part 6.

Method of serving documents where no address for service is given

- 7.6 (1) If a party to be served has not given an address to which documents for that party may be sent, the documents shall be served by posting them to or delivering them at -
- (a) the business address of any attorney-at-law who is acting for the party in the proceedings; or
 - (b) the party's usual place of residence.
- (2) The provisions of Part 6 (Service of Petition) may be applied to such a document as if it were a petition.

Deemed date for service by post

- 7.7 Any document served by pre-paid post under this Part is deemed to be served on the twenty-eighth day after posting.

**PART 8
GENERAL RULES ABOUT APPLICATIONS NOT BROUGHT
BY PETITIONS**

Contents of this Part

Scope of this Part	Rule 8.1
Parties to application	Rule 8.2
Where to make applications	Rule 8.3

Application in writing	Rule 8.4
Notice of application and evidence in support	Rule 8.5
Time when an application is made	Rule 8.6
What an application for a procedural order shall include	Rule 8.7
Contents of notice of application for procedural order	Rule 8.8
Service of notice of application for procedural order	Rule 8.9
Powers of the court in relation to the conduct of an application	Rule 8.10
Consequence of not asking for an order in an application	Rule 8.11
Applications which may be dealt with without a hearing	Rule 8.12
Service of application where order made on application made without notice	Rule 8.13
Application to set aside or vary order made on application made without notice	Rule 8.14
Power of court to proceed in the absence of a party	Rule 8.15

Scope of this Part

- 8.1 This Part deals with applications for court orders made before or during the course of proceedings. It deals generally with applications for children orders and financial relief and division of property orders which are dealt with in more detail in Parts 11 and 20 respectively. It does not deal with applications for a decree of divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights or declaration of legitimacy of marriage, such applications being made by petition in accordance with Part 9.

Parties to application

- 8.2 In this Part,
- “**applicant**” means a person who seeks a court order by making an application; and
 - “**respondent**” means the person against whom the order is sought, whether or not such party is named as respondent in any petition for divorce or other similar applications and such other person as the court may direct.

Where to make applications

- 8.3 (1) The general rule is that an application in pending proceedings shall be made to the Registry where the proceedings were issued.
- (2) If the proceedings have been transferred to another Registry the application shall be made to that Registry.
- (3) An originating application may be made at any Registry.

Application in writing

- 8.4 (1) The general rule is that an application shall be in writing in Form 9.
- (2) An application may be made orally if -
- (a) permitted by a rule or practice direction; or
 - (b) the court dispenses with the requirement for the application to be made in writing.

Notice of application and evidence in support

- 8.5 (1) The general rule is that the applicant shall give notice of the application to each respondent in Form 11.
- (2) An applicant may make an application without giving notice if this is permitted by -
- (a) a rule; or
 - (b) a practice direction.
- (3) Evidence in support of an application is not needed unless it is required by -
- (a) a rule;
 - (b) a practice direction; or
 - (c) court order.
- (4) Notice of the application shall be included in the form used to make the application.
- (5) Where evidence in support is required it shall be given by affidavit.

Time when an application is made

- 8.6 Where an application shall be made within a specified period it is so made if it is received by the Registry or made to the court within that period.

What an application for a procedural order shall include

- 8.7 (1) This rule deals with applications for procedural orders made before or during the course of proceedings. It does not deal with applications for orders relating to the custody of or access to children or for financial relief.
- (2) An application for a procedural order shall state -
- (a) what order the applicant is seeking; and
 - (b) briefly, why the applicant is seeking the order.
- (3) The applicant shall include with or attach to the application a draft of the order which is being sought.
- (4) Either the applicant or the applicant's attorney-at-law shall certify on the application that that applicant believes the facts stated in the application are true as set out in Form 11.

Contents of notice of application for procedural order

- 8.8 (1) The notice issued by the Registry shall state whether there will be a hearing.
- (2) If there is to be a hearing the notice shall state the date, time and place of the hearing.
- (3) If there is not to be a hearing, the notice shall state how the court will deal with the application.
- (4) A Court may deal with an application under this Part by teleconferencing, video conferencing or any other method as it sees fit.

Service of notice of application for procedural order

- 8.9 (1) Notice of an application shall be served -
- (a) promptly upon issue; and
 - (b) at least 3 days before the court is to deal with the application.
- (2) The notice shall be accompanied by -
- (a) a copy of the application (where the notice and the application are not contained on the same form);

- (b) any evidence in support; and
 - (c) a copy of any draft order which the applicant has attached to the application.
- (3) The notice shall be served in accordance with Part 7.

Power of the court in relation to the conduct of an application

- 8.10 (1) The court may -
- (a) issue a witness summons requiring a party or other person to attend the court on the hearing of the application;
 - (b) require the production of documents or things at such a hearing;
 - (c) question any party or witness at such a hearing.
- (2) The court may examine a party or witness -
- (a) orally; or
 - (b) by putting written questions to the party or witness and asking for written answers to the questions.
- (3) Any party may then cross-examine the witness.
- (4) The court may exercise any power which it might exercise at a directions hearing.

Consequence of not asking for an order in an application

- 8.11 An applicant may not ask for an order which has not been sought in the application unless the court so permits.

Applications which may be dealt with without a hearing

- 8.12 (1) The court may deal with an application without a hearing if -
- (a) the parties agree that the court should dispose of the application without a hearing;
 - (b) the court considers that the application can be dealt with over the telephone or by other means of communication;
 - (c) the parties have agreed to the terms of an order and the application (or a copy of the application) is signed by all parties to the application or their attorneys; or
 - (d) the court does not consider that a hearing would be appropriate.
- (2) Where an order is made without a hearing under sub-rule (1) (d) either party may apply to set aside the order.
- (3) An application under sub-rule (2) shall be made within 14 days of the service of the order in question.

Service of application where order made on application made without notice

- 8.13 (1) After the court has disposed of an application made without notice, in addition to serving a copy of any order made, a copy of the application and any evidence in support shall be served on all parties.
- (2) When such an application is made the applicant shall file sufficient copies of the application and any evidence in support for service on all other parties who may be affected by the order.

- (3) Where an urgent application is made without notice and the applicant undertakes to file evidence after the hearing, the marshal shall serve copies of the application, evidence and the order of court on all other parties affected by the order.

Application to set aside or vary order made on application made without notice

- 8.14 (1) A respondent to whom notice of an application was not given may apply to the court for any order made on the application to be set aside or varied and for the application to be dealt with again.
- (2) A respondent shall make such an application not more than 14 days after the date of service of the order in question.
- (3) An order made on an application of which notice was not given shall contain a statement of the right to make an application under this rule.

Power of the court to proceed in the absence of a party

- 8.15 Where the applicant or any person on whom the notice of application has been served fails to attend the hearing of the application, the court may proceed in that person's absence.

PART 9

PETITIONS FOR DIVORCE AND OTHER MATRIMONIAL CAUSES

Contents of this Part

Scope of this part	Rule 9.1
How to commence proceedings for divorce, etc.	Rule 9.2
Form of Petition	Rule 9.3
Contents of Petition	Rule 9.4
Parties	Rule 9.5
Marriage certificate to be filed	Rule 9.6
Statement of arrangements for children	Rule 9.7
Service of Petition	Rule 9.8

Scope of this part

- 9.1 This part deals with petitions for divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights or declarations of legitimacy of marriage.

How to commence proceedings for divorce, etc.

- 9.2 (1) Proceedings for –
- divorce;
 - judicial separation or reversal of a decree of judicial separation;
 - nullity;
 - jactitation of marriage; or
 - restitution of conjugal rights,
- are commenced when the court issues a petition.
- (2) A petition may be issued in any registry.

- (3) A petition is issued on the date entered on the form by the registry.
- (4) The petition may be issued if the petitioner presents to the registry -
 - (a) the petition;
 - (b) the statement of arrangements for children (if any) required by rule 9.7;
 - (c) any applications as the circumstances may require, including any child application under Part 11 and any application for financial relief under Part 20; and
 - (d) the marriage certificate required by rule 9.6,together, in each case, with sufficient copies for service on all respondents.

Form of petition

- 9.3 (1) The petition shall be in Form 1.
- (2) The petition shall be verified by affidavit.

Contents of petition

- 9.4 (1) The petition shall contain such information set out in Form 1 as is appropriate to the type of petition issued.
- (2) The petition shall state -
 - (a) the names and addresses of all persons to be served and whether any such person is a minor or a patient;
 - (b) whether or not there have been any, and if so what, proceedings previous to these with reference to the marriage, by or on behalf of either of the parties to the marriage;
 - (c) the description of the husband;
 - (d) the place of residence of each of the parties to the marriage;
 - (e) the domicile of the parties to the marriage, unless the petitioner is asserting a domicile for the wife different from that of the husband, when it will be sufficient if the domicile of the husband is stated.
- (3) The petition shall end with a prayer giving details of the relief sought including-
 - (a) the nature of the decree that is sought; and
 - (b) any order sought with regard to the custody of or access to any child of the family; and
 - (c) any claim for costs.
- (4) The petition shall give an address for service for the petitioner within one mile of the registry from which it is issued.
- (5) The petitioner shall sign the petition and verify by affidavit that the contents are true.
- (6) Where a petitioner seeks a decree of nullity of marriage, or of judicial separation, or dissolution of marriage, or a decree in a suit for jactitation of marriage, the petitioner's affidavit filed with the petition shall also state that no collusion or connivance exists between the petitioner and the other party to the marriage or alleged marriage.
- (7) (a) The affidavit filed with a petition for restitution of conjugal rights shall also state sufficient facts to satisfy the Registrar that a written demand for cohabitation and restitution has been made by the petitioner upon the party to be cited, and that, after a reasonable opportunity for compliance with the demand, the cohabitation and restitution have been withheld.

- (b) At any time after the commencement of proceedings for restitution of conjugal rights, the respondent may apply by application for an order to stay the proceedings in the cause by reason that that respondent is willing to resume or to return to cohabitation with the petitioner.
- (8) Where there is any change in the particulars given in any petition or cross-petition required by paragraph 9 of Form 1 the parties shall immediately notify the court of the new particulars.

Parties

- 9.5 (1) The person who issues the petition is referred to as 'the petitioner'.
- (2) The spouse of the person who issues the petition is referred to in the proceedings based on the petition as 'the respondent'.
- (3) (a) Upon a husband filing a petition for dissolution of marriage on the ground of adultery, any alleged adulterer shall be made a co-respondent in the cause unless the Court shall otherwise direct.
- (b) Upon a wife filing a petition for dissolution of marriage on the ground of adultery, the court, if it sees fit, may direct that the alleged adulterer be made a co-respondent.
- (c) An application under this sub-rule may be made without notice but shall be supported by evidence.
- (4) If the name of the alleged adulterer is unknown to the petitioner at the time of filing of the petition, it shall be supplied as soon as known, and application to amend the petition by inserting the name in it shall be made immediately by application and the Court shall give directions as to the amendment and such further directions as are deemed necessary as to service of the amended petition.

Marriage certificate to be filed

- 9.6 (1) The general rule is that a marriage certificate shall be filed with the petition.
- (2) However the court may give permission to issue a petition without a marriage certificate.
- (3) An application for permission may be made without notice but shall be supported by evidence.

Statement of arrangements for children or any other application

- 9.7 (1) On issuing any petition the petitioner shall file –
- (a) a statement of the existing and proposed arrangements for each relevant child; and
 - (b) any applications as the circumstances may require, including any child application under Part 11 and any application for financial relief under Part 20.
- (2) That statement shall be in Form 2.
- (3) The statement shall be signed by the petitioner and certified as true.

Service of petition

- 9.8 (1) The petition shall be served in accordance with Part 6.
- (2) There shall be served with the petition –
- (a) the statement of arrangements for the relevant children (if any);

- (b) a notice of proceedings in Form 3;
- (c) a blank form of acknowledgement of service in Form 4;
- (d) a blank statement of arrangements (if relevant); and
- (e) if applications in Forms 7 and 9 are made, then blank Forms 8 and 10.

PART 10
ACKNOWLEDGEMENT OF SERVICE AND NOTICE OF
INTENTION TO DEFEND

Contents of this part

Scope of this part	Rule 10.1
Acknowledgement of service	Rule 10.2
Time for giving notice of intention to defend	Rule 10.3
Effect of notice of intention to defend	Rule 10.4
Raising question of jurisdiction	Rule 10.5
Right of respondent to be heard whether or not notice of intention to defend or answer filed.	Rule 10.6
Right of respondent to file statement of arrangements for the children	Rule 10.7
Change of attorney-at-law	Rule 10.8

Scope of this Part

- 10.1 (1) This part deals with the procedure to be adopted by a respondent on being served with the petition.
- (2) The respondent shall file the acknowledgement of service which may contain a notice of intention to defend if that respondent wishes to oppose the granting of a decree to the petitioner or seek a decree.
- (3) In this Part “**respondent**” includes a “**co-respondent**”.

Acknowledgement of service

- 10.2 (1) The respondent or that respondent’s attorney-at-law may file an acknowledgement of service in the registry at which the petition was filed 21 days from the date of service of the petition.
- (2) Every acknowledgement of service shall state an address within one mile of the registry in which the petition was filed.

Time for giving notice of intention to defend

- 10.3 The time for giving notice of intention to defend is 21 days from the date of service of the petition.

Effect of notice of intention to defend

- 10.4 Where the respondent gives notice of intention to defend, the petitioner may not apply for any directions relating to the trial until the time for the respondent to file an answer has

expired.

Raising question of jurisdiction

- 10.5 (1) If a party who has received a petition and notice of proceedings wishes to raise any question as to the jurisdiction of the Court, that party shall give notice of intention to defend under protest, and within two days apply for an extension of the protest and to raise the question of jurisdiction.
- (2) After the giving of an absolute notice of intention to defend a party cannot raise any objection to the jurisdiction of the Court.

Right of respondent to be heard whether or not notice of intention to defend given or answer filed.

- 10.6 (1) Whether or not a respondent spouse files a notice of intention to defend or an answer that respondent spouse may be heard on —
- (a) any question relating to the custody of, or access to, any child of the family; or
- (b) any question of financial relief.
- (2) Whether or not a respondent or co-respondent files a notice of intention to defend or an answer that respondent or co-respondent may be heard as to costs but may not make any allegation against a party claiming costs unless that allegation has been made in an answer other than an allegation relating to the conduct of the proceedings.

Right of respondent to file statement of arrangements for the children

- 10.7 (1) A respondent spouse may file a statement of the existing and proposed arrangements for any child of the family.
- (2) That statement shall be in Form 2.
- (3) The statement shall be signed by the respondent and shall be certified as true.
- (4) If any application relating to children is made in Form 9, the reply shall be in Form 10.

Change of Attorney-at-law

- 10.8 Any party to a cause shall be at liberty to change that party's attorney-at-law, without an order for that purpose, upon filing in the registry out of which the petition was filed notice of the change, containing an address for service of pleadings and other documents within one mile of the said registry but until the notice is filed and a copy of it served, the former attorney-at-law shall be considered the attorney-at-law of the party until the final conclusion of the cause, whether in the Court of first instance or the Court of Appeal.

**PART 11
APPLICATIONS RELATING TO CHILDREN**

Contents of this Part

Scope of this Part	Rule 11.1
How to make a child application	Rule 11.2
Injunction relating to the removal of a child from Guyana	

and related proceedings	Rule 11.3
Where to make an application	Rule 11.4
Other proceedings	Rule 11.5
Directions hearing	Rule 11.6
Service of application	Rule 11.7
Answer to application	Rule 11.8
Service of evidence	Rule 11.9
Appointment of probation officer or social services officer	Rule 11.10
Evidence of Probation Officer	Rule 11.11
Application for protective intervention order	Rule 11.12
Court may utilise other services	Rule 11.13
Mediator may not be compelled to give evidence or to report	Rule 11.14

Scope of this Part

- 11.1 This part deals with applications by any person relating to the welfare of any child, including any application for a parentage order under the Status of Children Act, Cap. 46:05, but not –
- (a) with the adoption of children under the Adoption of Children Act, Chapter 46:04;
 - (b) the maintenance of children under the Custody, Contact, Guardianship and Maintenance Act 5 of 2011; or
 - (c) applications dealing solely with financial relief for a child whether or not -
 - (i) the child is a child of the family; or
 - (ii) there are divorce, judicial separation or nullity proceedings pending.

How to make a child application

- 11.2
- (1) An applicant may apply by filing an application in Form 9 which shall be supported by evidence and a statement of arrangements for children in Form 2.
 - (2) Where the applicant is the Child Care Protection Agency, it shall file the statement of arrangements for children in Form 2 within 14 days of filing the application.
 - (3) An application under this Part may be filed together with a petition under Part 9.

Injunction relating to the removal of a child from Guyana and related proceedings

- 11.3
- (1) An application for an injunction relating to the removal of a child from Guyana or out of the custody, care and control of any person named in the application or in whose favour a residence order is in force may be made without notice.
 - (2) The application shall be –
 - (a) supported by evidence; and
 - (b) accompanied by a sworn statement which shall state reasons for notice not having been given.
 - (3) Where an order is made without notice, a copy of the order shall be served on the other parties as soon as practicable after the making of the order, unless the court directs otherwise.
 - (4) Where the court refuses to make an order on an application without notice, it may direct that the application be made with notice.

Where to make an application

- 11.4 The application shall be filed -
- (a) if there are any other proceedings in the High Court for divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights or declaration of legitimacy of marriage or financial relief or relating to the child, in the Registry in which such proceedings are pending;
 - (b) if there are no such proceedings, in any Registry.

Other proceedings

- 11.5 Where at any time while an application under this Part is pending there are proceedings relating to the child in any other court the applicant shall file a statement of such proceedings.

Directions hearing

- 11.6 (1) The general rule is that the Registry shall fix a directions hearing in accordance with Part 12 and notice of the date, time and place of that hearing shall be endorsed on the application.
- (2) However, if directions have already been given relating to the application no further directions hearing need be fixed.

Service of application

- 11.7 (1) If there are other proceedings in the High Court for divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights or declaration of legitimacy of marriage or relating to the child, the application may be served in accordance with Part 7 at any address for service given by the respondent to the application.
- (2) If there are no such proceedings the application shall be served in accordance with Part 6.

Answer to application

- 11.8 The respondent may file an answer to the application in Form 10 within 28 days of service of the application.

Service of evidence

- 11.9 (1) Any party filing evidence shall immediately serve a copy of that evidence on all other parties.
- (2) Any evidence which contains an allegation of adultery with a named person shall be served on that person together with a notice in Form 12.
- (3) Any person served with a notice under sub-rule (2) may apply to intervene in the proceedings.

Appointment of probation or social services officer

- 11.10 (1) At any directions hearing the court may consider whether a probation or social services officer shall be appointed to inquire into the application and report to the court.
- (2) The court may at any time call for a report from a probation or social services officer on any matter relating to the welfare of any child.
- (3) Any report by the probation or social services officer shall be addressed to the court and filed at the Registry.
- (4) Unless a Judge orders otherwise the Registry shall send a copy of the report to all parties.

- (5) All copies of the report shall be endorsed with a notice to the parties that the report is to be seen only by the parties and their attorneys and that disclosure to any other person without the permission of the court amounts to contempt of court.
- (6) The probation or social services officer shall be given notice of any hearing of any proceedings with regard to which the officer is to report to the court.
- (7) The Registry shall also send to the probation or social services officer a copy of –
 - (a) any application or evidence filed; and
 - (b) any order made by the court,in those proceedings.

Examination of probation or social services officer

- 11.11 (1) The court may take into account the contents of a report by a probation or social services officer without that officer being sworn or giving oral evidence.
- (2) The court may direct that a probation or social services officer attend court to give evidence.
 - (3) Such a direction may be made on or without an application by a party.
 - (4) Where the probation or social services officer gives oral evidence the officer shall be sworn and may be cross-examined by any party.

Application for protective intervention order

- 11.12 (1) An application for a protective intervention order or for the discharge or variation of a protective intervention order under s 21 of the Protection of Children Act, Chapter 46:06 may be made without notice.
- (2) The court may –
 - (a) make an order in accordance with the application; or
 - (b) fix a hearing of the application and give notice to the parents of the child, the probation or social services officer and any guardian *ad litem*.

Court may utilise other services

- 11.13 Where the court considers that it is appropriate to obtain the services of a probation or social services officer, the court may nonetheless utilise the services of –
- (a) any person whose qualifications are similar to those of a probation or social services officer and who either –
 - (i) is a public officer; or
 - (ii) is employed on contract by the State; or
 - (b) with the consent of the parties and the court, a private mediator, counsellor or other professional paid by the parties; or
 - (c) mediators paid by the State.

Mediator may not be compelled to give evidence or to report

- 11.14 Notwithstanding rule 11.13, where the court utilises the services of a mediator the court may not compel a mediator to give evidence or submit a report save that a report shall be made to the court as to whether or not the mediation resulted in any agreement.

PART 12
DIRECTIONS HEARING

Contents of this Part

Scope of this Part	Rule 12.1
How a directions hearing is fixed	Rule 12.2
When directions hearing is to take place	Rule 12.3
Service of notice of directions hearing	Rule 12.4

Scope of this Part

- 12.1 This part deals with the procedures whereby the court can give directions in relation to -
- (a) a petition for -
 - (i) divorce;
 - (ii) judicial separation;
 - (iii) nullity;
 - (iv) jactitation of marriage;
 - (v) restitution of conjugal rights;
 - (vi) declaration of legitimacy of marriage; or
 - (vii) presumption of death and dissolution of marriage;
 - (b) any application relating to a child of the family;
 - (c) any application for the court to make an order for financial relief; or
 - (d) any other application covered by these Rules other than a procedural application.

How a directions hearing is fixed

- 12.2 Upon the filing of a petition for divorce, judicial separation, nullity, jactitation of marriage, restitution of conjugal rights, declaration of legitimacy of marriage or presumption of death and dissolution of marriage or the making of -
- (a) any application relating to any child of the family;
 - (b) any application for financial relief; or
 - (c) any other application relating to a family matter,
- the Registry shall fix a directions hearing unless in the case of an application the person making the application certifies that directions have already been given and a date fixed with regard to that application.

When directions hearing is to take place

- 12.3
- (1) The Registry shall fix the directions hearing to take place not more than eight weeks from the date of the issue of the petition and notice of proceedings or application.
 - (2) Any party may, however, apply for the date of hearing to be brought forward or extended.
 - (3) An application to bring forward the date may be made without notice.

Service of notice of directions hearing

- 12.4 The notice of the directions hearing shall be served with the petition and the Notice of Proceedings or application to which it relates.

PART 13
DIRECTIONS HEARING – THE OBJECTIVES

Contents of this Part

Court's duty to manage cases

Rule 13.1

Court's duty to manage cases

- 13.1 The court shall further the overriding objective by actively managing cases. This may include -
- (a) identifying the issues at an early stage;
 - (b) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
 - (c) encouraging the parties to use the most appropriate form of dispute resolution including, in particular, mediation, if the court considers that appropriate and by facilitating their use of such procedures;
 - (d) encouraging the parties to co-operate with each other -
 - (i) as to the parenting of any children; and
 - (ii) in the conduct of proceedings;
 - (e) actively encouraging and assisting parties to settle the whole or part of their case on terms that are fair to each party;
 - (f) deciding the order in which issues are to be resolved;
 - (g) fixing timetables or otherwise controlling the progress of the case;
 - (h) considering whether the likely benefits of taking a particular step will justify the cost of taking it;
 - (i) dealing with as many aspects of the case as is practicable on the same occasion;
 - (j) dealing with the case, or any aspect of it, where it appears appropriate to do so, without the parties needing to attend court;
 - (k) making appropriate use of technology;
 - (l) giving directions to ensure that the trial of the case proceeds quickly and efficiently though taking into account the particular needs of parties to matrimonial, family and similar disputes and when necessary, making interim orders; and
 - (m) ensuring that no party gains an unfair advantage by reason of that party's failure to give full disclosure of all relevant facts prior to the hearing of any matter.

PART 14
CASE MANAGEMENT AND SANCTIONS – THE COURT'S POWERS

Contents of this Part

Court's general powers of management

Rule 14.1

Sanctions

Rule 14.2

Court's general power to strike out

Rule 14.3

Setting aside order for striking out on an application made without notice

Rule 14.4

Court's powers in cases of non-compliance with the rules or orders

Rule 14.5

Relief from sanctions	Rule 14.6
General power of court to rectify matters where there has been error of procedure	Rule 14.7

Court's general powers of management

- 14.1 (1) The court may -
- (a) transfer the whole or any part of any proceedings from one Registry to another;
 - (b) consolidate proceedings;
 - (c) extend or shorten the time for compliance with any rule, practice direction or order or direction of the court;
 - (d) make such order for disclosure and inspection, including specific disclosure of documents, as it thinks fit;
 - (e) adjourn or advance a hearing to a specific date;
 - (f) stay the whole or part of any proceedings or judgment either generally or until a specified date or event;
 - (g) decide the order in which issues are to be tried;
 - (h) direct a separate trial of any issue;
 - (i) dismiss a petition, answer or application after a decision on a preliminary issue;
 - (j) require the maker of an affidavit to attend for cross examination;
 - (k) require a party or a party's legal representative to attend the court;
 - (l) deal with a matter without the attendance of any parties;
 - (m) hold a hearing and receive evidence by telephone or by using any other method of direct oral communication;
 - (n) instead of holding an oral hearing deal with a matter on written submissions filed by the parties;
 - (o) direct that notice of any application be given to any person;
 - (p) exclude an issue from consideration;
 - (q) dismiss or give a decision on an application after a decision on a preliminary issue;
 - (r) direct any party to file and serve an estimate of costs; and
 - (s) take any other step or make any other order for the purpose of managing the case and furthering the overriding objective.
- (2) When the court makes an order, it may make the order subject to conditions.
- (3) The conditions which the court may impose include -
- (a)
 - (i) a condition requiring a party to give security;
 - (ii) a condition requiring the payment of money into court or as the court may direct;
 - (iii) a condition requiring a party to pay all or part of the costs of the proceedings; or
 - (iv) a condition that a party shall permit entry to property owned or occupied by that party to another party or to someone acting on behalf of another party; and
 - (b) specify the consequence of failure to comply with the order or a condition.
- (4) In considering whether to make an order, the court may take into account whether a party is prepared to give an undertaking.

- (5) Where an order is made without a hearing under sub-rule (1)(l) or (1)(n) either party may apply to set aside the order.
- (6) An application under sub-rule (5) shall be made within 14 days of the service of the order in question.

Sanctions

14.2 The court may -

- (a) strike out a petition, cross-petition, answer, application or any other documents or debar a respondent to an application if it appears to the court -
 - (i) that there has been a failure to comply with a rule or practice direction or with a direction given by the court in the case;
 - (ii) that the petition, cross-petition, answer, application or any other document is an abuse of the process of the court; or
 - (iii) that the petition, cross-petition, answer, application or any other document to be struck out discloses no grounds for bringing or defending the petition, cross-petition or application;
- (b) make a wasted costs order;
- (c) assess costs and order them to be paid immediately or within a specified time.

Court's general power to strike out

- 14.3 (1) Where a party has failed to comply with any of these rules or any court order in respect of which no sanction for non-compliance has been imposed the other party may apply to the court for an unless order.
- (2) An "unless order" is an order stating that unless the person to whom the order is addressed complies with the order in a stated time the petition, cross-petition, answer, application or any other documents will be struck out.
- (3) Such an application may be made without notice but shall be supported by evidence which -
 - (a) identifies the rule or order which has not been complied with and the nature of the breach; and
 - (b) contains a certificate that the other party is in default.
- (4) The Registry shall refer any such application immediately to a Judge who may -
 - (a) grant the application;
 - (b) seek the views of the other party; or
 - (c) direct that an appointment be fixed to consider the application and that the Registry give to all parties notice of the date, time and place for such appointment.
- (5) The general rule is that the respondent to such an application should be ordered to pay the costs of the application.
- (6) If the defaulting party fails to comply with the terms of any 'unless order' made by the court that party's petition, answer, cross-petition, application or any other document shall be struck out or, if the party be the respondent to an application, the respondent shall be debarred from defending it.

Setting aside order for striking out on an application made without notice

- 14.4 (1) Where the court has ordered, on an application made without notice, that a party's petition, answer, cross-petition, application or any other document be struck out or that the party be debarred from defending an application that party may apply to the court to set aside the order.
- (2) Rule 14.6 (relief from sanctions) applies to such an application.

Court's powers in cases of non-compliance with rules or orders

- 14.5 (1) Where the court makes an order or gives directions the court shall whenever practicable also specify the consequences of non-compliance.
- (2) Where a party fails to comply with any of these rules or any court order, any sanction for non-compliance imposed by the rule or the court order has effect unless the party in default applies for relief and rule 14.7 does not apply.

Relief from sanctions

- 14.6 (1) An application for relief from any sanction imposed for a breach of any rule or court order shall be made promptly.
- (2) An application for relief shall be supported by evidence.
- (3) In considering whether to grant relief, the court in the exercise of its discretion may have regard to all the circumstances including -
- (a) the interests of the administration of justice;
 - (b) whether the application for relief has been made promptly;
 - (c) whether the breach of the rule was intentional;
 - (d) whether there is a good explanation for the breach;
 - (e) whether the party in default has generally complied with all other relevant rules and orders;
 - (f) whether the breach was due to the party or that party's attorney;
 - (g) whether the breach has been or can be remedied within a reasonable time;
 - (h) whether the hearing date can still be met if relief is granted; and
 - (i) the effect which the failure to comply had on each party; and
 - (j) the effect which the granting of relief would have on each party or a child whose interest the court considers relevant.
- (4) Where the relief is sought in an application relating to a child the court shall give priority to the best interest of the child.
- (5) The court may not order the respondent to the application to pay the applicant's costs in relation to any application for relief unless exceptional circumstances are shown.

General power of court to rectify matters where there has been error of procedure

- 14.7 (1) This rule applies only where the consequence of non-compliance with a rule, practice direction or court order has not been specified by any rule, practice direction or court order.
- (2) An error of procedure or non-compliance with a rule, practice direction or court order does not invalidate any step taken in the proceedings, unless the court so orders.
- (3) Where there has been an error of procedure or non-compliance with a rule, practice direction or court order, the court may make an order to put matters right.
- (4) The court may make such an order on or without an application by a party.

PART 15
DIRECTIONS HEARING –PROCEDURE

Contents of this Part

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Scope of this Part

- 15.1 (1) This Part deals with the procedures by which the court will manage family matters.
(2) The main method of management is by directions given at the directions hearing.

Attendance at directions hearing or pre-trial review

- 15.2 (1) If a party is represented by an attorney, that attorney or an attorney who has conduct of the matter or an attorney who is fully authorised and competent to deal with the matter shall attend the directions hearing.
(2) The general rule is that each lay party shall attend the directions hearing.
(3) If the directions hearing is not attended by the attorney and the party, the court may adjourn the directions hearing to a fixed date and may exercise any of its powers under Part 14.
(4) A directions hearing is to be in chambers.

Dispensing with attendance at directions hearing

- 15.3 The court may, however, dispense with a directions hearing if it is satisfied that -
(a) the petition or cross-petition is undefended;
(b) there are no children of the family;
(c) either -
(i) there are not and are not likely to be any claims for financial relief, or
(ii) all financial issues have been agreed between the parties; and
(d) in the case of decree proceedings, there is sufficient evidence of service of the petition on the respondent or co-respondent.

Purpose of directions hearing

- 15.4 (1) At the directions hearing the court shall seek to give directions on all matters that are or may be in issue between the parties.
- (2) The court may do this even where no application has been made for a particular issue to be decided by the court.
- (3) This includes -
- (a) the petition for divorce, cross-petition, answer or application;
 - (b) the arrangements for the children under sections 19 and 30 of the Matrimonial Causes Act, Cap. 45:02 and the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011;
 - (c) any application or anticipated application relating to any child; and
 - (d) any application or anticipated application for financial relief.

Settlement and mediation

- 15.5 The court shall take all practicable steps to encourage the parties to reach agreement on any disputed matters and, in particular, may refer the parties to mediation.

Arrangements for the relevant children

- 15.6 The court shall, whenever practicable, consider the existing and proposed arrangements for the relevant children under section 19 and 30 of the Matrimonial Causes Act, Cap. 45:02 and the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011.

Timetable

- 15.7 (1) The court shall fix a timetable which deals -
- (a) with the order in which each disputed matter is to be tried;
 - (b) the steps to be taken in preparation for the hearing of each such matter; and
 - (c) the dates by which each step shall be taken.
- (2) The general rule is that the court shall fix a date or dates for the hearing of each disputed matter.
- (3) However, if the court is unable to fix any such date it shall -
- (a) fix a period (or periods) within which the hearing of each such matter shall take place; and
 - (b) fix a date by which the Registry shall send a listing questionnaire to each party.
- (4) At the last directions hearing before the hearing of any matter the court may -
- (a) direct either party to provide further information to the other; and
 - (b) give directions for the filing by each party of one or more of -
 - (i) a skeleton argument;
 - (ii) a chronology;
 - (iii) a list of authorities;
 - (iv) a core bundle of documents, (that is, a bundle containing only such documents which the Judge will need to pre-read or to which it will be necessary to refer repeatedly at the hearing);
 - (v) an agreed statement of facts;
 - (vi) an agreed statement of the basic, technical, scientific or medical matters in issue;

- (c) direct whether or not there are to be any opening or closing addresses and the time to be allocated to each;
- (d) give directions as to the order of the hearing;
- (e) decide on the total time to be allowed for the hearing; and
- (f) direct how that time shall be allocated between the parties.

Adjournment of directions hearing

- 15.8 (1) The court shall not adjourn a directions hearing without fixing a new date, time and place for the adjourned directions hearing.
- (2) Where the court is satisfied that either -
- (a) the parties are in the process of negotiating a settlement;
 - (b) the parties are receiving or have arranged to receive counselling; or
 - (c) the parties are attending or have arranged to attend mediation, the court may adjourn the directions hearing to a suitable date, time and place to enable negotiations, counselling or mediation to continue.
- (3) The court may give directions in writing as to the preparation of any matter for trial whenever the directions hearing is adjourned.
- (4) Each party shall notify the Registry promptly if the matter has been settled.

Variation of case management timetable

- 15.9 (1) A party shall apply to the court if the party wishes to vary a date which the court has fixed for -
- (a) a directions hearing;
 - (b) the return of a listing questionnaire; or
 - (c) the hearing.
- (2) A party seeking to vary any other date in the timetable without the agreement of the other parties shall apply to the court, and the general rule is that the party shall do so no later than that date.
- (3) A party who applies after that date shall apply -
- (a) for an extension of time when necessary; and
 - (b) for relief from any sanction to which the party has become subject under these Rules or any court order.
- (4) The parties may agree to vary a date in the timetable other than one mentioned in sub-rule (1).
- (5) Where the parties so agree, they shall -
- (a) file a consent application for an order to that effect; and
 - (b) certify on that application that the variation agreed will not affect the date fixed for the trial or, if no date has been fixed, the period in which the trial is to take place,
- and the timetable is accordingly varied unless the court directs otherwise.

Listing questionnaire

- 15.10 (1) The Registry shall, if directed by the court, send each party a listing questionnaire on the date stated in the direction for the preparation of the case.

- (2) Each party shall file the completed listing questionnaire at the Registry within the period of 14 days after the date on which it is served on the parties.
- (3) If -
 - (a) a party fails to return the completed questionnaire to the Registry within the period of 14 days;
 - (b) any party fails to give all the information requested by the listing questionnaire; or
 - (c) the court considers that a hearing is necessary to enable it to decide what directions to give in order to complete the preparation of the case,
 the court may fix a listing appointment and direct any or all the parties to attend the appointment.
- (4) The Registry shall give the parties at least 7 days' notice of the date, time and place of the listing appointment.
- (5) The party at fault shall attend the listing appointment.
- (6) At the appointment the court shall -
 - (a) give any directions which may be needed to complete the preparation of the case for trial without any adjournment of the trial; or
 - (b) make a wasted costs order against the party at fault unless there is a special reason why it should not make such an order.
- (7) Apart from the requirement to complete a listing questionnaire the court may at any time require the parties to answer a questionnaire to assist it in the management of the case.

Fixing hearing date

- 15.11 (1) As soon as practicable after, if ordered by the court -
- (a) each party has returned a completed listing questionnaire to the Registry; or
 - (b) the court has held a listing appointment under rule 15.10 (3),
- the Registry shall fix the date of the hearing (or, if it has already done so, confirm that date) and notify the parties.
- (2) The general rule is that the Registry shall give the parties at least 21 days' notice of the date of the hearing.
 - (3) The Registry may, however, give shorter notice -
 - (a) if the parties agree;
 - (b) in urgent cases; or
 - (c) if the court directs.

PART 16 UNDEFENDED PROCEEDINGS FOR DIVORCE OR JUDICIAL SEPARATION - PROCEDURE

Contents of this Part

Undefended proceedings	Rule 16.1
Amendments to petition and supplemental petition	Rule 16.2
Decree nisi or decree of judicial separation	Rule 16.3
Proof of service of petition or cross-petition	Rule 16.4

Undefended proceedings

16.1 Proceedings are undefended if -

- (a) the respondent has not given notice of intention to defend within the time specified in Part 10.3;
- (b) no answer has been filed or any answer or cross-petition has been struck out, dismissed or discontinued; or
- (c) they proceed only on the cross-petition and no reply has been filed or the reply filed has been struck out, dismissed or discontinued.

Amendments to petition and supplemental petition

- 16.2 (1) When proceedings are undefended a petitioner may amend the petition or file a supplemental petition without permission.
- (2) The petitioner shall file the amended or supplemental petition together with sufficient copies for service on the other parties.
- (3) The petitioner shall sign the amended petition and verify by affidavit that the contents are true.
- (4) (a) An amended petition or a supplemental petition shall be served on the other parties together with a notice of proceedings in the usual form at their address for service, or if no such address, in accordance with Part 6.6 (Power of court to make order for service by a specific method).
- (b) A party on whom is served an amended petition or a supplemental petition shall within 10 days after such service file an acknowledgement of service in the Registry of the High Court.
- (5) The provisions of sub-rules (1) to (4) apply to an amended or supplemental cross-petition as they do to a petition and apply as if for “**petitioner**” there were substituted “**respondent**” and for “**respondent**” there were substituted “**petitioner**”.
- (6) Part 10 applies to proceedings on an amended or supplemental petition as it does to proceedings on a petition.

Decree nisi or decree of judicial separation

- 16.3 (1) If it appears that -
- (a) the petition or cross-petition has been served on all parties named in the petition or cross-petition;
 - (b) the proceedings are undefended; and
 - (c) the petitioner has established one of the facts set out in section 9(1) or 3(1) of the Matrimonial Causes Act, Cap. 45:02, in the case of a petition for divorce or judicial separation, respectively, the general rule is that the court should pronounce the decree nisi of divorce or the decree of judicial separation, as the case may be, at the directions hearing.
- (2) The court may, however, in any case it thinks fit, adjourn the granting of the decree to a fixed date.

Proof of service of petition or cross-petition

- 16.4 (1) Evidence of service of a petition may be given -
- (a) by filing an affidavit of service sworn by the authorised server of the petition and any supporting evidence in accordance with rule 6.4(1) to (3);
 - (b) by the Marshal's certificate of service (the return of service) with any supporting evidence as to identification in accordance with rule 6.4(4);
 - (c) by filing an affidavit exhibiting the respondent's acknowledgement of service form and identifying the respondent's signature on that form; or
 - (d) by filing an affidavit showing that service has been effected in accordance with any order made under rule 6.6 (service by specified method).
- (2) Where service has been effected out of the jurisdiction, service is proved by filing an affidavit showing that service has been effected in accordance with any order made under rule 6.7.
- (3) Service of a cross-petition may be proved -
- (a) by any of the methods set out under sub-rule (1); or
 - (b) by proving that the cross-petition and the acknowledgement of service with the notice of intention to defend have been sent or delivered to the petitioner at any address given by that petitioner for service.

PART 17
NULLITY PETITIONS

Contents of this Part

Medical examination - when required, incapacity to consummate marriage	Rule 17.1
Medical examination - wilful refusal to consummate marriage	Rule 17.2
Application for order	Rule 17.3
Appointment of medical examiner	Rule 17.4
Conduct of examination	Rule 17.5
Evidence of examination	Rule 17.6
Procedure on undefended nullity petition	Rule 17.7
Hearing of undefended petition	Rule 17.8

Medical examination - when required, incapacity to consummate marriage

- 17.1 (1) This rule deals with proceedings for nullity on the grounds of incapacity to consummate the marriage.
- (2) The spouse seeking the decree of nullity shall apply to the court to decide whether a medical examiner should be appointed to examine the parties.
 - (3) That application may not be made by the petitioner before the time for filing a notice to defend has passed nor, if such notice is filed, before the time for filing an answer has passed.
 - (4) An application by a respondent may not be made before that respondent has filed an answer.
 - (5) If the spouse seeking the decree does not make the application within a reasonable time the other spouse may apply if seeking or defending a decree.

- (6) This rule does not apply where –
- (a) the husband (whether petitioner or respondent) is seeking the decree of nullity on that ground; or
 - (b) the wife is seeking the decree; and
 - (i) the wife had previously been married;
 - (ii) the wife has borne a child; or
 - (iii) the wife has filed a statement that the wife is not a virgin, unless that spouse alleges that spouse's own incapacity.

Medical examination - wilful refusal to consummate marriage

- 17.2 (1) This rule deals with proceedings for nullity on the ground of wilful refusal to consummate the marriage.
- (2) Either spouse may apply to the court for the appointment of a medical examiner.

Application for order

- 17.3 In an undefended cause an application under either rule 17.1 or 17.2 may be made without notice.

Appointment of medical examiner

- 17.4 The court may appoint a medical examiner or any other expert to examine the parties and report to the court the result of the examination in accordance with Part 25.

Conduct of examination

- 17.5 (1) The general rule is that the examination should take place at the consulting rooms of the medical examiner.
- (2) The court may, however, direct that the medical examination take place at some other place.
- (3) Each party to be examined shall, if possible, produce to the medical examiner an identity card, driver's licence or passport bearing an identifying photograph showing that that party is the petitioner or respondent named in the order for the examination.
- (4) At the end of the examination the medical examiner shall certify that the person who has been examined has identified himself by producing an identity card, driver's licence or passport bearing an identifying photograph or in what other way the person who has been examined was identified as the person named in the order for examination.
- (5) The medical examiner shall file the report at the Registry in a sealed envelope.

Evidence of examination

- 17.6 (1) If the cause is undefended the medical examiner shall not be required to attend court to give evidence unless directed by the court.
- (2) If the cause is defended the medical examiner shall not be required to attend court to give evidence unless a spouse gives notice to the court and the medical examiner not less than 14 days before the hearing.

Procedure on undefended nullity petition

- 17.7 (1) The court shall give directions for the hearing of the petition at the directions hearing.
- (2) If the court is satisfied that -

- (a) the petition has been served;
 - (b) the proceedings are undefended;
 - (c) that any application for an order under rule 17.1 or rule 17.2 has been made; and
 - (d) that where an order has been made for a medical examination, the report of the medical examiner has been filed,
- the court shall fix a date, time and place for the hearing and give at least 14 days' notice to each party.
- (3) If the court is not satisfied as to any such matter it shall adjourn the directions hearing to a fixed date and -
- (a) give such directions as are needed to ensure that the petition is ready for hearing; and
 - (b) give each spouse at least 7 days' notice of the adjourned hearing.
- (4) Service of the petition shall be proved in the manner set out in rule 16.4.

Hearing of undefended petition

- 17.8 (1) If satisfied that -
- (a) the petition or answer has been served;
 - (b) the cause is undefended; and
 - (c) the petitioner or the respondent has sufficiently proved the ground for a decree of nullity, the court shall make a decree nisi of nullity.
- (2) The Registry shall serve the decree on all parties.
- (3) If there are relevant children, the court shall also -
- (a) make a declaration under sections 19 or 30 of the Matrimonial Causes Act, Cap 45:02 or the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011; or
 - (b) give notice of the date, time and place fixed for the consideration of the arrangements for any child of the family.

PART 18 DEFENDED CAUSES – PROCEDURE

Contents of this Part

Scope of this Part	Rule 18.1
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Time for filing an answer	Rule 18.3
Respondent's duty to set out respondent's case	Rule 18.4
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Amendments, etc. to answer and reply	Rule 18.11

Pre-trial review
Fixing date for trial

Rule 18.12
Rule 18.13

Scope of this Part

18.1 This part deals with the procedure for defended petitions or answers where decrees of divorce, judicial separation, nullity or restitution of conjugal rights, declarations of jactitation of marriage or legitimacy of marriage are sought.

Answer

18.2 A respondent who wishes -
(a) to defend a petition; or
(b) to file a cross-petition,
shall file an answer.

Time for filing an answer

18.3 (1) A respondent has 21 days from the date of service of the notice of proceedings to file an answer unless otherwise directed by the Court.
(2) When the time allowed for giving notice of intention to defend is more than 21 days after the service of the petition and notice of proceedings and other documents, a respondent shall file the acknowledgement of service with the notice of intention to defend and the answer within such time as given in the order.
(3) Each respondent shall, on the day that respondent files an answer, deliver a copy to the petitioner, or the petitioner's attorney-at-law.

Respondent's duty to set out respondent's case

18.4 (1) The respondent shall include in that respondent's answer a statement of all the facts on which that respondent relies to dispute the petition.
(2) Such statement shall be as concise as practicable.
(3) In answer the respondent shall say -
(a) which (if any) allegations in the petition the respondent admits;
(b) which (if any) the respondent denies; and
(c) which (if any) the respondent neither admits nor denies, because that respondent does not know whether they are true, but which that respondent wishes the petitioner to prove.
(4) Where the respondent denies any of the allegations in the petition -
(a) the respondent shall give reasons for doing so; and
(b) if the respondent intends to prove a different version of events from that given by the petitioner, the respondent shall give the different version.
(5) If, in relation to any allegation in the petition the respondent does not -
(a) admit or deny it; or
(b) put forward a different version of events,
the respondent shall state each of that respondent's reasons for resisting the allegation.
(6) The respondent shall sign the answer and verify by affidavit that the contents are true.

- (7) In cases involving a decree of nullity of marriage, or of judicial separation, or dissolution of marriage, or a decree in a suit of jactitation of marriage, the respondent who is husband or wife of the petitioner shall, in the affidavit filed with the answer, also state that there is not any collusion or connivance between the deponent and the petitioner.

Consequences of not setting out respondent's case

- 18.5 (1) The respondent may not rely on any allegation or argument which the respondent did not mention in answer, but which the respondent should have mentioned there, unless the court gives permission to do so.
- (2) The court may give the respondent such permission at a directions hearing.
- (3) Where after the directions hearing but before the trial –
- (a) the respondent satisfies the court that there has been a significant change in circumstances since the date of the directions hearing; or
- (b) the respondent wishes to make allegations which were not mentioned in the respondent's answer,
- the court may grant the respondent permission under this rule.
- (4) Where the conditions outlined in sub-rule (3) are not met the court may not grant the respondent permission under this rule.

Contents of answer or cross-petition

- 18.6 (1) An answer which contains a prayer for divorce, judicial separation or nullity (a cross-petition) shall also comply with Part 9 (as is relevant) as if references to a "petition" were references to a "cross-petition" and references to "petitioner" were references to "respondent".
- (2) A cross-petition shall be headed "Answer and Cross-Petition" immediately below the title of the proceedings.

Additional matters which shall be included in the answer or cross-petition

- 18.7 The respondent shall include in the answer or cross-petition an address to which documents may be sent, unless an acknowledgement of service form which includes such an address has been filed on the respondent's behalf.

Petitioner's answer to cross-petition

- 18.8 (1) Where the respondent serves an answer and cross-petition seeking a decree of divorce, judicial separation or nullity the petitioner may file an answer to the cross-petition.
- (2) The petitioner shall file and serve the answer to the cross-petition within 14 days of the service of the answer and cross-petition on the petitioner.
- (3) When the petitioner files an answer to the cross-petition a copy shall be served on the other parties.
- (4) Rules 18.5 and 18.6 apply to an answer to a cross-petition as if in those rules -
- (a) the word "cross-petition" appeared instead of "petition";
- (b) the word "respondent" appeared instead of "petitioner"; and
- (c) the word "petitioner" appeared instead of "respondent".

Service of answer

- 18.9 (1) When the respondent files an answer, a copy of the answer shall also be served on the other parties.
- (2) A respondent who files an answer to a petition or a petitioner who files an answer to a cross-petition shall also file sufficient copies for service on all other parties.
- (3) An answer which names a person other than the petitioner shall be served on that person in accordance with Part 6.
- (4) An answer to a petition or an answer to a cross-petition may be served on the petitioner or respondent, as the case may be, in accordance with Part 7.

Reply to answer

- 18.10 (1) No reply to an answer may be filed without permission of the court.
- (2) Such permission may only be given at a directions hearing.
- (3) A petitioner who replies to an answer to a petition or a respondent who replies to an answer to a cross-petition shall sign the reply and verify by affidavit that the contents are true.
- (4) A reply may be served in accordance with Part 7.

Amendments etc. to answer and reply

- 18.11 (1) While a cause is defended, the petitioner or the respondent may not, after the directions hearing under Part 15 –
- (a) amend an answer;
- (b) file a supplemental answer;
- (c) amend a petition, an answer or a reply; or
- (d) file a supplemental petition,
- without the permission of the court.
- (2) A party shall sign an amended or supplemental petition, answer or reply and verify by affidavit that the contents are true.
- (3) A party shall file the amended or supplemental petition, answer or reply, together with sufficient copies, for service on the other parties.

Pre-trial review

- 18.12 (1) At the pre-trial review the court shall take all practicable steps to promote a settlement of any disputes between the parties by negotiation, mediation or other form of alternative dispute resolution.
- (2) The court may adjourn the pre-trial review to a fixed date to enable the parties to negotiate, receive counselling or attend mediation.
- (3) However, if there does not appear to be any prospect of settlement the court shall give such directions as appear appropriate to ensure the early and economical trial of the matter.

Fixing date for trial

- 18.13 At the pre-trial review the Court shall fix a date for the trial of the cause if not already fixed and shall give to each party at least 21 days' notice of the date, time and place of the trial.

PART 19
DISCLOSURE AND INSPECTION OF DOCUMENTS

Contents of this Part

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Notice to prove a document	Rule19.18

Scope of this Part

- 19.1 (1) This Part sets out rules about the disclosure and inspection of documents.
- (2) In this Part -
- “**document**” means anything on or in which information of any description is recorded and includes the meaning of “document” provided for in section 89 of the Evidence Act, Chapter 5:03; and
- “**copy**” in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly and includes the meaning of “copy” provided for in section 44 of the Evidence Act, Chapter 5:03.
- (3) A party “**discloses**” a document by revealing that the document exists or has existed.
- (4) For the purposes of this Part a document is “**directly relevant**” if -
- (a) the party with control of the document intends to rely on it;
 - (b) it tends to adversely affect that party's case; or
 - (c) it tends to support another party's case, but the rule of law known as “the rule in *Peruvian Guano*” does not apply.

Duty of disclosure limited to documents which are or have been in a party's control

- 19.2 (1) A party's duty to disclose documents is limited to documents which are or have been in the control of that party.
- (2) For this purpose a party has or has had control of a document if –
- (a) it is or was in the physical possession of the party;
 - (b) the party has or has had a right to possession of it; or
 - (c) the party has or has had a right to inspect and take copies of it.

Disclosure of copies

- 19.3 (1) Except where required by sub-rule (2) a party need not disclose more than one copy of a document.
- (2) A party shall, however, disclose a copy if it contains a modification, obliteration or other marking or feature which is not present in the original or any copy of the document which is being disclosed.

Standard disclosure

- 19.4 The general duty of the parties is to disclose all documents which are directly relevant to the matters in question in the proceedings.

Specific disclosure

- 19.5 (1) Where a party requires specific disclosure that party may apply to the Court for an order for specific disclosure.
- (2) An application for specific disclosure may be made at a directions hearing.
- (3) An order for specific disclosure is an order that a party shall do one or more of the following things –
- (a) disclose documents or classes of documents specified in the order; or
 - (b) carry out a search for documents to the extent stated in the order; and
 - (c) disclose any documents located as a result of that search.
- (4) An application for specific disclosure may identify documents –
- (a) by describing the class to which they belong; or
 - (b) in any other manner.
- (5) An order for specific disclosure may be stated on or within an application and may only require disclosure of documents which are directly relevant to one or more matters in issue in the proceedings.
- (6) An order for specific disclosure may be made with or without an application.

Criteria for ordering specific disclosure

- 19.6 (1) When deciding whether to make an order for specific disclosure, the court shall consider whether specific disclosure is necessary in order to dispose fairly of the matter or to save costs.
- (2) The Court shall consider –
- (a) the likely benefits of specific disclosure;
 - (b) the likely cost of specific disclosure; and

- (c) whether the financial resources of the party against whom the order would be made are likely to be sufficient to enable that party to comply with any such order.
- (3) Where, with respect to sub-rule (2), the court would otherwise refuse to make an order for specific disclosure it may, make an order that the party seeking that order shall pay the other party's costs of such disclosure.
- (4) Where the court makes an order under sub-rule (3) it shall assess the costs to be paid in accordance with Part 37 or order costs to be taxed in accordance with the High Court Rules, Cap 3:02.
- (5) The party in whose favour such order for costs was made may apply to vary the amount of costs so assessed or taxed, as the case may be.

Procedure for disclosure

- 19.7 (1) Each party shall file and serve a list of documents on every other party.
- (2) The list of documents shall identify the documents or categories of documents in a convenient order and manner and as concisely as possible.
 - (3) The list shall indicate -
 - (a) those documents which are no longer in the party's control;
 - (b) what has happened to those documents; and
 - (c) where each document is to be found to the best of the party's knowledge, information or belief.
 - (4) The list shall include documents already disclosed.

Duty of attorney-at-law

- 19.8 (1) It is the duty of the attorney-at-law to explain to the maker of the list of documents -
- (a) the necessity of making full disclosure in accordance with the terms of the order for disclosure and these rules;
 - (b) the necessity to disclose continuously throughout the proceedings; and
 - (c) the possible consequences of failing to do so.
- (2) The attorney-at-law shall certify on the list of documents under rule 19.7 (1) or rule 19.12 (3) that the explanation required by sub-rule (1) has been given.

Requirement for party to certify that that party understands duty of disclosure

- 19.9 (1) The party shall certify in the list of documents that -
- (a) that party understands the duty of disclosure; and
 - (b) to the best of that party's knowledge the duty has been carried out.
- (2) If it is impracticable for the party to sign the certificate required by sub-rule (1) it may be given by that party's attorney-at-law.
- (3) A certificate given by the attorney-at-law shall also certify -
- (a) the reasons why it is impractical for the party to give the certificate; and
 - (b) that the certificate is given on the party's instructions.

Disclosure in stages

- 19.10 The parties may agree in writing or the court may direct that disclosure or inspection or both may take place in stages.

Inspection and copying of listed documents

- 19.11 (1) When a party has served a list of documents on any other party, that party has a right to inspect any document on the list, except -
- (a) documents which are no longer in the physical possession or control of the party who served the list; or
 - (b) documents for which the party claims a right to withhold from disclosure.
- (2) The party wishing to inspect the documents shall give the party who served the list written notice of the wish to inspect documents in the list.
- (3) The party who is to give inspection shall permit inspection not more than 7 days after the date on which the request is received.
- (4) If the party giving the notice undertakes to pay the reasonable costs of copying, the party who served the list shall supply the other with a copy of each document requested.
- (5) The party who served the list shall supply the copy not more than 7 days after the date on which the request was received.

Duty of disclosure continuous during proceedings

- 19.12 (1) The duty of disclosure in accordance with any order for standard or specific disclosure continues until the proceedings are concluded.
- (2) If documents to which that duty extends come to a party's notice at any time during the proceedings that party shall immediately notify every other party and serve a list of those documents.
- (3) The supplemental list shall be served not more than 14 days after the new documents have come to the notice of the party required to serve it.

Consequences of failure to disclose documents under an order for disclosure

- 19.13 (1) A party who fails to give disclosure by the date ordered or to permit inspection may not rely on or produce any document not so disclosed or made available for inspection at the trial or other hearing.
- (2) A party seeking to enforce an order for disclosure may apply to the court for an order that the other party's petition, cross-petition, answer or application or some part of it be struck out.
- (3) An application under sub-rule (2) relating to an order for specific disclosure may be made without notice but shall be supported by evidence on affidavit that the other party has not complied with the order.
- (4) On such an application under sub-rule (2) the court may order that unless the party in default complies with the order for disclosure by a specific date that party's petition, cross-petition, answer or application or some part of it be struck out.

Claim of right to withhold disclosure or inspection of a document

- 19.14 (1) A person or party who claims a right to withhold disclosure or inspection of a document or part of a document shall -
- (a) make such claim for the document; and
 - (b) state the grounds on which such a right is claimed,

- in the list or otherwise in writing to the person wishing to inspect the document.
- (2) A person or a party may, however, apply to the court, without notice, for an order permitting that person or party not to disclose the existence of the document on the ground that disclosure of the existence of the document would damage the public interest.
 - (3) Unless the court orders otherwise, an order of the court under sub-rule (2) is not to be served on any other person nor be open for inspection by any person.
 - (4) A person who does not agree with a claim of right to withhold inspection or disclosure of a document may apply to the court for an order that such document be disclosed or made available for inspection.
 - (5) On hearing such an application the court shall make an order that the document be disclosed unless it is satisfied that there is a right to withhold disclosure.
 - (6) If a person or party -
 - (a) claims a right to withhold inspection; or
 - (b) applies for an order permitting that person not to disclose the existence of a document or part of a document,
 the court may require the person or party to produce that document to the court to enable it to decide whether the claim is justified.
 - (7) On any hearing under this rule, the court may invite any person to make representations on the question of whether the document ought to be withheld.
 - (8) This rule does not affect any rule of law which permits or requires a document to be withheld on the ground that its disclosure or inspection would damage the public interest.

Restrictions on use of a privileged document inspection of which has been inadvertently allowed

- 19.15 Where a party inadvertently allows a privileged document to be inspected the party who has inspected it may use it only with the permission of the court or with the agreement of the party disclosing the document.

Documents referred to in petition, etc.

- 19.16 (1) A party may inspect and copy a document mentioned in -
- (a) the petition;
 - (b) a cross-petition or answer or other pleading;
 - (c) a witness statement;
 - (d) an affidavit; or
 - (e) an expert's report.
- (2) A party who wishes to inspect and copy such a document shall give written notice to the party who, or whose witness, mentioned the document.
- (3) The party to whom the notice is given shall comply with the notice not more than 7 days after the date on which the notice is served.

Subsequent use of disclosed documents

- 19.17 (1) A party to whom document has been disclosed may use the document only for the purpose of the proceedings in which it is disclosed except where -
- (a) the document has been read to or by the court, or referred to in open court; or
 - (b) (i) the party disclosing the document;

- (ii) the person to whom the document belongs; or
 - (iii) the court,
- gives permission.
- (2) The court may make an order restricting or prohibiting the use of a document which has been disclosed, even where the document has been read to or by the court, or referred to in open court.
 - (3) An application for such an order may be made by -
 - (a) a party; or
 - (b) any person to whom the document belongs.

Notice to prove a document

- 19.18 (1) A party shall be deemed to admit the authenticity of any document disclosed to that party under this Part unless that party serves notice that the document shall be proved at trial or other hearing.
- (2) A notice to prove a document shall be served not less than 42 days before the trial.

PART 20

APPLICATION FOR FINANCIAL RELIEF OR DIVISION OF PROPERTY

Contents of this Part

Scope of this Part	Rule 20.1
How to make application	Rule 20.2
Evidence in support of application – general	Rule 20.3
Where to make application	Rule 20.4
Directions hearing	Rule 20.5
Service of application	Rule 20.6
Applications against estate of deceased spouse	Rule 20.7
Evidence in answer – general	Rule 20.8
Evidence in answer – special requirements	Rule 20.9
Further evidence	Rule 20.10
Service of evidence	Rule 20.11
Application to approve agreement relating to financial relief	Rule 20.12
Corresponding order	Rule 20.13

Scope of this Part

- 20.1 (1) This Part deals with the proceedings arising out of or occasioned by laws including -
 - (a) sections 6, 7, 8, 14, 16, 26 and 28 of the Matrimonial Causes Act, Cap. 45:02;
 - (b) the Married Persons' (Property) Act, Cap. 45:04;
 - (c) section 3 of the Law Reform (Miscellaneous Provisions) Act, Cap. 6:02;
 - (d) the Family and Dependents Provision Act, Cap. 12:24;
 - (e) the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011; and
 - (f) the Protection of Children Act, Chapter 46:06.

- (2) In this Part “**an application for financial relief**” means an application for financial provision under any of the laws mentioned in sub-rule (1) and may include applications for –
- (a) maintenance pending suit;
 - (b) periodical payments;
 - (c) a lump sum; and
 - (d) discharge, variation, suspension or revival of any orders made pursuant to this Part or any maintenance agreements.

How to make application

- 20.2 (1) An application for financial relief or division of property shall be made by filing an application in Form 7.
- (2) An application for –
- (a) a settlement of property order;
 - (b) a variation of settlement order;
 - (c) a transfer of property order; or
 - (d) an avoidance of disposition order;
- shall state the nature of the settlement, variation or transfer proposed and identify any property involved.
- (3) An application under this Part may be filed together with a petition under Part 9.

Evidence in support of application – general

- 20.3 (1) An application shall be supported by an affidavit setting out the income, capital, assets and liabilities of the applicant and the grounds on which the application is made.
- (2) The affidavit shall be in Form 7.
- (3) When there is in force an order of a court for maintenance of a spouse or child the applicant shall file a copy of the order.
- (4) The applicant may file further evidence in support of the application.

Where to make application

- 20.4 The application shall be filed –
- (a) if there are any other proceedings in the High Court for divorce, judicial separation, nullity or financial relief or relating to a child of the family, in the Registry in which such proceedings are pending.
 - (b) if there are no such proceedings, in the Registry.

Directions hearing

- 20.5 (1) The general rule is that the Registry shall fix a directions hearing in accordance with Part 12 and notice of the date, time and place of that hearing shall be endorsed on the application.
- (2) However, if directions have already been given relating to the application and a hearing date fixed no further directions hearing need be fixed.

Service of application

- 20.6 (1) If there are other proceedings in the High Court for divorce, judicial separation, restitution of conjugal rights, nullity or financial relief or division of property the application may be

served in accordance with Part 7 at any address for service given by the respondent to the application.

- (2) If there are no such proceedings the application shall be served in accordance with Part 6.
- (3) In addition, a copy of the application and of any evidence in support shall be served by the applicant on -
 - (a) in the case of an application for a variation of settlement order, on the trustees of the settlement and the settlor, if living;
 - (b) in the case of an avoidance of disposition order, on the person in whose favour the disposition is alleged to have been made;
 - (c) in the case of an application -
 - (i) to vary a maintenance agreement after the death of a spouse; or
 - (ii) for maintenance out of the estate of a spouse,
on the personal representatives of the spouse; and
 - (d) in any case, on any person whom the court may direct.

Proceedings against estate of deceased spouse

- 20.7 (1) Where in any proceedings it appears that a deceased person was interested in the proceedings then, if the deceased respondent has no personal representatives, the court may make an order appointing someone to represent the deceased person's estate for the purpose of the proceedings.
- (2) A person may be appointed as a representative if the person -
 - (a) can fairly and competently conduct proceedings on behalf of the estate of the deceased person; and
 - (b) has no interest adverse to that of the estate of the deceased person.
 - (3) The court may make such an order on or without an application.
 - (4) Until the court has appointed someone to represent the deceased's estate, the applicant may take no step in the proceedings apart from applying for an order to have a representative appointed under this rule.
 - (5) A decision in proceedings where the court has appointed a representative under this rule binds the estate to the same extent as if the person appointed were an executor or administrator of the deceased's estate.

Evidence in answer - general

- 20.8 (1) Unless the parties are agreed on the terms of any order as to financial relief, the respondent shall file an affidavit in Form 8 within 28 days of service of the application upon the respondent.
- (2) Any other person who has been served with a copy of the application under rule 20.6 (2) may file evidence by affidavit within 28 days of service of the application upon that person.

Evidence in answer - special requirements

- 20.9 A respondent to an application under section 3 of the Family and Dependents Provision Act, Cap. 12:24, who is a personal representative of the deceased shall state -

- (a) the capital, income, assets and liabilities of the surviving spouse so far as they are known to the respondent;
- (b) full particulars of the value of the deceased's estate;
- (c) the person or classes of persons beneficially interested in the estate, their addresses and the value of their interests so far as ascertained;
- (d) whether any beneficiary is a minor or patient and, if so, name the beneficiary; and
- (e) any other facts relevant to the application.

Further evidence

20.10 No further evidence may be filed without permission of the court before the directions hearing except with the written consent of any other party to whom the evidence relates or affects.

Service of evidence

- 20.11 (1) Any party filing any evidence shall immediately serve a copy of that evidence on the other party.
- (2) Any evidence which contains an allegation of adultery with a named person shall be served on that person together with a notice Form 12.
- (3) Any person served with a notice under sub-rule (2) may apply to intervene in the proceedings.

Application to approve agreement relating to financial relief

- 20.12 (1) This rule applies where the parties are agreed on the terms of an order for financial relief.
- (2) No such agreement for such an order is binding until approved by the court.
- (3) The parties may refer the agreement to the court by filing -
- (a) a draft order in the terms agreed -
 - (i) expressed as being "By Consent"; and
 - (ii) signed by the attorney-at-law acting for each party and by the parties; and
 - (b) a statement or statements of the capital, income, assets and liabilities of each party in Form 7 or Form 8, as the case may be, which shall set out any circumstance which either or both parties consider to be relevant to the consideration of the agreement by the court.
- (4) The statement under sub-rule (3) (b) shall be an agreed statement if practicable.
- (5) If an affidavit of means has been filed by either or both parties a statement under sub-rule (3) (b) may merely state that there has been no significant change in the financial circumstances of that party as set out in the relevant affidavit or state what changes (if any) there have been.
- (6) Each statement under sub-rule (3)(b) shall be certified as correct by the party making it.
- (7) So soon as is reasonably practicable the court shall consider the terms of the agreement and the information supplied and -
- (a) make an order in the agreed terms;
 - (b) if the agreement relates to an order other than an order for maintenance pending suit or an order relating to financial relief for a child of the family, record its approval of the terms of the agreement; or
 - (c) fix a directions hearing and give notice to the parties.

- (8) Where the court has recorded its approval under sub-rule (7)(b) the order is to be made on or after the granting of a decree nisi or a decree of judicial separation.

Corresponding order

- 20.13 (1) This rule applies where the court has made an order for maintenance pending suit.
(2) The spouse in whose favour that order was made may apply for an order for periodical payments in the same amount.
(3) That order is called a “corresponding order”.
(4) An application shall be in the appropriate practice form.
(5) The Registry shall serve notice of the application on the other spouse in the appropriate practice form.
(6) If within 14 days of service of the notice of application that spouse does not object to the making of the corresponding order the court shall make that order.
(7) If that spouse objects to the making of the order the Registry shall fix a directions hearing.

PART 21 EVIDENCE

Contents of this Part

Court to control evidence	Rule 21.1
Evidence at hearing – general rule	Rule 21.2
Evidence by video link or other means	Rule 21.3
Evidence of foreign marriage	Rule 21.4

Court to control evidence

- 21.1 The court controls the evidence by deciding –
(a) the issues on which it requires evidence;
(b) the nature of the evidence it requires; and
(c) the way in which any fact is to be proved
and giving appropriate directions at a directions hearing or by other means.

Evidence at hearing - general rule

- 21.2 Subject to any law to the contrary or an order of the court, the general rule is that any fact which needs to be proved is to be proved by oral evidence.

Evidence by video link or other means

- 21.3 The court may allow the witness to give evidence without attending through a video link or by any other means.

Evidence of foreign marriage

- 21.4 (1) Unless the existence and validity of the marriage is disputed, the celebration and validity of a marriage outside Guyana may be proved –

- (a) by the evidence of one party to the marriage; and
- (b) by the production of a document purporting to be -
 - (i) a marriage certificate or similar document issued under the law in force in that country; or
 - (ii) a certified copy of an entry in a register of marriages kept under the law in force in that country.
- (2) A document purporting to be such a certificate shall be treated as a certificate, unless it is proved not to be.
- (3) Where a document under sub-rule (1) (b) is not in English it shall be accompanied by a translation.
- (4) Every translation produced under sub-rule (3) shall be certified by the person making it to be a correct translation and the certificate shall state -
 - (a) the name and address of the person making the translation; and
 - (b) the person's qualifications for making a translation.

PART 22 EVIDENCE - HEARSAY

Contents of this Part

Scope of this Part	Rule 22.1
Contents of notice – statement admissible under section 90 of the Act	Rule 22.2
Content of notice – statement admissible under section 91 of the Act	Rule 22.3
Reasons for not calling a person as a witness	Rule 22.4
Service of counter-notice	Rule 22.5
Service of hearsay notice	Rule 22.6
Power of court to allow statement to be given in evidence	Rule 22.7
Notice of intention to challenge credibility of hearsay evidence	Rule 22.8

Scope of this Part

- 22.1 (1) This Part deals with the admissibility of hearsay evidence.
- (2) “**Hearsay Evidence**” means a statement made other than one made by a person while giving oral evidence in the proceedings and which is admissible as evidence of any fact stated therein.
- (3) In this Part “**the Act**” means the Evidence Act, Cap. 5:03.
- (4) “**Hearsay Notice**” means a notice of intention to give hearsay evidence.

Contents of notice – statement admissible under section 90 of the Act

- 22.2 (1) This rule applies where the statement is admissible under section 90 of the Act.
- (2) The notice shall have annexed to it a copy of the statement or the relevant part of the statement.
- (3) The notice shall also contain –
- (a) particulars of -
 - (i) the person by whom the record containing the statement was compiled;

- (ii) the person who originally supplied the information from which the record was compiled; and
 - (iii) any other person through whom that information was supplied to the compiler; and
 - (b) a description of the duty under which any person named or particularised under paragraph (a)(i) or (a)(iii) was acting when –
 - (i) compiling the record; or
 - (ii) supplying the information from which the record was compiled; and
 - (c) a description of the nature of the record containing the statement; and
 - (d) particulars of the time in, place at, and circumstances under which that record was compiled.
- (4) If the party giving the notice -
- (a) does not intend to call any person of whom details are contained in the notice; and
 - (b) claims that any of the reasons set out in rule 22.4 applies, the notice shall say so and state the reason relied on.

Contents of notice – statement admissible under section 91 of the Act

- 22.3 (1) This rule applies where the statement is admissible under section 91 of the Act.
- (2) The hearsay notice shall have annexed to it a copy of the document or the relevant part of the document containing the statement.
- (3) The notice shall also contain –
- (a) particulars of -
 - (i) a person who had responsibility for the management of the relevant activities for which the computer was used during the material period;
 - (ii) a person who during that period had responsibility for the supply to the computer of the information reproduced in the statement of information from which that information was derived; and
 - (iii) a person who had responsibility for the operation of the computer during that period; and
 - (b) a statement whether or not the computer was operating properly throughout the material period and, if not, whether any failure to operate properly might have affected the production of the document containing the statement or the accuracy of its contents.
- (4) If the party giving the notice -
- (a) does not intend to call any person of whom details are contained in the notice; and
 - (b) claims that any of the reasons set out in rule 22.4 applies, the notice shall say so and state the reason relied on.

Reasons for not calling a person as witness

- 22.4 The reasons referred to in rules 22.2 (4) (b) and 22.3 (4)(b) are that –
- (a) the person –
 - (i) is dead;
 - (ii) is overseas;

- (iii) is unfit by reason of bodily or mental condition to attend as a witness; or
 - (iv) cannot reasonably be expected to have any recollection of matters relevant to the accuracy or otherwise of the statement; or
- (b) despite using reasonable diligence it has not been possible to –
- (i) identify the person; or
 - (ii) find the person.

Service of counter-notice

- 22.5 (1) A party on whom a hearsay notice has been served may serve a counter-notice requiring the server of the hearsay notice to call any person named in the counter-notice as a witness.
- (2) The counter-notice shall be served within 21 days of service of the hearsay notice.
- (3) If there is a statement in the hearsay notice that the person named in the counter-notice cannot or should not attend for a specified reason, the counter-notice shall state why that person should be required to attend.
- (4) No counter-notice may be served where there is a statement in the hearsay notice that one of the reasons in rule 22.4 applies.
- (5) The party served with the counter-notice may, however, apply to the court for directions as to the admissibility of the statement.
- (6) Where a counter-notice is served no statement made by any person named in the counter-notice may be admissible unless the server of the hearsay notice -
- (a) calls the person named; or
 - (b) applies to the court for directions as to the admissibility of the statement.
- (7) Any application to the court under sub-rule (5) or (6) shall be made at a directions hearing wherever practicable.
- (8) No application may be made at the trial or hearing at which the statement is, or is not, to be admitted unless the applicant can show that the application could not have been made earlier.

Service of hearsay notice

- 22.6 (1) Any party who wishes to give hearsay evidence which is admissible only by virtue of sections 90 and 91 of the Act shall serve on every other party a hearsay notice.
- (2) A hearsay notice shall be served not later than the time by which witness statements are to be served or, if there are no such statements, not less than 42 days before the hearing at which the party wishes such evidence to be given unless the court gives permission.
- (3) A hearsay notice is not required where hearsay evidence is included in an affidavit for use in the proceedings.

Power of court to allow statement to be given in evidence

- 22.7 The court may permit a party to adduce hearsay evidence falling within sections 90 and 91 of the Act even though the party seeking to adduce that evidence has -
- (a) failed to serve a hearsay notice; or
 - (b) failed to comply with any requirement of a counter-notice served under rule 22.5.

Notice of intention to challenge credibility of hearsay evidence

- 22.8 Where -
- (a) a party has served a hearsay notice complying with rules 22.2 and 22.3;
 - (b) none of the reasons under rule 22.4 applies; and
 - (c) the person who made the statement or supplied the information from which the record containing the statement was compiled is not called,
- no party may adduce any evidence without the permission of the court, unless that party gave a counter-notice in respect of that person under rule 22.5.

PART 23 AFFIDAVITS

Contents of this Part

Affidavit evidence	Rule 23.1
Form of affidavit	Rule 23.2
Contents of affidavit	Rule 23.3
Documents to be used in conjunction with affidavit	Rule 23.4
Making of affidavits	Rule 23.5
Service of affidavit	Rule 23.6
Supplemental affidavit	Rule 23.7

Affidavit Evidence

- 23.1 (1) In this Part “deponent” means the maker of the affidavit.
- (2) Evidence shall be given by affidavit, instead of or in addition to oral evidence or a witness statement, if this is required by the court, a rule, a practice direction or any other enactment.
 - (3) The general rule is that an affidavit shall be filed before it may be used in any proceedings.
 - (4) In a case of urgency the court may, however, make an order on an affidavit which has not been filed if the party tendering it undertakes to file it before the order is drawn up.
 - (5) Whenever an affidavit is used in evidence, any party may apply to the court for an order requiring the deponent to attend to be cross-examined.
 - (6) If the deponent does not attend as required by the court order the affidavit may not be used as evidence unless the court permits.

Form of affidavit

- 23.2 Every affidavit shall -
- (a) be headed with the title of the proceedings;
 - (b) be in the first person and state the name, address and occupation of the deponent and, if more than one, of each of them;
 - (c) state if any deponent is employed by a party to the proceedings;
 - (d) be divided into paragraphs numbered consecutively;
 - (e) be signed by the deponent or deponents;
 - (f) be endorsed with the name of the attorney, if any, for the party on whose behalf it is filed;
- and

- (g) be marked on the top right hand corner of the affidavit with the following –
- (i) the party on whose behalf it is filed;
 - (ii) the initials and surname of the deponent;
 - (iii) the number of the affidavit in relation to the deponent (where the deponent swears more than one affidavit in any proceedings);
 - (iv) the identifying reference of each exhibit referred to in the affidavit;
 - (v) the date when sworn; and
 - (vi) the date when filed.

Example:

“Applicant: J. Brown: 2nd: JB 3 and 4: 1.12.2011: 3.12.2011.”

Contents of affidavit

- 23.3 (1) The general rule is that an affidavit may contain only such facts as the deponent is able to prove from the deponent’s own knowledge.
- (2) However, an affidavit may contain statements of information and belief –
- (a) where any of these Rules so allow; and
 - (b) where it is for use in any procedural or interlocutory application, provided that the source of such information and the ground of such belief are stated in the affidavit.
- (3) The court may order that any scandalous, irrelevant or otherwise oppressive matter be struck out of any affidavit.
- (4) No affidavit containing any alteration may be used in evidence unless all such alterations have been initialled by the deponent and the person before whom the affidavit was sworn.

Documents to be used in conjunction with affidavit

- 23.4 (1) Any document to be used in conjunction with an affidavit shall be exhibited to it.
- (2) Where there is more than one such document they may be included in a bundle which is in date or some other convenient order and is properly paginated.
- (3) Clearly legible photographic copies of original documents may be exhibited, provided that the originals are made available for inspection by other parties before the hearing and by the court at the hearing.
- (4) Each exhibit or bundle of exhibits should be marked in accordance with rule 23.2(g).

Making of affidavits

- 23.5 (1) All affidavits shall be sworn or affirmed before a Commissioner of Oaths to Affidavits or if sworn or affirmed abroad, before a Notary Public in accordance with the Evidence Act, Chapter 5:03.
- (2) No affidavit may be admitted into evidence if sworn or affirmed before the attorney of the party on whose behalf it is to be used or before any agent, partner or associate of such attorney.
- (3) Where it appears that the deponent is illiterate, blind or is otherwise disabled or speaks a foreign language the person before whom the affidavit is made shall certify in the jurat that –
- (a) the affidavit was read in that person’s presence to the deponent;

- (b) the deponent seemed perfectly to understand it; and
 - (c) the deponent made the deponent's signature or mark in that person's presence.
- (4) Where the deponent is –
- (a) hearing impaired;
 - (b) sight impaired; or
 - (c) speaks a foreign language,
- a person professionally trained to interpret for such a person shall be used to interpret that person's deposition.
- (5) Where the deponent speaks a foreign language –
- (a) Part 6.8 and Part 21.4 shall apply; and
 - (b) where a document is not in English it shall be accompanied by a translation and every translation produced shall be certified by the person making it to be a correct translation and the certificate shall state –
 - (i) the name and address of the person making the translation;
 - (ii) and the person's qualifications for making a translation.
- (6) The person who interprets the affidavit under sub-rule (5) shall make an oath swearing to the accuracy of the translation and this oath shall be included in the jurat.
- (7) The jurat shall be placed immediately after the last paragraph of the affidavit.

Service of affidavit

- 23.6 (1) The general rule is that a party who is giving evidence by affidavit shall serve a copy on every other party.
- (2) This applies whether the affidavit was made in the proceedings or in some other proceedings.
- (3) A party does not need to serve a copy of an affidavit if that party wishes to use the affidavit in support of an application to be made without notice.

Supplemental affidavit

- 23.7 A deponent shall not file a further or a supplemental affidavit without the permission of the Court.

PART 24**MISCELLANEOUS RULES ABOUT EVIDENCE****Contents of this Part**

Use of plans, photographs etc. as evidence	Rule 24.1
Evidence of findings on question of foreign law	Rule 24.2
Evidence of consent of trustee to act	Rule 24.3

Use of plans, photographs, etc. as evidence

- 24.1 (1) If a party wishes to rely on evidence at a hearing which –
- (a) is not to be given orally; and
 - (b) is not contained in a witness statement,

the intention to rely on such evidence shall be disclosed to the other parties in accordance with this rule.

- (2) If a party fails to disclose this intention to rely on the evidence as required by this rule, the evidence may not be given.
- (3) Where a party intends to use the evidence as evidence of any fact then, except where sub-rule (5) applies, the intention to use the evidence shall be disclosed no later than the latest date for serving witness statements.
- (4) The party shall disclose the evidence at least 21 days before the hearing at which it is proposed to put in the evidence, if -
 - (a) there are not to be witness statements; or
 - (b) it is intended to put in the evidence solely in order to disprove an allegation made in a witness statement.
- (5) Where the evidence forms part of expert evidence, the intention to put in the evidence shall be disclosed when the expert's report is served on the other party.
- (6) Where the evidence is being produced to the court for any reason other than as part of factual or expert evidence, the intention to produce the evidence shall be disclosed at least 21 days before the hearing at which it is proposed to put in the evidence.
- (7) Where a party has disclosed the intention to put in the evidence the party shall give every other party an opportunity to inspect it and to agree to its admission without proof.

Evidence of finding on question of foreign law

- 24.2 (1) This rule sets out the procedure which shall be followed by a party who intends to put in evidence a finding on a question of foreign law.
- (2) The party shall first give any other party notice of the party's intention.
 - (3) The party shall give the notice -
 - (a) if there are to be witness statements, not later than the latest date for serving them; or
 - (b) otherwise, not less than 42 days before the hearing at which it is proposed to put the finding in evidence.
 - (4) The notice shall -
 - (a) specify the question on which the finding was made; and
 - (b) have attached a document where it is reported or recorded.

Evidence of consent of trustee to act

- 24.3 A document purporting to contain the written consent of a person to act as trustee and to bear that person's signature verified by some other person is evidence of such consent.

PART 25 EXPERTS AND ASSESSORS

Contents of this Part

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Expert's overriding duty to court

- 25.1 (1) It is the duty of an expert witness to help the court impartially on the matters relevant to the witness's expertise.
- (2) This duty overrides any obligations to the person from whom the expert witness has received instructions or by whom that witness is paid.

Experts - way in which duty to court is to be carried out

- 25.2 (1) Expert evidence presented to the court shall be, and should be seen to be the independent product of the expert uninfluenced as to form or content by the exigencies of the litigation.
- (2) An expert witness shall provide independent assistance to the court by way of objective unbiased opinion in relation to matters within the witness's expertise.
- (3) An expert witness shall state the facts or assumption upon which that witness's opinion is based. The expert shall not omit to consider material facts which could detract from the expert's concluded opinion.
- (4) An expert witness shall make it clear if a particular matter or issue falls outside the witness's expertise.
- (5) If an expert's opinion is not properly researched because the expert considers that insufficient data are available then this shall be stated with an indication that the opinion is no more than a provisional one.
- (6) If the expert cannot assert that the report contains the truth, the whole truth and nothing but the truth without some qualification, that qualification shall be stated in the report.
- (7) If, after exchange of reports, an expert changes that expert's view on a material matter such change of view shall be communicated to the other party (through legal representative) without delay, and when appropriate, to the court.

Expert's right to apply to court for directions

- 25.3 (1) An expert may apply to the court for directions to assist the expert in carrying out the expert's functions as an expert and the expert's duty to the court.

- (2) Where an expert applies for directions under this rule, the expert shall give notice of the application to the party instructing the expert.
- (3) The court may direct that notice be given to any other parties.

General duty of court and of parties

25.4 Expert evidence shall be restricted to that which is reasonably required to resolve the proceedings justly.

Court's power to restrict expert evidence

- 25.5
- (1) No party may call an expert witness or put in an expert's report without the court's permission.
 - (2) The general rule is that the court's permission should be given at a directions hearing.
 - (3) The court may give permission on or without an application.
 - (4) No oral or written expert's evidence may be called or put in unless the party wishing to call or put in that evidence has served a report of the evidence which the expert intends to give.
 - (5) The court shall direct by what date such report shall be served.
 - (6) The court may direct that that evidence be given by one or more experts –
 - (a) chosen by agreement between the parties;
 - (b) appointed by the court; or
 - (c) appointed in such way as the court may direct.
 - (7) The court may direct that part only if an expert's report be disclosed.

Particular duty of the court with regard to medical examination of a minor

- 25.6
- (1) No examination of any minor for the purpose of preparing a report for the court may take place unless the court gives permission.
 - (2) The court may not permit a minor to be examined by more than one medical practitioner unless special circumstances are shown.

Court's power to appoint a single expert

- 25.7
- (1) Where the court gives permission to call an expert witness or put in evidence an expert's report, it may direct that evidence is to be given by a single expert appointed –
 - (a) jointly by the parties;
 - (b) by the court;
 - (c) by the court from a list prepared by the parties; or
 - (d) in such manner as the court may direct.
 - (2) If the court gives such a direction, the parties shall, so far as is practicable, agree on -
 - (a) the questions or issues to be submitted to the expert;
 - (b) the instructions to be given to the expert; and
 - (c) the arrangements for -
 - (i) the payment of the expert's fees and expenses; and
 - (ii) any inspection, examination or experiments which the expert wishes to carry out.

- (3) If the parties cannot agree on these matters any party may apply to the court to decide them.
- (4) A single expert may be appointed by the court -
 - (a) instead of the parties instructing their own experts;
 - (b) to replace experts instructed by the parties;
 - (c) in addition to experts instructed by them; or
 - (d) to assess the evidence to be given by experts instructed by them.
- (5) Where the court gives permission to call an expert witness or put in evidence an expert's report but does not give a direction under sub-rule (1), it shall give a reason for not giving such a direction.

Joint instructions to experts

- 25.8 (1) The general rule is that -
- (a) parties shall give instructions to a single expert; and
 - (b) experts instructed by the parties shall seek to carry out any examination jointly.
- (2) A party instructing an expert shall provide the expert with a copy of this Part and give every other party notice of -
- (a) the name and address of the expert; or
 - (b) the names and addresses of a number of experts one of whom the party intends to instruct; and
 - (c) the scope of the instructions to be given to the expert.
- (3) Notice under sub-rule (2) shall be such as will give the other party enough time and information -
- (a) to instruct the same expert;
 - (b) to instruct another expert to carry out an examination with the expert named in the notice; or
 - (c) to instruct another expert to prepare a report jointly with that expert.

Expert's reports to be addressed to court

- 25.9 An expert shall address the report to the court and not to any person from whom instructions were received.

Contents of report

- 25.10 (1) An expert's report shall -
- (a) give details of the expert's qualifications;
 - (b) give details of any literature or other material which the expert has used in making the report;
 - (c) say who carried out any test or experiment which the expert has used for the report;
 - (d) give details of the qualifications of the person who carried out any such test or experiment; and
 - (e) where there is a range of opinion on the matters dealt with in the report -
 - (i) summarize the range of opinion; and

- (ii) give reasons for the opinion.
- (2) At the end of an expert's report there shall be a statement that -
 - (a) the expert understands the expert's duty to the court and this duty has been complied with;
 - (b) the report includes all matters relevant to the issue on which the expert evidence is given; and
 - (c) details have been given in the report of any matters which, to the expert's knowledge, might affect the validity of the report.
- (3) There shall be also attached to an expert's report copies of -
 - (a) all written instructions given to the expert;
 - (b) any supplemental instructions given to the expert since the original instructions were given; and
 - (c) a note of any oral instructions given to the expert,
 and the expert shall certify that no other instructions than those disclosed have been received by the expert from the party instructing the expert, the expert's attorney or any other person acting on behalf of the party.
- (4) Where expert evidence refers to photographs, plans, calculations, survey reports, learned literature or other similar documents, these shall be provided to the opposite party at the same time as the exchange of reports.

Use by one party of expert's report disclosed by another

- 25.11 Where a party has disclosed an expert's report, any party may use that expert's report as evidence at the trial.

Meeting of Experts

- 25.12 (1) The court may direct a meeting of experts of like specialty.
 (2) The court may specify the issues which the experts shall address when they meet.
 (3) Any such meeting is to be regarded as "without prejudice".
 (4) After the meeting the experts shall prepare for the court a statement of -
 (a) any issues within their expertise on which they agree; and
 (b) any such issues on which they disagree and their reasons for disagreeing.

Consequence of failure to disclose expert's report

- 25.13 (1) A party who fails to comply with a direction to disclose an expert's report may not use the report at the trial or hearing or call the expert to give evidence orally unless the court gives permission.
 (2) The court may not give permission at the trial or hearing unless the party asking for permission can show that it was not reasonably practicable to have applied for relief at an earlier stage.

Appointment of assessors

- 25.14 (1) The court may appoint one or more persons to assist it as assessors.
 (2) Before doing so, it shall state the questions on which it wants assistance.

Fees for experts or assessors

- 25.15 (1) The court shall decide -
 (a) what fee is to be paid to an expert or assessor; and
 (b) by whom it is to be paid.
- (2) This does not affect any decision as to the party who is ultimately to bear the cost of the expert or assessor.

Cross-examination of court expert

- 25.16 Where an expert appointed by the court gives oral evidence the expert may be cross-examined by any party.

PART 26 COURT ATTENDANCE BY WITNESSES

Contents of this Part

Scope of this Part	Rule 26.1
Witness summons	Rule 26.2
Issue of witness summons	Rule 26.3
Time for serving witness summons	Rule 26.4
Who is to serve witness summons	Rule 26.5
Right of witness to travelling expenses and compensation for loss of time	Rule 26.6
Evidence by deposition	Rule 26.7
Conduct of examination	Rule 26.8
Evidence without examiner being present	Rule 26.9
Enforcing attendance of witness	Rule 26.10
Time taken to be endorsed on deposition	Rule 26.11
Special report	Rule 26.12
Fees and expenses of examiner	Rule 26.13
Use of deposition at hearing	Rule 26.14
Restrictions on subsequent use of depositions taken for the purpose of any hearing except the trial	Rule 26.15
Where a person to be examined is out of jurisdiction - letter of request	Rule 26.16
Early appointment to produce documents - "production hearing"	Rule 26.17

Scope of this Part

- 26.1 This Part provides -
 (a) for the circumstances in which a person may be required to attend court to give evidence or produce documents; and
 (b) for a party to obtain evidence before a hearing to be used at the hearing.

Witness Summons

- 26.2 (1) A witness summons is a document issued by the court requiring a witness to attend court to give oral evidence or produce documents to the court.
- (2) A witness summons shall be issued in Form 13 upon written request to the Registrar.

- (3) There shall be a separate witness summons for each witness.
- (4) A witness summons may require a witness to give oral evidence or produce documents to the court either -
 - (a) on the date fixed for a hearing; or
 - (b) on such date as the court may direct.

Issue of witness summons

- 26.3 (1) A party shall obtain permission from the court where -
- (a) the party wishes to have a witness summons issued less than 21 days before the date of the hearing; or
 - (b) the party wishes to have a summons issued for a witness to attend court to give evidence or to produce a document on any date except the date fixed for the trial.
- (2) The application may be without notice but shall be supported by evidence.
- (3) The court may set aside or vary a witness summons.

Time for serving witness summons

- 26.4 (1) The general rule is that a witness summons is binding only if it is served at least 14 days before the date on which the witness is required to attend before the court.
- (2) The court may direct that a witness summons may be binding although it will be served less than 14 days before the date on which the witness is required to attend before the court.
- (3) An application for such an order may be made without notice but shall be supported by evidence.
- (4) A witness summons which is -
- (a) served in accordance with this rule; and
 - (b) requires the witness to attend court to give evidence, is binding until the conclusion of the hearing at which the attendance of the witness is required.

Who is to serve witness summons

- 26.5 (1) The general rule is that a witness summons is to be served in the same manner as personal service of a petition set out in Part 6.
- (2) Where the Marshal serves the witness summons, the party on whose behalf it is issued shall deposit in the court office the money to be paid or offered to the witness under rule 26.6.

Right of witness to travelling expenses and compensation for loss of time

- 26.6 At the time of service of a witness summons the witness shall be offered or paid -
- (a) a sum reasonably sufficient to cover the subsistence and expenses of the witness in travelling to and from the court; and
 - (b) such sum by way of compensation for loss of time as may be specified in a practice direction.

Evidence by deposition

- 26.7 (1) A party may apply for an order for a person to be examined before a hearing.

- (2) A person from whom evidence is to be obtained following any order under this rule is referred to as a “deponent” and the evidence is referred to as a “deposition”.
- (3) An order under this rule shall be for a deponent to be examined on oath before –
 - (a) a Judge; or
 - (b) an attorney-at-law who has practiced for at least five years and who is appointed by the Chief Justice for this purpose.
- (4) The order may require the production of any document which the court considers is necessary for the purposes of the examination.
- (5) At the time of service of the order the deponent shall be offered or paid travelling expenses and compensation for loss of time in accordance with rule 26.6.
- (6) An application may be made by any party whether or not that party would otherwise call the witness.

Conduct of examination

- 26.8
- (1) Subject to any directions contained in the order for examination, the examination shall be conducted in the same way as if the witness were giving evidence at a trial.
 - (2) If the parties are present, the examiner may, with the consent of the parties, conduct the examination of a person not named in the order for examination.
 - (3) The examiner may conduct the examination in private if the examiner considers it appropriate to do so.
 - (4) The examiner shall ensure that a full record of the evidence given by the witness is taken.
 - (5) If any person being examined objects to answer any question put to that person, the ground of the objection and the answer to any such question shall be set out in the deposition or in a statement annexed to the deposition.
 - (6) The examiner shall state the examiner’s opinion with regard to the ground of the objection but any decision on the validity of that ground shall be made by the court.
 - (7) The examiner shall send a copy of the deposition to –
 - (a) every party to the proceedings;
 - (b) the Registry; and
 - (c) the deponent.
 - (8) If the witness or any attorney present at the hearing is of the opinion that the deposition does not accurately represent the evidence the witness or attorney shall endorse on the copy deposition the corrections which in the opinion of the witness or attorney should be made and file the copy deposition and serve a copy of it on all other parties.

Evidence without examiner being present

- 26.9
- (1) With the consent of the parties, the court may order that the evidence of a witness be taken as if before an examiner, but without an examiner actually being appointed or present.
 - (2) Where such an order is made then, subject to any directions that may be contained in the order-
 - (a) the party whose witness is to be examined shall provide a shorthand writer, stenographer or stenotypist or provide another approved means of recording evidence to take down the evidence of the witness;
 - (b) an attorney of any party may administer the oath to a witness;

- (c) the shorthand writer, stenographer or stenotypist need not be sworn but shall certify in writing as correct a transcript of the notes of the evidence and deliver it to the attorney for the party whose witness was examined;
- (d) the attorney whose witness was examined shall file the original transcript and deliver a true copy to all other parties and to the witness who was examined;
- (e) if the witness or any attorney present at the hearing is of the opinion that the transcript does not accurately represent the evidence given the witness or attorney shall endorse on the copy transcript the corrections which in the opinion of the witness or attorney should be made and file the copy transcript and serve a copy of it on all other parties.

Enforcing attendance of witness

- 26.10 (1) If a person served with a witness summons to attend before an examiner -
- (a) fails to attend;
 - (b) refuses to be sworn or to affirm for the purpose of the examination; or
 - (c) refuses to answer any lawful question or produce any document at the examination,
- the examiner shall sign and file a certificate of the person's failure or refusal.
- (2) On the certificate being filed, the party requiring the deposition may apply to the court for an order requiring the person to attend, or to be sworn or to affirm or to answer any question or produce any document as the case may be.
 - (3) An application for an order under this rule may be made without notice but shall be supported by evidence -
 - (a) of service of the witness summons; and
 - (b) that the person served with the witness summons was paid or offered the payments required by rule 26.6.
 - (4) The court may order the person against whom an order is made under this rule to pay any costs resulting from the person's failure or refusal.

Time taken to be endorsed on deposition

26.11 The examiner shall endorse on the deposition the time occupied in taking the deposition and the fees received by the examiner.

Special report

26.12 The examiner may make a special report to the court with regard to the absence or conduct of any person present when the deposition was taken.

Fees and expenses of examiner

- 26.13 (1) On appointing an examiner the court shall fix the fee to be paid to the examiner for carrying out the examination.
- (2) The examiner's fees and reasonable travelling and other expenses including charges for a room (other than the examiner's own chambers or office) where the examination takes place shall be paid by the party who obtained the order for examination.
 - (3) The examiner need not send the deposition to the court unless the examiner's fees and expenses are paid.
 - (4) If the fees and expenses due to the examiner are not paid within a reasonable time, the examiner may report that fact to the court.

- (5) The court may order the party who obtained the order for examination to deposit into court a specified sum in respect of the examiner's fees and expenses and, where it does so, the examiner need not be asked to act until the sum so specified has been deposited.
- (6) An order under this rule does not affect any decision as to the party who is ultimately to bear the costs of the examination.

Use of deposition at hearing

- 26.14
- (1) A deposition ordered under rule 26.7 may be given in evidence at the hearing unless the court orders otherwise.
 - (2) A party intending to put in evidence a deposition at a hearing shall serve notice of the intention to do so on every other party.
 - (3) The party shall serve the notice at least 21 days before the day fixed for the hearing.
 - (4) The court may require a deponent to attend the hearing and give evidence orally.

Restrictions on subsequent use of depositions taken for the purpose of any hearing except the trial

- 26.15
- (1) Where the court orders a party to be examined about that party's or any other assets for the purpose of any hearing except the trial, the deposition may be used only for the purpose of the proceedings in which the order was made.
 - (2) However, the deposition may be used for some other purpose -
 - (a) by the party who was examined;
 - (b) if the party who was examined agrees; or
 - (c) if the court gives permission.

Where a person to be examined is out of the jurisdiction - letter of request

- 26.16
- (1) Where a party wishes to take a deposition from a party outside the jurisdiction, the court may direct the issue of a letter of request to the judicial authorities of the country in which the proposed deponent is.
 - (2) A letter of request is a request to a judicial authority to take the evidence of that person, or arrange for it to be taken.
 - (3) If the country to which the letter is sent allows a person appointed by the court to examine a person in that country, the court may make an order appointing an examiner for that purpose.
 - (4) A person may be examined under this rule on oath or affirmation or in accordance with any procedure permitted in the country in which the examination is to take place.
 - (5) If the court makes an order for the issue of a letter of request the party who sought the order shall file -
 - (a) the following documents and, except where sub-rule (6) applies, a translation of them-
 - (i) a draft letter of request;
 - (ii) a statement of the issues relevant to the proceedings;
 - (iii) a list of questions or the subject matter of questions to be put to the person to be examined; and
 - (b) an undertaking to be responsible for the expense of the Minister with responsibility of Foreign Affairs.

- (6) There is no need to file a translation if English is one of the official languages of the country where the examination is to take place.

Early appointment to produce documents - “production hearing”

- 26.17 (1) The court may permit a party to issue a witness summons requiring -
- (a) a party; or
 - (b) any other person,
- to attend at a date, time and place (a “production hearing”) specified in the witness summons other than the date for the trial or hearing for the purpose of producing one or more documents.
- (2) The only documents that a witness summons under this rule can require a person to produce are documents which that person could be compelled to produce at the trial.

PART 27
REQUESTS FOR INFORMATION

Contents of this Part

Right of parties to obtain information or documents	Rule 27.1
Orders compelling reply to request for information or documents	Rule 27.2
Time limits for applying to compel reply	Rule 27.3
Restrictions on the use of information or documents obtained under this Part	Rule 27.4

Right of parties to obtain information or documents

- 27.1 (1) This Part enables a party to obtain from any other party -
- (a) information about any matter which is in dispute in the proceedings; or
 - (b) production of any document directly relevant to the proceedings.
- (2) To do so the party shall serve a request for the information or documents that the party wants on that other party.
- (3) The party shall state in the request precisely what information or documents are wanted.
- (4) A request for production of documents may be made instead of or in addition to an application for specific disclosure under Part 19.

Orders compelling reply to request for information or documents

- 27.2 (1) If a party does not give information or produce documents which another party has requested under rule 27.1 within a reasonable time, the party who served the request may apply for an order compelling the giving or production of the information or documents.
- (2) An order may not be made under this rule unless it is necessary in order to dispose fairly of the matter or to save costs.
- (3) When considering whether to make an order the court shall have regard -
- (a) to the likely benefit which will result if the information is given or documents produced;
 - (b) to the likely cost of giving or providing it; and
 - (c) to whether the financial resources of the party against whom the order is sought are likely to be sufficient to enable that party to comply with such an order.

Time limits for applying to compel reply

27.3 An application for an order compelling a reply to a request for information may not be made before the time for serving an answer or affidavit evidence has expired nor less than 42 days before the date fixed for the hearing.

Restrictions on the use of information or documents obtained under this Part

27.4 A party may use information or documents which the party obtains -
(a) in response to a request under rule 27.1; or
(b) in compliance with an order under rule 27.2,
only for the purpose of the proceedings in which the request or order was made.

PART 28**STAY OF PROCEEDINGS (FOREIGN PROCEEDINGS)****Contents of this Part**

Scope of this Part	Rule 28.1
Application for stay of proceedings in another jurisdiction	Rule 28.2
Reference by court	Rule 28.3

Scope of this Part

28.1 (1) This Part deals with proceedings under a petition where there are also proceedings in any country outside Guyana which -
(a) relate to the marriage in question; and
(b) are capable of affecting its validity or subsistence.
(2) Such proceedings are referred to in this Part as "proceedings in another jurisdiction".

Application for stay of proceedings in another jurisdiction

28.2 Any application for a stay of proceedings in another jurisdiction shall be made to a Judge.

Reference by court

28.3 Where -
(a) on a directions hearing; or
(b) on any other occasion,
it appears to the court that there are proceedings in another jurisdiction, the court shall fix a directions hearing, or adjourn the directions hearing, to be heard before a Judge.

PART 29**THE HEARING****Contents of this Part**

Documents for use at hearing	Rule 29.1
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Failure of a party to attend hearing	Rule 29.2
Applications to set aside order given in party's absence	Rule 29.3
Adjournment of hearing	Rule 29.4
Inspection	Rule 29.5
Power of Judge to summon witness	Rule 29.6

Documents for use at hearing

- 29.1 (1) At least 21 days before the date fixed for the hearing all parties shall inform the petitioner or applicant of the documents that they wish to have included in the bundle of documents to be used at the hearing.
- (2) Subject to any order made at a directions hearing, the petitioner or applicant shall prepare a bundle of all the documents which any party wishes to make use of at the hearing.
- (3) The bundle should separate documents which are agreed and those which are not agreed.
- (4) The petitioner or applicant shall paginate and index the bundle of documents.
- (5) At least 10 days before the date fixed for hearing the petitioner or applicant shall file at the Registry -
- (a) a bundle comprising copies of -
 - (i) legal aid certificate (if any);
 - (ii) the petition or application;
 - (iii) any relevant answer, cross-petition or reply;
 - (iv) any requests for information and the replies; and
 - (b) a second bundle comprising copies of -
 - (i) all affidavits;
 - (ii) all expert reports; and
 - (c) a third bundle comprising the documents referred to in sub-rule (2); and
 - (d) if the bundle prepared under sub-rule (2) exceeds 100 pages of documents, a core bundle (that is, a bundle containing only such documents which the court will need to pre-read or to which it will be necessary to refer repeatedly at the hearing).

Failure of party to attend hearing

- 29.2 (1) If neither party appears at the hearing the court may strike out the petition, cross-petition or application that was to be heard.
- (2) If only one party appears the Judge may proceed in the absence of the other.

Application to set aside order given in party's absence

- 29.3 (1) A party who was not present at a hearing at which a decree or order was given or the petition, cross-petition or application struck out in that party's absence may apply to set aside that order.
- (2) The application shall be made within 7 days after the date on which the decree or order was served on the applicant.
- (3) The application to set aside the decree or order shall be supported by evidence showing—
- (a) a good reason for failing to attend the hearing; and
 - (b) that it is likely that had the applicant attended some other decree or order might have been given.

Adjournment of hearing

- 29.4 (1) The court may adjourn a hearing on such terms as it thinks just.
(2) The court may only adjourn a hearing to a fixed date and time or to a date and time to be fixed by the Registry.

Inspection

- 29.5 The Judge trying a claim may inspect any place or thing that may be relevant to any issue in the matters before the Judge.

Powers of Judge to summon witness

- 29.6 (1) The Judge may -
(a) issue a witness summons requiring a party or other person to attend the hearing;
(b) require the production of documents or things at the hearing; or
(c) question any party or witness at such hearing.
(2) The Judge may examine a party or witness -
(a) orally; or
(b) by putting written questions to the party or witness and asking the party or witness to give written answers to the questions.
(3) Any party may then cross-examine the witness.

**PART 30
DECREES AND ORDERS****Contents of this Part**

Scope of this Part	Rule 30.1
Parties present when order made or notified of terms to be bound	Rule 30.2
Practice forms to be used where available	Rule 30.3
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Scope of this Part

- 30.1 (1) This Part sets out rules about decrees and orders.

- (2) They do not apply where any other of these Rules makes a different provision in relation to the decree or order in question.

Parties present when order made or notified of terms to be bound

- 30.2 Any party is bound by the terms of any order whether or not the order is served where –
- (a) the party is present whether in person or by attorney-at-law when the order was made; or
 - (b) the party is notified of the terms of the order by facsimile transmission, or otherwise.

Practice forms to be used where available

- 30.3 Where there is a practice form for a decree or order of any description, a decree or order of that description shall be in that form.

Orders with respect to children

- 30.4 Any order made pursuant to sections 19 and 30 of the Matrimonial Causes Act, Cap. 45:02, is to be drawn up.

Decree nisi

- 30.5 A decree nisi pronounced on a petition pursuant to section 9(1) of the Matrimonial Causes Act, Cap. 45:02 shall state the ground on which the order nisi was granted.

Decree absolute

- 30.6
- (1) No decree nisi may be made absolute until the expiration of six weeks from the date it was made.
 - (2) A spouse may apply to make a decree nisi pronounced in the spouse's favour absolute by filing a notice in Form 14.
 - (3) An application to make a decree absolute may be made by the spouse against whom the decree was pronounced.
 - (4) An application under sub-rule (3) may not be made until the expiration of three weeks from the date on which the spouse in whose favour the decree nisi was pronounced could first have applied to make the decree absolute.
 - (5) (a) An application to make absolute a decree nisi shall be filed with an affidavit showing –
 - (i) that search has been made in the proper books of the registry up to within two days of the affidavit being filed; and
 - (ii) that at that time no person had obtained leave to intervene in the cause and no appearance had been entered nor affidavits filed by or on behalf of any person wishing to show cause against the decree nisi being made absolute; and
 - (iii) if leave to intervene had been obtained or appearance entered, or affidavits filed on behalf of any such person as mentioned in subparagraph (ii), what proceedings, if any, had been taken on it.
 - (b) If application to make absolute the decree nisi is for any reason deferred beyond six days from the time when the affidavit in the last preceding rule mentioned is filed, it shall be shown by further affidavit –

- (i) that search has been made in the proper books up to within six clear days of the hearing of the application; and
 - (ii) that at that time no person had obtained leave to intervene and no appearance had been entered, nor any affidavits filed by or on behalf of any person wishing to show cause against the decree nisi being made absolute; and,
 - (iii) if leave to intervene had been obtained or appearance entered, or affidavits filed by or on behalf of any such person as mentioned in subparagraph (ii), what proceedings, if any, had been taken on it.
- (6) The decree may not be made absolute unless -
- (a) there is no appeal against the decree;
 - (b) there is no application for -
 - (i) rehearing of the matter; or
 - (ii) reversal of the decree;
 - (c) the time for appealing to the Court of Appeal has expired and, if extended, the time so extended has expired;
 - (d) there is no pending application to extend the time to appeal; and
 - (e) there is no intervention to show cause against the decree being made absolute; and
 - (f) the requirements of section 12(1) of the Matrimonial Causes Act, Cap. 45:02, have been satisfied.
- (7) An application for a decree absolute may be made without notice.

Standard requirements

- 30.7 (1) Every decree nisi, decree of judicial separation or order shall state the name of the Judge who made it, unless it is a consent order under rule 30.11.
- (2) Every decree or order shall be sealed by the Registry.

Formal preparation and filing of decrees and orders

- 30.8 (1) Every judgment or order shall be settled by the court, unless the court dispenses with the need to do so.
- (2) The court may -
- (a) direct a party to draft an order; or
 - (b) direct the parties to file an agreed statement of its terms before settling the order.
- (3) Where a draft of an order or an agreed statement of terms is directed it shall be filed no later than 7 days from the date on which the direction was given so that the Registry may seal the order.
- (4) If a party fails to file a draft of an order within 7 days after the direction was given the court may order some other party to draw and file the order.
- (5) A party who drafts an order shall file sufficient copies for service on all parties who are to be served.

Service of decrees and orders

- 30.9 The Registry shall serve a copy of every decree or order on all parties.

Service on a party personally

30.10 Where a party on whom any order is to be served is acting by an attorney, the court may, if it thinks fit, order the judgment, decree or order to be served on the lay party as if that person were acting in person.

Consent orders

- 30.11 (1) This rule applies where all parties agree the terms in which an order is to be made.
- (2) It applies to any order except -
- (a) where any of the parties is a litigant in person;
 - (b) where any of them is a minor or patient;
 - (c) an order by which any hearing date fixed by the court is adjourned;
 - (d) an order for financial relief; or
 - (e) a decree nisi or absolute and a decree of judicial separation.
- (3) Where this rule applies -
- (a) the order which is agreed by the parties shall be drawn in the terms agreed;
 - (b) it shall be expressed as being "By Consent";
 - (c) it shall be signed by the attorney-at-law acting for each of the parties; and
 - (d) it shall be filed at the Registry for entry and sealing,
- and rule 30.8 (Formal preparation and filing of decrees and orders) applies as it applies to all other orders.

Time when decree or order takes effect

30.12 A decree or order takes effect as soon as it is given or made, unless the court specifies that it is to take effect on a different date.

Time for complying with a judgment or order

30.13 A party shall comply with a judgment or order immediately, unless the court makes a different order specifying the time for compliance.

Correction of errors in decrees or orders

- 30.14 (1) The court may at any time correct (without an appeal) a clerical mistake in a judgment or order, or an error arising in a judgment or order from any accidental slip or omission.
- (2) A party may apply for a correction without notice.

Copies of decrees

- 30.15 (1) The Registry shall keep a central index of decrees absolute.
- (2) Any person may require a search to be made in the index upon payment of the prescribed fee, and shall be supplied with a certificate of the result of the search.
- (3) A copy of a decree absolute shall be issued to any person on payment of the prescribed fee.

DISCONTINUANCE

Contents of this Part

Scope of this Part	Rule 31.1
Right to discontinue proceedings	Rule 31.2
Procedure for discontinuing	Rule 31.3
Effect of discontinuance	Rule 31.4
Liability for costs	Rule 31.5

Scope of this Part

31.1 The rules in this Part set out the procedure by which a petitioner or applicant may discontinue all or part of any proceedings or a respondent may discontinue an answer.

Right to discontinue proceedings

31.2 A petitioner or applicant may discontinue the proceedings or any part of the proceedings or a respondent an answer without the permission of the court.

Procedure for discontinuing

- 31.3 (1) To discontinue proceedings or any part of proceedings a party shall -
- (a) file a notice of discontinuance; and
 - (b) serve a copy on every other party.
- (2) The party discontinuing shall file a certificate stating that the notice of discontinuance has been served on every other party and the particulars of service in accordance with Part 7.

Effect of discontinuance

- 31.4 (1) Discontinuance takes effect on the date when the notice of discontinuance is served under rule 31.3.
- (2) The proceedings are brought to an end.
- (3) However, this does not affect any proceedings relating to costs.

Liability for costs

- 31.5 (1) Unless the court orders otherwise, a party who discontinues is liable for the costs which any other party incurred on or before the date on which notice of discontinuance was served.
- (2) The court shall assess such costs, if not agreed, under rule 37.7.

PART 32

INTERVENTION TO SHOW CAUSE WHY DECREE SHOULD NOT BE MADE ABSOLUTE

Contents of this Part

Scope of this Part	Rule 32.1
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Procedure on intervention by the Attorney General	Rule 32.2
How any other person intervenes	Rule 32.3
Answer	Rule 32.4
Directions hearing	Rule 32.5

Scope of this Part

- 32.1 This Part deals with the procedure by which -
- (a) the Attorney General; or
 - (b) any other person,
- may show cause to prevent a decree nisi being made absolute.

Procedure on intervention by the Attorney General

- 32.2 (1) If the Attorney General wishes to show cause against a decree nisi being made absolute the Attorney General shall give notice to the court and to the party in whose favour the decree was pronounced.
- (2) Within 28 days after giving notice under sub-rule (1) the Attorney General shall file a statement setting out grounds on which the Attorney General wishes to show cause.
- (3) The Attorney General shall serve a copy of the statement on all parties to the decree proceedings.

How any other person intervenes

- 32.3 (1) Any person other than the Attorney General may apply to show cause against making a decree absolute and shall file an affidavit stating the facts on which the person relies.
- (2) The person showing cause shall serve a copy of the affidavit on all parties to the decree proceedings.

Answer

- 32.4 (1) Any party to the decree proceedings may file an affidavit in answer.
- (2) The answer shall be filed within 28 days of service of the statement under rule 32.2(2) or the service of an affidavit showing cause under rule 32.3(1).
- (3) The party filing the answer shall serve a copy on all other parties and on the Attorney General or the person showing cause as the case may be.
- (4) If no answer is filed within the time set out in sub-rule (2) the Attorney General or the person showing cause, as the case may be, may apply for an order rescinding the decree and dismissing the petition.
- (5) An application under sub-rule (4) shall be made without notice and be dealt with without a hearing unless the court otherwise directs.

Directions hearing

- 32.5 (1) Where the intervention is by the Attorney General and an answer is filed the court shall fix a directions hearing and give notice to the Attorney General and all parties to the decree proceedings.
- (2) Where any other person intervenes to show cause that person shall apply for a directions hearing within 14 days after the expiration of the time for filing an affidavit in answer.

- (3) If no application is made under sub-rule (2) the person in whose favour the decree was pronounced may apply for a directions hearing.
- (4) The court shall give directions to secure the economic and early hearing of the notice to show cause.

PART 33

APPLICATION FOR A REHEARING OR REVERSAL OF DECREE

Contents of this Part

Scope of this Part	Rule 33.1
To whom application should be made	Rule 33.2
Time within which application shall be made	Rule 33.3
Evidence in support	Rule 33.4
Directions hearing	Rule 33.5
Service of application	Rule 33.6
Affidavit in answer	Rule 33.7

Scope of this Part

- 33.1 This Part deals with the procedure whereby a party can apply for –
- (a) a rehearing of any matter -
 - (i) tried by a Judge alone; and
 - (ii) in which no error of the court is alleged; or
 - (b) reversal of a decree nisi under section 12 of the Matrimonial Causes Act, Cap. 45:02;
 - (c) reversal of a decree of judicial separation under section 5 of the Matrimonial Causes Act, Cap. 45:02.

To whom application should be made

- 33.2 If practicable the application shall be heard by the Judge who heard the matter or granted the decree.

Time within which application shall be made

- 33.3 Unless otherwise directed an application under rule 33.1 shall be made within 42 days of the date when the decree was pronounced.

Evidence in support

- 33.4 The applicant shall file with the application an affidavit setting out the grounds of the application and details of any allegation made.

Directions hearing

- 33.5 The Registry shall fix a directions hearing.

Service of application

- 33.6 The applicant shall serve the application together with the affidavit in support and notice of the directions hearing on all other parties to the decree proceedings.

Affidavit in answer

- 33.7 Any other party to the decree proceedings may file an affidavit in answer within 28 days of service of the application upon that party.

**PART 34
WARDSHIP**

Contents of this Part

Scope of this Part	Rule 34.1
How to make a minor a ward of court	Rule 34.2
Effect of issuing an application under this Part	Rule 34.3
Respondents to the application	Rule 34.4
Directions hearing	Rule 34.5
Service of the application	Rule 34.6
Action by respondent	Rule 34.7
Notification of change of address	Rule 34.8
When a minor ceases to be a ward of court	Rule 34.9
Proceedings to be in private	Rule 34.10

Scope of this Part

- 34.1 This Part deals with applications to make a minor a ward of court.

How to make a minor a ward of court

- 34.2 (1) An application to make a minor a ward of court is made in Form 9.
- (2) The application may be made in any Registry.
- (3) The application shall be supported by evidence.
- (4) The evidence shall state -
- (a) the date of birth of the minor;
 - (b) the whereabouts of the minor or, if it be the case, that the applicant is unaware of the whereabouts of the minor; and
 - (c) the relationship or other interest of the applicant and all other parties to the proceedings to or in the minor, unless the court otherwise directs.
- (5) In this Part references to the whereabouts of the minor include -
- (a) the address at which the minor is living;
 - (b) the person with whom the minor is living; and
 - (c) any other information relevant to the question of where the minor may be found.
- (6) The applicant shall either -
- (a) file with the appropriate application form a certified copy of the birth certificate relating to the minor; or

- (b) apply at the directions hearing for directions as to proof of birth of the minor in some other way.

Effect of issuing an application under this Part

- 34.3 (1) Upon issuing an application in accordance with rule 34.2 the minor becomes a ward of court.
- (2) Any application relating to the guardianship of that minor shall then be made in the wardship proceedings.

Respondents to the application

- 34.4 (1) The applicant shall join as respondents any person -
- (a) who is a parent of the minor;
 - (b) who is a guardian of the minor;
 - (c) with whom the minor is living;
 - (d) who appears to be interested in, or affected by, the application; and
 - (e) any institution into whose care the minor has been received or placed pursuant to the Juvenile Offenders Act, Cap. 10:03 and the Protection of Children Act, Cap. 46:06.
- (2) The general rule is that the minor is not to be named as a respondent to the application.
- (3) However, if there is no person other than the minor who is a suitable respondent, the applicant shall apply to the court for permission -
- (a) to issue the application without naming a respondent; or
 - (b) to name the minor as respondent.

Directions hearing

- 34.5 (1) Upon issuing the application, the Registry shall fix a directions hearing and endorse on the application form, notice of the date, time and place of that hearing.
- (2) The directions hearing shall not be more than 42 days after the issue of the application.

Service of application

- 34.6 (1) A sealed copy of the application together with a copy of the evidence filed in support shall be served on all parties to the application in accordance with Part 6.
- (2) The court may -
- (a) dispense with service on any person; or
 - (b) order service on any person not originally served.

Action by respondent

- 34.7 (1) Upon service of the application form, each respondent shall immediately file at the Registry a notice stating -
- (a) the respondent's address; and
 - (b) either -
 - (i) the whereabouts of the minor; or
 - (ii) that the respondent is unaware of the whereabouts of the minor.

- (2) The respondent shall immediately serve a copy of the notice on the applicant unless the court otherwise directs.
- (3) The respondent may file evidence in answer to the application.
- (4) If the respondent files evidence the respondent shall serve a copy of such evidence on the applicant.

Notification of change of address

- 34.8 Where any party after the issue or service of the application –
- (a) changes the party's address; or
 - (b) becomes aware of any change in the whereabouts of the minor,
- that party shall forthwith file a notice of such change and serve a copy of the notice on all other parties unless the court otherwise directs.

When a minor ceases to be a ward of court

- 34.9 A minor ceases to be a ward of court -
- (a) if the court does not continue the wardship at the directions hearing;
 - (b) when the court so orders; or
 - (c) when the minor attains the age of 18.

Proceedings to be in private

- 34.10 All proceedings under this Part shall be heard privately in chambers unless the court otherwise directs.

**PART 35
REMOVAL OF PROCEEDINGS FROM THE MAGISTRATES' COURT**

Contents of this Part

Scope of this Part	Rule 35.1
How an application is made under this Part	Rule 35.2
Procedure where order is made	Rule 35.3

Scope in this Part

- 35.1 This Part deals with applications under section 85(1) of the Custody, Contact, Guardianship and Maintenance Act, No. 5 of 2011 to remove an application from a Magistrates' Court into the High Court.

How an application is made under this Part

- 35.2
- (1) An application under this Part shall be made in accordance with Part 8 (General Rules about Applications not brought by Petitions).
 - (2) The general rule is that the application may be made without notice.
 - (3) The application shall, however, be supported by evidence.
 - (4) The court may direct that the application be served on any person.

Procedure where order is made

- 35.3 (1) The applicant shall send a copy of the order to the Clerk of Court of the Magistrates' Court from which the proceedings are ordered to be removed.
- (2) On receipt of the copy order the Clerk of Court shall send to the High Court -
- (a) certified copies of all entries in the books of the Magistrates' Court relating to the proceedings; and
 - (b) all documents filed in the proceedings.
- (3) The Registry shall give notice to all parties that the application is proceeding in the High Court.

PART 36
COSTS - GENERAL

Contents of this Part

Scope of this Part	Rule 36.1
Definitions and applications	Rule 36.2
Orders about costs	Rule 36.3
Costs where there is an appeal	Rule 36.4
Entitlement to costs - general principles	Rule 36.5
Successful party generally entitled to costs	Rule 36.6
Two or more parties having same interest	Rule 36.7
Wasted costs orders	Rule 36.8
Wasted costs orders - procedure	Rule 36.9
Duty to send copy orders to client when costs orders made against client or attorney-at-law	Rule 36.10
Court Fees	Rule 36.11
Registrar to fix costs of family proceedings in certain circumstances	Rule 36.12
Costs in decree proceedings may be fixed	Rule 36.13
Prescribed costs	Rule 36.14

Scope of this Part

- 36.1 The Part contains general rules about costs and entitlement to costs.

Definitions and applications

- 36.2 In this Part and in Part 37 unless the context otherwise requires –
- “**costs**” includes attorney's charges and disbursements, fixed costs, prescribed costs, budgeted costs or assessed costs;
- “**assessed costs**” and “**assessment**” have the meanings given to them by rules 37.4, 37.5, 37.6 and 37.7;
- “**budgeted costs**” has the meaning given to it by rule 37.8;
- “**prescribed costs**” has the meaning given to it by rule 36.14.

Orders about costs

36.3 The court's power to make orders about costs includes power to make orders requiring a person to pay the costs of another person arising out of or related to all or any part of any proceedings.

Costs where there is an appeal

36.4 The court hearing an appeal may make orders about the costs of the proceedings giving rise to the appeal as well as the costs of the appeal.

Entitlement to costs – general principles

36.5 A party to proceedings may not recover the costs of those proceedings from any other party or person except by virtue of –

- (a) an order of the court;
- (b) a provision of these Rules; or
- (c) an agreement between the parties.

Successful party generally entitled to costs

- 36.6 (1) The court has a discretion whether or not to make any order as to the payment of the costs of the proceedings by one party to another.
- (2) In exercising its discretion the court may take into account –
- (a) the fact that proceedings relating to a child were brought or defended in the perceived interest of that child; and
 - (b) the financial position of each party and the effect that any order for costs may have on the parties and in particular on any child.
- (3) If the court decides to make an order about the costs of any proceedings, the general rule is that it shall order the unsuccessful party to pay the costs of the successful party.
- (4) The court may however order a successful party to pay all or part of the costs of an unsuccessful party.
- (5) This rule gives the court power in particular –
- (a) to order a person to pay only a specified proportion of another person's costs;
 - (b) to order a person to pay costs from or up to a certain date only; or
 - (c) to order a person to pay costs relating only to a certain distinct part of the proceedings,
- but the court may not make an order under paragraph (b) or (c) unless it is satisfied that an order under paragraph (a) would not be just.
- (6) In deciding who, if anyone, should be liable to pay costs the court shall have regard to all the circumstances.
- (7) In particular it shall have regard to –
- (a) the conduct of the parties;
 - (b) whether a party has succeeded on particular issues, even if the party has not been successful in the whole of the proceedings;
 - (c) whether it was reasonable for a party –
 - (i) to pursue a particular allegation; and/or
 - (ii) to raise a particular issue; and

- (d) the manner in which a party has pursued -
 - (i) the party's case;
 - (ii) a particular allegation; or
 - (iii) a particular issue.
- (8) The conduct of the parties includes -
 - (a) conduct before, as well as during, the proceedings; and/or
 - (b) whether either or both parties refuse unreasonably to try an alternative dispute resolution procedure.

Two or more parties having the same interest

36.7 Where two or more parties having the same interest in relation to proceedings are separately represented they are not to be entitled to more than one set of costs unless the court so orders.

Wasted costs orders

- 36.8 (1) In any proceedings the court may by order -
 - (a) disallow as against the attorney-at-law's client; or
 - (b) direct the attorney-at-law to pay, the whole or part of any wasted costs.(2) In this Part, "wasted costs" means any costs incurred by a party -
 - (a) as a result of any improper, unreasonable or negligent act or omission on the part of any attorney or any employee of such attorney-at-law; or
 - (b) which, in the light of any act or omission occurring after they were incurred, the court considers it unreasonable to expect that party to pay.

Wasted costs orders – procedure

- 36.9 (1) This rule applies where the court is considering whether to make an order disallowing wasted costs or for ordering that an attorney-at-law pay wasted costs to another party.
- (2) The court shall give an attorney-at-law notice of the fact that it is minded to make a wasted costs order.
- (3) The notice to the attorney-at-law shall state the grounds on which the court is minded to make the order and state a date, time and place at which the attorney-at-law may attend to show cause why the order should not be made.
- (4) The court shall give the attorney-at-law at least 7 days' notice of the hearing.
- (5) The court shall also give notice directly to the attorney-at-law's client -
 - (a) of any proceedings under this rule;
 - (b) of any order made under it against the client's attorney-at-law.
- (6) The notice to the attorney-at-law shall be in writing unless made at the trial or hearing of the proceedings.

Duty to send copy orders to client when costs orders made against client or attorney-at-law

36.10 The Registry shall send to the lay party a copy of any costs order made against that party or that party's attorney-at-law other than at the trial or hearing of any proceedings at which the party is present.

Court fees

- 36.11 (1) The fees specified in Appendix A shall be taken in all family proceedings.
 (2) The same fees as in actions and other proceedings under the Rules of the High Court, Cap. 3:02, for the time being in force shall be taken for any other act or matter not provided for in Appendix A.

Registrar to fix costs of family proceedings in certain circumstances

- 36.12 (1) Subject to rules 36.13(1) and 36.13(3) the costs of family proceedings shall be fixed by the registrar by analogy to the scale of costs for the time being in force under the Rules of the High Court, Cap. 3:02.
 (2) The court may, if it thinks fit, allow to one party costs to be taxed on the attorney/client basis.

Costs in decree proceedings may be fixed

- 36.13 (1) Where the petitioner is granted a decree with costs in any undefended decree proceedings the costs shall, if the petitioner's attorney-at-law so elects, be fixed in accordance with this rule.
 (2) Where costs are fixed there shall be allowed as between party and party such of the following items as are applicable -
 (a) in respect of attorney-at-law's charges -
 (i) for settling the petition, \$10,000 - \$50,000;
 (ii) if the petitioner's attorney so requests, in respect of any ancillary application on which a consent order for maintenance has been made, \$10,000;
 (iii) in respect of any statement as to the arrangements for the children filed in the proceedings, \$5,000;
 (iv) where an affidavit of means has been settled and filed under rule 20.3, \$10,000;
 (v) in respect of an affidavit filed with the petition under these Rules, \$2,000;
 (vi) for giving written advice on evidence \$7,000;
 (vii) with brief on hearing, \$20,000; and
 (viii) on conference, \$10,000.
 (b) in respect of other disbursements -
 (i) the court fees paid on the petitioner's behalf;
 (ii) such sums in respect of witnesses' allowances, medical reports and the other disbursements as would have been allowed if the costs had been taxed, not exceeding the sum of \$25,000.
 (3) A petitioner's attorney who elects to have the petitioner's costs fixed under sub-rule (1) shall give notice to that effect to the Registrar, stating the sums claimed that should be allowed.

Prescribed Costs

- 36.14 (1) The general rule is that where rule 36.13 does not apply and a party is entitled to the costs of any proceedings, those costs shall be determined in accordance with Appendices B and C and sub-rules (2), (3) and (4).
- (2) In determining prescribed costs, the value of the financial relief or property claimed is to be decided –
- (a) in the case of a petitioner or applicant, by the amount agreed or ordered to be paid; or
 - (b) in the case of a respondent by the amount claimed by the petitioner or applicant in the petition or application; or
 - (c) in the case of both the claimant and defendant, where the claim is not for a monetary sum it is to be treated as a claim for \$30,000 unless the Court makes an order under sub-rule (5).
- (3) The general rule is that the amount of costs to be paid is to be calculated in accordance with the percentages specified in column 2 of Appendix B against the appropriate value.
- (4) The Court may however –
- (a) award a percentage only of the sum referred to in sub-rule (3) having taken into account the matters set out in rules 36.6(6), (7) and (8); or
 - (b) order a party to pay costs –
 - (i) from or to a certain date; or
 - (ii) relating only to a certain distinct part of the proceedings, in which cases it shall specify the percentage of the fixed costs which is to be paid by the party liable to pay such costs and in so doing may take into account the table set out in Appendix C.
- (5) A party may apply to the Court at a directions hearing to determine the value to be placed on a case which has no monetary value or the monetary value of which is not apparent on the face of the proceedings.
- (6) Prescribed costs include all work that is required to prepare the proceedings for hearing or trial including, in particular, the costs involved in –
- (a) instructing any expert;
 - (b) considering and disclosing any report made by the expert;
 - (c) arranging the attendance of the expert at hearing or trial; and
 - (d) the attendance and advocacy at the trial including attendance at any directions hearing or pre-trial review.
- (7) Prescribed costs exclude –
- (a) the making or opposing of any interlocutory application except at a directions hearing or pre-trial review;
 - (b) expert's fees for preparing a report and attending any conference, hearing or trial;
 - (c) the cost of obtaining a daily transcript of the evidence where the trial Judge certifies this as a reasonable disbursement in all the circumstances of the case; and
 - (d) costs incurred in enforcing any order which are generally fixed in accordance with rule 36.13 but may, in certain cases be assessed in accordance with rule 37.7.

PART 37
COSTS - QUANTIFICATION

Contents of this Part

Scope of this Part	Rule 37.1
Basis of quantification	Rule 37.2
Ways in which costs are to be quantified	Rule 37.3
Assessed costs	Rule 37.4
What is included in assessed costs	Rule 37.5
Assessed costs of procedural applications	Rule 37.6
Assessment of costs - general	Rule 37.7
Budgeted costs	Rule 37.8
Client's consent to application for budgeted costs	Rule 37.9
What is included in budgeted costs	Rule 37.10

Scope of this Part

37.1 This Part deals with the way in which any costs awarded by the court are quantified.

Basis of quantification

- 37.2 (1) Where the court has any discretion as to the amount of costs to be allowed to a party or an attorney-at-law, the sum to be allowed is the amount that the court deems to be reasonable were the work to be carried out by an attorney-at-law of reasonable competence and which appears to the court to be fair both to the person paying and the person receiving such costs.
- (2) Where the court has any discretion as to the amount of costs to be paid to an attorney-at-law by the attorney-at-law's client the sum allowed is the amount that the court deems to be reasonable and which appears to be fair both to the attorney-at-law and the client concerned.
- (3) In deciding what would be reasonable the court shall take into account all the circumstances, including -
- (a) any orders that have already been made;
 - (b) the conduct of the parties before as well as during the proceedings;
 - (c) the importance of the matter to the parties;
 - (d) the time reasonably spent on the case;
 - (e) the degree of responsibility accepted by the attorney-at-law;
 - (f) the care, speed and economy with which the case was prepared;
 - (g) the novelty, weight and complexity of the case;
 - (h) in the case of costs charged by an attorney-at-law to attorney-at-law's client -
 - (i) any agreement that may have been made as to the basis of charging;
 - (ii) any agreement as to the seniority of the attorney-at-law to carry out the work;

- (iii) whether the attorney-at-law advised the client and took the client's instructions before taking any unusual step or one which was unusually expensive having regard to the nature of the case.

Ways in which costs are quantified

- 37.3 If, having regard to rule 36.6, the court orders a party to pay all or any part of the costs of another party, such costs by the court shall be quantified in one of the following ways -
- (a) costs assessed by the court under rules 37.4, 37.5, 37.6 and 37.7 ("assessed costs"); or
 - (b) costs in accordance with a budget approved by the court under rule 37.8 ("budgeted costs").

Assessed costs

- 37.4 (1) The general rule is that where a party is entitled to the costs of any proceedings those costs shall be assessed in accordance with assessed costs set out in the Appendix D and sub-rules (2) and (3).
- (2) In assessing such costs where it has a discretion as to the amount to be allowed the court shall take into account the matters set out in rule 37.2.
- (3) In particular, the court shall take into account any costs that have been awarded in respect of procedural applications.
- (4) The court may, however -
- (a) award a percentage only of such sum having taken into account the matters set out in rule 36.6(6), (7) and (8); or
 - (b) order a party to pay costs -
 - (i) from or to a certain date; or
 - (ii) relating only to certain distinct part of the proceedings, in which case it shall specify the percentage of the assessed costs which is to be paid by the party liable to pay such costs.

What is included in assessed costs

- 37.5 Assessed costs include all work that is required to prepare the particular stage of the proceedings for hearing and in particular the costs involved in instructing an expert, in considering and disclosing any report made by the expert or arranging the expert's attendance at the hearing and for attendance and advocacy at any hearing including attendance at any directions hearing but exclude -
- (a) the making or opposing of any application except at a directions hearing; and
 - (b) expert's fees for preparing a report and attending any conference or hearing.

Assessed costs of procedural applications

- 37.6 (1) On determining any application which is not covered by the Appendix D, the court shall-
- (a) decide which party, if any, should pay the costs of that application;
 - (b) assess the amount of such costs; and
 - (c) direct when such costs are to be paid.
- (2) In deciding what party, if any, should pay the costs of the application the general rule is that the unsuccessful party shall pay the costs of the successful party.

- (3) The court shall, however, take account of all the circumstances including the factors set out in rule 36.6 (7) but where the application is -
- (a) one that could reasonably have been made at a directions hearing;
 - (b) an application to extend the time specified for the doing of any act under these Rules or an order or direction of the court;
 - (c) an application to amend any petition, answer or cross-petition; or
 - (d) an application for relief under rule 14.6, the court shall order the applicant to pay the costs of the respondent unless there are special circumstances.

Assessment of costs – general

- 37.7 (1) This rule applies where costs fall to be assessed in relation to any proceedings or any stage of the proceedings, other than a procedural application, which is not covered by the Appendix D.
- (2) The assessment shall be carried out by the Judge hearing the proceedings or the Registrar.
- (3) If, however, the assessment does not fall to be carried out at the hearing of any proceedings then the person entitled to the costs shall apply to a Judge or the Registrar for directions as to how the assessment is to be carried out.
- (4) The application under sub-rule (3) shall be accompanied by a bill or other document showing the sum in which the court is being asked to assess the costs and how such sum was calculated.
- (5) On hearing any such application the Judge or the Registrar shall either -
- (a) assess the costs if there is sufficient material available to do so; or
 - (b) fix a date, time and place for the assessment to take place.

Budgeted costs

- 37.8 (1) A party may, however, apply to the court to set a costs budget for the proceedings.
- (2) An application for such a costs budget shall be made at or before the first directions hearing.
- (3) The application may be made by either or both parties but an order setting a costs budget may not be made by consent.
- (4) An application for a costs budget shall be accompanied by -
- (a) a written consent from the client in accordance with rule 37.9;
 - (b) a statement of the amount that the party seeking the order wishes to be set as the costs budget;
 - (c) a statement showing how such budget has been calculated and setting out in particular—
 - (i) the hourly rate charged by the attorney-at-law (or other basis of charging);
 - (ii) a breakdown of the costs incurred to date;
 - (iii) the fees for advocacy, advising or settling any document that are anticipated to be paid to any attorney-at-law other than the attorney-at-law on record;
 - (iv) the disbursements other than expert witness fees that are included in the budget;

- (v) the anticipated amount of any expert fees and whether or not such fees are included in the budget;
 - (vi) a statement of the number of hours of preparation time (including attendances upon the party, any witnesses and on any other parties to the proceedings) that the attorney-at-law for the party making the application anticipates will be required to bring the proceedings to a hearing; and
 - (vii) what procedural steps or applications are or are not included in the budget.
- (5) A party may apply to vary the terms of an order made under this rule at any time prior to the commencement of the trial but no order may be made increasing the amount of the budgeted costs unless the court is satisfied that there has been a change of circumstances which became known after the order was made.

Client's consent to application for a costs budget

- 37.9 (1) The court may not make an order for budgeted costs unless -
- (a) the party seeking the order is present when the application is made unless for exceptional reasons this is impracticable; and
 - (b) the court has satisfied itself that each party fully understands the consequences of the order that is being sought as to -
 - (i) the party's liability for costs to the party's own attorney-at-law whether the party obtains an order for costs against any other party or not;
 - (ii) the party's liability to pay costs in the budgeted sum to the other party if that other party obtains an order for costs against the party;
 - (iii) what the party's liability might be under sub-paragraphs (i) and (ii) if rule 37.4 applied;
 - (c) there has been filed a document recording the express consent of the party to the application and to any order made as a consequence of the application;
 - (d) such consent shall be in a separate document which -
 - (i) is signed by the party;
 - (ii) deals only with the question of budgeted costs;
 - (iii) states the attorney-at-law's estimate of what the assessed costs appropriate to the proceedings would be;
 - (iv) gives an estimate of the total costs of the proceedings as between attorney-at-law and client; and
 - (v) sets out the basis of that estimate including the amount of any hourly charge.
- (2) The written consent of the client shall not be disclosed to the other party.
- (3) This rule also applies to any other party who consents to or does not oppose an order for a costs budget.

What is included in a costs budget

- 37.10 Unless the costs budget approved by the court specifies otherwise rule 37.6 applies to budgeted costs as it does to assessed costs.

PART 38 ENFORCEMENT

Contents of this Part

Scope of this Part	Rule 38.1
Affidavit verifying the amount due under an order	Rule 38.2
Enforcement	Rule 38.3

Scope of this Part

- 38.1 This Part deals with the enforcement of orders for financial relief.

Affidavit verifying the amount due under an order

- 38.2 Before any step is taken to enforce a sum alleged to be due under an order for financial relief, except where an application for an attachment of earnings order is made at the hearing when the financial order was made, the applicant shall file an affidavit showing how the sum claimed to be due is calculated.

Enforcement

- 38.3 Any sum shown to be due under an affidavit filed under rule 38.2 may be enforced in the same way as any judgment or order for a sum of money under the Rules of the High Court, Cap. 3:02 or under the Debtors Act, Cap. 6:04.

APPENDIX A

r. 36.11(1) and (2)

COURT FEES

1.	On filing an application under Part 34 (<i>Wardship</i>)	\$1,000
2.	On filing a petition (including sealing and copying)	\$3,500
3.	On filing an answer including a cross-petition or reply (including sealing and copying)	\$1,000
4.	On filing a supplemental petition or amended petition (including sealing and copying)	\$3,500
5.	On filing an application	\$2,500
6.	On filing an affidavit	\$500
7.	On filing a certificate, request in writing or any other document	\$300
8.	Copy of a medical report filed under rule 17.5 (5), per page or part thereof	\$50
9.	Copy of a report filed under rule 11.10 (3), per page or part thereof	\$50
10.	Sealed or office or photographic copy of a decree or order under rule 30.8	\$700
11.	On search in the index of decrees absolute kept under rule 30.15(2)	\$2,500
12.	Copy of decree absolute (rule 30.15(3))	\$1,000
13.	Any certification under the hand of a Judge or Registrar	\$5,000

APPENDIX B

r. 36.14(3)

PRESCRIBED COSTS**SCALE OF PRESCRIBED COSTS**

Value of Financial Relief or Property	Percentage
Not exceeding \$50,000	30%
Exceeding \$50,000 but not exceeding \$100,000	25%
Exceeding \$100,000 but not exceeding \$150,000	20%
Exceeding \$150,000 but not exceeding \$200,000	15%
Exceeding \$200,000 but not exceeding \$400,000	10%
Exceeding \$400,000 but not exceeding \$1,000,000	7.5%
Exceeding \$1,000,000 but not exceeding \$1,500,000	5%
Exceeding \$1,500,000 but not exceeding \$3,000,000	2.5%
Exceeding \$3,000,000 but not exceeding \$5,000,000	1%
Exceeding \$5,000,000	0.5%

Notes: (a) The above scale is expressed in Guyana dollars.

(b) The costs for each stage of the scale are cumulative.

Example: Proceeding for \$1,075,000 to be calculated as follows:

First \$50,000 x 30%	\$15,000
Next \$25,000 x 25%	\$6,250
Next \$125,000 x 20%	\$25,000
Next \$175,000 x 15%	\$26,250
Next \$250,000 x 10%	\$25,000
Next \$450,000 x 7.5%	\$33,750
Total Claim = \$1,075,000	Total Costs = \$131,250

APPENDIX C

r. 36.14(4)

PRESCRIBED COSTS**PERCENTAGE TO BE ALLOWED AT VARIOUS
STAGES OF PROCEEDINGS**

This table shows the percentage of the prescribed costs to be allowed under Appendix B where a case concludes prior to trial.

Stage	
(a) Up to and including service of answer	45%
(b) After answer and up to and including the directions hearing	55%
(c) From directions hearing and up to and including listing questionnaire (if any)	70%
(d) From listing questionnaire and up to and including pre-trial review (if any)	75%
(e) To trial	100%
(f) Up to default judgment and including assessment of sums claimed	60%

Example:

- (i) Claim for \$1,075,000 = Full costs as in Appendix B \$131,250
(ii) Claim discontinued after directions hearing =
Respondent entitled to 70% of total costs \$91,875

APPENDIX D

rs. 37.4(1); 37.6(1); 37.7(1)

ASSESSED COSTS

1.	Undefended divorce: taking instructions, drawing petition, having petition approved, sworn, issued and served, considering acknowledgment of service and proving service	\$25,000
2.	Statement of arrangements for children and/or application for children order including taking all necessary instructions and filing (to be allowed once only)	\$25,000
3.	Application for financial order, including taking all necessary instructions and filing	\$25,000
4.	Additional applications inclusive of service by a specified method, <i>vive voca</i> evidence, decree absolute, etc.	\$20,000
5.	Attending directions hearing	\$20,000
6.	Preparing for defended hearing of divorce, children application or financial application;	assessed between \$60,000 and \$120,000
7.	Attending defended hearing of divorce, children application or financial application;	assessed between \$50,000 and \$90,000

SCHEDULE**FORMS****ARRANGEMENT OF FORMS**

FORM	DESCRIPTION
1.	Petition for Divorce and Other Matrimonial Causes
2.	Statement of Arrangements for Children
3.	Notice of Proceedings (Respondent)
4.	Acknowledgment of Service (Respondent)
5.	Acknowledgment of Service (Co-respondent)
6.	Notice of Application by Respondent for Financial Relief/Division of Property
7.	Financial Relief/Division of Property Application Form with Evidence
8.	Evidence for Financial Relief/Division of Property (Respondent)
9.	Application Relating to Children
10.	Reply to Application Relating to Children
11.	Application
12.	Notice of Proceedings (Co-respondent)
13.	Witness Summons
14.	Notice of Application for <i>decree nisi</i> to be made Absolute

FORM 1: PETITION FOR DIVORCE AND OTHER MATRIMONIAL CAUSES

20

No.

Demerara/Berbice/Essequibo

In the High Court of the Supreme Court of Judicature Family, Divorce and Matrimonial Jurisdiction

Petition No.

Petition for Divorce and Other Matrimonial Causes

Between

A.B.

Petitioner

- v -

C.B.

Respondent

The petition of [*petitioner's full name*] shows that:

1. On the [*date of marriage*] the petitioner was lawfully married to [*respondent's full name*] (hereinafter called 'the respondent') at [*place and description of ceremony of marriage*].
2. After the said marriage the petitioner first lived and cohabited with the respondent at [*address where parties lived together*].
3. The last address in Guyana at which the petitioner and respondent have lived together as husband and wife was [*address where parties lived together*].
4. The domicile of the parties to the marriage.
5. The petitioner is a [*occupation*] and now resides at [*address*]; the respondent is a [*occupation*] and now resides at [*address*].

6. Whether there are any living children born issue of the marriage and of the family and, if so, how many and stating -
 - (i) the full names, including surname, of each such child;
 - (ii) the date of birth of each such child, and if it be the case, the fact that a child is over eighteen; and
 - (iii) whether any such child who is over eighteen is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation.

7. (a) [Whether to the knowledge of the petitioner any other child now living has been born to the respondent during the marriage and if so, the full names, including surname and date of birth, of the child and, if it be the case, that the child is over eighteen years.]

(b) The petitioner alleges that [*full name*] is not a child of the family because [*full particulars*].

8. There have been no proceedings previous hereto in any court with reference to the said marriage or the said child/ren) or between the petitioner and respondent with reference to any property of either or both of them [except *full particulars* -
 - (i) the nature of the proceedings;
 - (ii) the date and effect of any decree or order; and
 - (iii) in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the decree or order];

9. There are no proceedings continuing in any foreign country which are in respect of the said marriage or are capable of affecting its validity or subsistence [except *full particulars* -
whether there are any proceedings continuing in any country outside Guyana which relate to the marriage or are capable of affecting its validity or subsistence and, if so -
 - (i) particulars of the proceedings, including the court in or the tribunal or authority before which they were begun;
 - (ii) the date when they were begun;
 - (iii) the names of the parties;
 - (iv) the date or expected date of any trial of the proceedings; and
 - (v) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed and such proceedings shall include any which are not instituted in a court of law in that country, if they are instituted before a tribunal or other authority having power under that law having effect there to determine questions of status, and shall be treated as continuing if they have been begun and have not been finally disposed of];

10. There has been no agreement or arrangement between the petitioner and the respondent for the support of the parties or of any of the said child(ren) of the family [except *full particulars*].
11. If there has been delay in filing the petition, state reason(s).

PARTICULARS

12. State the ground(s) and facts in support of the individual ground(s) relied on for this petition including dates. In the case of a petition for nullity, the petition shall state whether the petitioner was at the time of the marriage ignorant of the facts alleged.
13. Where the petitioner intends to adduce evidence that a person was found to have committed adultery in matrimonial proceedings or was adjudged to be the father of a child in proceedings before a court in Guyana the petitioner shall include in the petition a statement of the petitioner's intentions with particulars of -
 - (i) the finding or adjudication and the date thereof;
 - (ii) the court which made the finding or adjudication and the proceedings in which it was made; and
 - (iii) the issue in the proceedings to which the finding or adjudication is relevant.
14. State the date of the separation from the respondent.

The petitioner therefore prays:

- (1) That the said marriage may be dissolved [annulled] on the ground of [state ground] / [That there be a decree of judicial separation] [that there be a decree of jactitation of marriage][declaration of legitimacy of marriage.
- (2) That the petitioner be granted custody and maintenance of the petitioner and the children.
- (3) That the respondent [and co-respondent/ second respondent] may be ordered to pay the costs of this suit.
- (4) Such further or other relief(s) as may be just.

[Signature] Attorney at law

[Signature] Petitioner

Affidavit in support of Petition**(The Petitioner shall complete and sign this section)**

1. I, *[full names]* of *[address]* make oath and say as follows *[do solemnly and sincerely affirm]* that I believe that the contents *[facts]* verifying the ground (s) stated in support of this petition for *[divorce/judicial separation/nullity/restitution of conjugal rights/declaration of legitimacy of marriage]* are true and correct.

2. This petition is not presented or prosecuted in collusion or connivance with the Respondent or anyone else.

*[Signature of Petitioner]**[Date]*

Sworn to at

This day of,

COMMISSIONER OF OATHS TO AFFIDAVITS**NB: Proceedings for contempt of court may be brought against a person who makes or causes to be made, a false statement in a document verified by an affidavit.**

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8.00 to 2.30 pm on Fridays every day except on Public Holidays and on such other days as the Registry is closed.

FORM 2: STATEMENT OF ARRANGEMENTS FOR CHILDREN

20

No.

Demerara/Berbice/Essequibo

In the High Court of the Supreme Court of Judicature Family, Divorce and Matrimonial Jurisdiction

		Petition
No.		
Between		
	A.B.	Petitioner
	- v -	
	C.B.	Respondent

STATEMENT OF ARRANGEMENTS FOR CHILD(REN)

1. **First child:**
 Name
 Date of Birth
 With whom does the child live
 Address

 Is child at school or other place of education? YES/NO
 Give details.

 Are you proposing any changes within the next two years? YES/NO
 If so, give details?

 Does the child suffer from any medical disability? YES/NO
 Give details?
[the court may require a medical certificate]

 Is the child under the care of any [local authority] [probation officer]?
 YES/NO If so, give details
2. **Second Child etc**

2 - 4 (as above)

Access

3. What are the present arrangements for access by you/by the respondent to each child?
Are these arrangements working satisfactorily? YES/NO
4. Do you propose any changes? YES/NO
If so, what?

Financial Needs

5. Set out below your estimate of the cost of maintaining the children: Give figures per week/month/ year - State which

Food

General Clothing

School Uniform

School fees

Travel to school

Extra tuition

Lunch money

School books

General School supplies

Medical/Dental/Optical costs

Toys/Games/Sports

Outings

Holidays

Hairdressing

Presents

Pocket money

Child Care

Total Cost \$ _____ per week/month

What contribution(s), if any, does anyone else make to this costs \$ _____ per week/month

Net cost \$ _____ per week/month

Existing Court Orders and Agreements

6. Are there any court orders relating to any of the children? YES/NO *If so,*
attach copies of each such order.
7. Have any agreements been made with regard to access to YES/NO
 custody of YES/NO maintenance of the children YES/NO
If so supply copies (if in writing)

Court Orders you are considering seeking

8. What Court orders might you seek with regard to all or any of the children?
- A. Custody
 - B. Access
 - C. Maintenance
 - D. Other

A separate application should be made for any order that you seek.

I certify that the information given on this form is correct

Signed

Dated

I agree with the proposed arrangements as outlined in the above statement.

Signed [*Respondent*]

Dated

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8.00 to 2.30 pm on Fridays every day except on Public Holidays and on such other days as the Registry is closed.

FORM 3: NOTICE OF PROCEEDINGS (Respondent)

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition No.

Between**A.B.**

Petitioner

- v -

C.B.

Respondent

NOTICE OF PROCEEDINGS

To the Respondent

[Insert Address]

TAKE NOTICE that

There will be a Directions Hearing on _____ day the _____ day of _____, 20.... at
a.m/p.m. at

It is important that you attend this hearing.

A petition for [divorce][judicial separation][nullity] has been presented to the court and a copy is served on you with this notice together with -

- a form of acknowledgment of service;
- a statement of the petitioner's proposed arrangements for any children of the family (IF ANY); and
- if relevant blank Forms 8 and 10.

1. You shall complete the attached form of acknowledgment of service and return it to the Registry whose address is given below and on the petition so that they receive it within TWENTY-ONE days of the day on which you receive these documents.
2. If you wish you may write to the court -
 - to state that you agree with the petitioner's proposals for the children (if any); or to set out your own proposals.
3. If you wish -
 - to defend the petition and/or
 - petition for a divorce, judicial separation or nullity yourself

you shall

- give notice to defend by completing the answer to question 7 in the acknowledgment of service and return it to the Registry whose address is given below and on the petition so that they receive it within TWENTY-ONE days of the day on which you receive these documents **AND**
 - file and answer and (if appropriate) a cross-petition at the Registry so that they receive it within TWENTY-ONE days after the day on which you receive these documents.
4. If you do not file an answer and/or cross-petition the petitioner may be granted a decree of divorce, judicial separation or nullity.
 5. There will be a directions hearing unless the court dispenses with it and notice of the date, time and place of that hearing is given above. **YOU SHOULD ATTEND that hearing, OR THE JUDGE MAY MAKE ANY ORDER THE JUDGE SEES FIT AGAINST YOU IN YOUR ABSENCE.**
 6. At that hearing the Judge will consider all issues that may arise from the breakdown of the marriage in the petition and may -
 - make the decree nisi (or decree of judicial separation) if no answer has been filed; and
 - decide whether the arrangements for the children (including questions of maintenance) are satisfactory; and
 - give directions with regard to any likely applications for custody of or access to children and/or make any other order the Judge may think fit.
 - give directions with regard to any likely applications for any form of financial provision and/or make any order the Judge may think fit.

If you intend to make any application relating to the children or to financial matters you should make it **as quickly as possible** so that it can be considered at the directions hearing.

If the petition is defended the Judge will give directions about the way in which each party should prepare that party's case for a court hearing.

7. If you propose instructing an attorney you should do so immediately. You should **NOT** delay returning the acknowledgment of service unless you are certain that you can see your attorney

in time for the attorney to return it to the court within TWENTY-ONE days of service of the petition on you.

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

FORM 4: ACKNOWLEDGMENT OF SERVICE (Respondent)

20

No.

Demerara/Berbice/Essequibo

In the High Court of the Supreme Court of Judicature Family, Divorce and Matrimonial Jurisdiction

Petition No.

Between

A.B.

Petitioner

- v -

C.B.

Respondent

ACKNOWLEDGMENT OF SERVICE (Respondent)

If you intend to instruct an Attorney-at-law do so immediately and hand the Attorney-at-Law this form.

- | | |
|---|--------|
| 1. Have you received the petition for [divorce] [judicial separation] [nullity] with this form? | YES/NO |
| 2. Are you the person named as the Respondent in the petition? | YES/NO |
| 3. On what date did you receive it? | |
| 4. At what address did you receive it? | |
| 5. Have you received the petitioner's statement of arrangements for the children (if any)? | YES/NO |
| 6. Do you agree with the statements and proposals in the Petitioner's statement of arrangements for the children?
If not you can file your own statement. | YES/NO |
| 7. Do you intend to defend the petition?
If so you SHALL (1) return this Acknowledgment of Service to the Registry whose address is below so that it is received by them within TWENTY-ONE days of the date on which you received the petition and (2) file an Answer and/or Cross-Petition so that it is received by the Registry within TWENTY-ONE days of the date on which you received the petition. | YES/NO |
| 8. Do you consent to a divorce/ judicial separation/nullity | YES/NO |

9. Do you wish the court to consider your financial position after the divorce? YES/NO
If so you SHALL make an application in Form 6.
You should do so as promptly as possible and shall do so before the decree absolute is made.
10. Do you wish to oppose the divorce? YES/NO
If so you SHALL (1) return this Acknowledgment of Service to the Registry whose address is below so that it is received by them within TWENTY-ONE days of the date on which you received the petition; (2) file an Answer and/or Cross-Petition so that it is received by the Registry within TWENTY-ONE days of the date on which you received the petition.
11. (where petition is based on adultery)
 Do you admit the adultery alleged in the petition? YES/NO
12. Do you wish to be heard on any application for costs made in the petition? YES/NO
If so you shall attend the directions hearing.
13. Do you want to make any application on your own behalf?
- Children:**
- For custody? YES/NO
 For access? YES/NO
 Other (please state)? YES/NO
- Financial:**
- Maintenance? YES/NO
 Lump Sum Order? YES/NO
 Transfer of Property Order? YES/NO
 Other (please state what)? YES/NO

Signed

Respondent

Signed

Attorney for the Respondent.

Address for Service:
 (this shall be within one miles of the Registry)

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

**FORM 5: ACKNOWLEDGMENT OF SERVICE
(Co-Respondent)**

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Between

Petition No.

A.B.

Petitioner

- v -

C.B.

Respondent

D.B.

Co-Respondent

ACKNOWLEDGMENT OF SERVICE

If you intend to instruct an Attorney-at-law do so immediately and hand the Attorney-at-Law this form.

- | | | |
|----|--|--------|
| 1. | Have you received the petition for [divorce] [judicial separation] [nullity] with this form? | YES/NO |
| 2. | Are you the person named as the co-respondent/second respondent in the petition? | YES/NO |
| 3. | On what date did you receive it? | |
| 4. | At what address did you receive it? | |
| 5. | Do you intend to defend the petition?
If so you SHALL (1) return this Acknowledgment of Service to the Registry whose address is below so that it is received by them within TWENTY-ONE days of the date on which you received the petition; (2) but you shall also file an Answer and/or Cross-Petition so that it is received by the Registry within TWENTY-ONE days of the date on which you received the petition. | YES/NO |

6. Do you admit the adultery alleged in the petition? YES/NO
7. Do you wish to be heard on any application for costs made in the petition? YES/NO
If so you shall attend the directions hearing.

Signed

Co-Respondent

Signed

Attorney for the
Co-Respondent.

Address for Service:
(this shall be within one miles of the Registry)

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

**FORM 6: NOTICE OF APPLICATION BY RESPONDENT
FOR FINANCIAL RELIEF/DIVISION OF PROPERTY**

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition/Application No.

Between

A.B.

Petitioner

- v -

C.B.

Respondent

**NOTICE OF APPLICATION BY RESPONDENT FOR
FINANCIAL RELIEF/DIVISION OF PROPERTY**

Take notice that the Respondent applies to the court under the Matrimonial Causes Act, Cap. 45:02 for the court to consider the financial position of the respondent after the divorce/ judicial separation/division of property.

Signed: Respondent

Signed: Attorney at Law for the Respondent

Dated

NOTICE

Directions will be given relating to this application at the directions hearing on

(date) at

(time)

at

[Directions have already been given at the directions hearing on]

(SEAL)

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

**FORM 7: FINANCIAL RELIEF/DIVISION OF PROPERTY
APPLICATION FORM WITH EVIDENCE**

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition No.

Between

A.B.
Petitioner

- v -

C.B.
Respondent

**APPLICATION FOR FINANCIAL RELIEF/DIVISION
OF PROPERTY WITH EVIDENCE**

The applicant _____ applies to the Court for an order for the following financial relief for [the applicant and the children named below], [the children named below]/division of property -

(Details of order sought)

(full names and dates of birth of any children
on whose behalf order sought)

Signed: (Applicant in person) (Attorney for the Applicant) whose
address for service is as follows:
Postal Address:

FAX number:
Telephone number:

NOTICE OF DIRECTIONS HEARING

Directions will be given relating to this application at the directions hearing on _____ (date) at
(time) at

[Directions have already been given at the directions hearing on _____]

EVIDENCE OF APPLICANT

I, _____ of _____
make oath and say as follows:
that the information set out below is correct to the best of my knowledge,
information and belief:

- (1) Date of Birth
 - (2) Date of marriage
(if not married length of cohabitation)
 - (3) Details of other proceedings relating to
the relationship:

_____	court	order made	date
-------	-------	------------	------
 - (a) Divorce or Judicial Separation
 - (b) Maintenance
 - (c) Children issues
 - (d) Domestic Violence
 - (e) Other
- (4) Full details of the children are set out in Form 2 (a) filed at the Court under case number
xx.xxx OR (b) filed with this application.

Details of my income

- (5) Details of employment
 - (a) type of main employment
 - (b) name of employer
 - (c) address of employer

- (d) if self employed give details of business and of any people with whom you are in partnership.
- (d) gross pay/income \$
per [week][month][year]
- (e) normal take home pay/income \$
per [week][month][year]
- (f) what deductions are made for pension?
- (6) Other income:
- (a) State benefits \$
per [week][month][year]
- (b) voluntary maintenance \$
per [week][month][year]
- (c) maintenance under court order \$
per week][month][year]
Copy order exhibited marked 'A'
- (d) income from investments \$
per [week][month][year]
- (e) rents received \$
per [week][month][year]
- (f) income from other work than main employment \$
per [week][month][year]

Employment

- (7) If not working:
- (a) Are you looking for work?
- (b) Do you expect to look for work
within the next two years?
- (c) What sort of work could you do?
- (d) What qualifications have you?
- (e) When did you last work?
- (8) If working-
- (a) how are any children cared for? (b) what is the cost of child care?
- (c) are you thinking about changing
your job within the next year? YES/NO
- (d) are you likely to get promotion within next year? YES/NO

[If answer to (c) or (d) 'yes' - give details]

Health

- (9) Do you suffer from any health problems?
If so give details and state if they affect your employment or ability to get work.

Cohabitation

- (10) Are you living with any person other than the respondent and any children?
- (11) If so give details of any financial support you receive from that person.

Expenditure (12)

What do you spend on - per [week][month][year]

House -

Mortgage Repayments
Life Insurance Premiums
Building Insurance Premiums
Contents Insurance Premiums
Rent
Land & building taxes
Water and sewerage charges
Electricity
Cooking Gas
Telephone
Repairs and Decoration
Furniture/furnishing replacements

Personal Expenses -

Food
Laundry/Cleaning
Medical/Dental/Optical
Clothing/Shoes
Hairdressing
General Housekeeping expenses
Help in house
Gardener/yard help
Entertainment
Holidays and Outings
Presents
Newspapers/Magazines
Other
Repayment of debts/loans etc.

Cost of working -

Travel to work
Pension contributions
Union/Professional Body Subscriptions

Expenditure on Children

Food
General Clothing
School Uniform etc.
School fees
Lunch money
School books
General school supplies
Extra tuition
Travel to School
Medical /Dental costs
Toys/Games/Sports
Outings
Holidays

Hairdressing
Presents
Pocket money
Child Care

Motor Car -

Insurance
Hire Purchase, etc
Repairs/Serviceing
Gas/Oil

Capital and other assets

(13) Is the house you live in -

- | | | |
|-----|---|--------|
| (a) | owned by you? | YES/NO |
| (b) | owned jointly with.....(name) of
.....(address)? | YES/NO |
| (c) | owned under a statutory lease? | YES/NO |
| (d) | rented? | YES/NO |

If owned:

- | | | |
|-------|--|--------|
| (a) | what do you think the house is worth? | \$ |
| (b) | Is the house mortgaged? | YES/NO |
| (c) | Who is the lender? | |
| (d) | How much is owing on the mortgage? | \$ |
| (e) | Is there any other security (e.g. life insurance policy)?
If so, give details | YES/NO |
| (i) | name of insurance company | |
| (ii) | number of policy | |
| (iii) | with or without profits | |
| (iv) | when due to mature | |
| (v) | estimated value at maturity. | \$ |

(14) Do you own any other property? YES/NO

If so -

- | | | |
|-----|---------------------------------------|------------------------------|
| (a) | in your sole name | |
| (b) | jointly with | [give full name and address] |
| (c) | what do you think the house is worth? | \$ |
| (d) | Is the house mortgaged | YES/NO |

- (e) Who is the lender?
- (f) How much is owing on the mortgage? \$
- (g) Is there any other security (e.g. life insurance policy)? YES/NO
 If so, give details
- (i) name of insurance company
- (ii) number of policy
- (iii) with or without profits
- (iv) when due to mature
- (iv) estimated value at maturity. \$
- (15) Do you own any stocks or shares? YES/NO
 If so give details below or on a separate piece of paper:
- details of stock/share
- date bought
- price paid
- present estimated value.
- (16) Do you have any money invested in -
- Bank
 - Building Society
 - Life Insurance Policy
 - Business
 - Credit Unions
 - Other (if so, give details)
- Bank Account**
- (17) Do you have a Bank Account? YES/NO
- | | (1) | (2) | (3) | (4) |
|------------------------|-----|-----|-----|-----|
| If so - | | | | |
| name of bank | | | | |
| number type of account | | | | |
| account present | | | | |
| balance | | | | |
- Other assets**
- (18) Do you own a car YES/NO
 if so give details -

Registration Number

Make and Model

Value

Outstanding loan.

(19) Do you have any other assets worth more than \$100,000?

If so, give details

(a) Jewellery

(b) Antiques

(c) Paintings

(d) Works of Art

(e) Boat

(f) Computer

(g) Other

**Detail
property
above that is
matrimonial/
cohabitational
property &
when & how
acquired**

Debts

(20) (a) Are you behind with -
Mortgage repayments?

YES/NO

Rent?

YES/NO

How much?

(b) Have any steps been taken to repossess your house?

(c) Do you owe -

(i) debts to financial institution/bank/credit company/credit cards?
if so, give details of -

(1)

(2)

(3)

(4)

amount of debt when
 borrowed for what
 amount outstanding
 repayments \$ per[week][month][year]
 are any repayments in
 arrear?

(ii) personal debts (give details).

Respondent

So far as you know -

(21) Is the respondent to this application working? YES/NO
 If so For whom?
 What is the respondent take home income \$
 per [week][month][year]?

Does the respondent have share in a business? YES/NO

If so, give details

If not working, could the Respondent work? YES/NO

What do you say the Respondent could

- (a) do?
 (b) earn?

Does the Respondent own a house? YES/NO

If so -

- (a) address
 (b) solely? or
 (c) jointly with _____
 (d) what is value
 (e) is it mortgaged
 (f) for how much

Does the Respondent have

- (a) other property
 (b) investments
 (c) life insurance policies
 (d) bank account
 (e) money in building society
 (f) money invested elsewhere
 (g) car
 (h) other valuable assets

If so, give brief details

- (22) **Other matters including other liabilities not otherwise mentioned:**
(set out BRIEFLY any other matters which you think may be relevant to your application for financial relief/division of property)

What orders do you seek?

- (23) Set out as clearly as possible what orders you seek -
- A. for maintenance of yourself;
 - B. for maintenance of the children;
 - C. about the matrimonial home;
 - D. about capital.

SWORN etc

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- (4) Full details of the children are set out in Form 2 (a) filed at the Court under File number xx.xxx OR (b) filed with this application.

Details of my income

- (5) Details of employment
- (a) type of main employment
- (b) name of employer
- (c) address of employer
- (d) if self employed give details of business and of any people with whom you are in partnership.
- (e) gross pay/income \$
per [week][month][year]
- (f) normal take home pay/income \$
per [week][month][year]
- (g) what deductions are made for pension?
- (6) Other income:
- (a) State benefits \$
per [week][month][year]
- (b) voluntary maintenance \$
per [week][month][year]
- (c) maintenance under court order \$
per week][month][year]
Copy order exhibited marked 'A'
- (d) income from investments \$
per [week][month][year]
- (e) rents received \$
per [week][month][year]
- (f) income from other work than main employment \$
per [week][month][year]

Employment

- (7) If not working:
- (a) Are you looking for work?
- (b) Do you expect to look for work within the next two years?
- (c) What sort of work could you do?
- (d) What qualifications have you?
- (e) When did you last work?
- (8) If working-
- (a) how are any children cared for?
- (b) what is the cost of child care?
- (c) are you thinking about changing your job within next year? YES/NO
- (d) are you likely to get promotion within next year? YES/NO

[If answer to (c) or (d) 'yes' - give details]

Health

- (9) Do you suffer from any health problems?
If so give details and state if they affect your employment or ability to get work.

Cohabitation

- (10) Are you living with any person other than the respondent and any children?
- (11) If so give details of any financial support you receive from that person.

Expenditure

- (12) What do you spend on - per [week][month][year]

House -

Mortgage Repayments
Life Insurance Premiums
Building Insurance Premiums
Contents Insurance Premiums
Rent
Land & building taxes
Water and sewerage charges
Electricity
Cooking Gas
Telephone
Repairs and Decoration
Furniture/furnishing replacements

Personal Expenses

Food
Laundry/Cleaning
Medical/Dental/Optical
Clothing/Shoes
Hairdressing
General Housekeeping expenses
Help in house
Gardener/yard help
Entertainment
Holidays and Outings
Presents
Newspapers/Magazines
Other
Repayment of debts/loans etc.

Cost of working

Travel to work
Pension contributions
Union/Professional Body Subscriptions

Expenditure on Children

Food
 General Clothing
 School Uniform etc.
 School fees
 Lunch money
 School books
 General school supplies
 Extra tuition
 Travel to School
 Medical /Dental costs
 Toys/Games/Sports
 Outings
 Holidays
 Hairdressing
 Presents
 Pocket money
 Child Care

Motor Car

Insurance
 Hire Purchase etc
 Repairs/Servicing
 Gas/Oil

Capital and other assets

- (13) Is the house you live in -
- | | | |
|-----|--|--------|
| (a) | owned by you? | YES/NO |
| (b) | owned jointly with.....(name) of
.....(address) | YES/NO |
| (c) | owned under a statutory lease? | YES/NO |
| (d) | rented? | YES/NO |

If owned:

- | | | |
|-------|---|--------|
| (a) | what do you think the house is worth? | \$ |
| (b) | Is the house mortgaged | YES/NO |
| (c) | Who is the lender? | |
| (d) | How much is owing on the mortgage? | \$ |
| (e) | Is there any other security (e.g. life insurance policy)
If so, give details | YES/NO |
| (i) | name of insurance company | |
| (ii) | number of policy | |
| (iii) | with or without profits | |
| (iv) | when due to mature | |
| (iv) | estimated value at maturity. | \$ |
- (14). Do you own any other property? YES/NO

If so -

- (a) in your sole name?
- (b) jointly with _____ [give full name and address]
- (c) what do you think the house is worth? \$
- (d) Is the house mortgaged? YES/NO
- (e) Who is the lender?
- (f) How much is owing on the mortgage? \$
- (g) Is there any other security (e.g. life insurance policy)? YES/NO
If so, give details
- (i) name of insurance company
- (ii) number of policy
- (iii) with or without profits
- (iv) when due to mature
- (iv) estimated value at maturity. \$
- (15) Do you own any stocks or shares? YES/NO
If so give details below or on a separate piece of paper:
details of stock/share
date bought
price paid
present estimated value.
- (16) Do you have any money invested in -
Bank
Building Society
Life Insurance Policy
Business
Credit Unions
Other? (if so, give details)

Bank Account

- (17) Do you have a Bank Account? YES/NO

	(1)	(2)	(3)	(4)
If so -				
name of bank				
account number				
type of account				
present balance				

Other assets

- (18) Do you own a car? YES/NO
If so give details -
Registration Number
Make and Model
Value

Outstanding loan

(19) Do you have any other assets worth more than \$100,000?

If so, give details

- (a) Jewellery
- (b) Antiques
- (c) Paintings
- (d) Works of Art.
- (e) Boat
- (f) Computer
- (g) Other

Detail property above that is matrimonial/cohabitational property and when and how acquired

Debts

(20) (a) Are you behind with -

Mortgage repayments	YES/NO
Rent	YES/NO
How much?	

(b) have any steps been taken to repossess your house?

(c) Do you owe debts to financial institution/bank/credit company/credit cards?

if so, give details of -

	(1)	(2)	(3)	(4)
amount of debt when borrowed				
for what				
amount outstanding				
repayments				
			\$	
			per[week][month][year]	
are any repayments in arrear?				

(d) personal debts
give details.

Applicant

(21) Do you dispute any part of the applicant's evidence? If so set out below by reference to the particular paragraph(s) of the evidence, what you consider to be incorrect, why you think it is wrong and what the true position is so far as you know.

- (22) **Other matters:**
(set out BRIEFLY any other matters which you think may be relevant to your application for financial relief/division of property)

Do you seek any financial orders from the applicant?

- (23) Set out as clearly as possible what orders you seek
- A. for maintenance of yourself
 - B. for maintenance of the children
 - C. about the matrimonial home
 - D. about capital.

SWORN etc

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FORM 9: APPLICATION RELATING TO CHILD(REN)

20

No.

Demerara/Berbice/Essequibo

In the High Court of the Supreme Court of Judicature Family, Divorce and Matrimonial Jurisdiction

Petition/Application No.

Between

A.B.

Petitioner

- v -

C.B.

Respondent

APPLICATION RELATING TO CHILD(REN)

FULL NAMES OF EACH CHILD TO WHOM THIS APPLICATION RELATES:

1. THE APPLICANT

Give your name,
address,
telephone number, and
date of birth

Your attorney's name,
address
telephone number, and
FAX number

2. THE CHILDREN.

State the full names, date of birth or age and your relationship to each child.
State the order that you seek.

3. OTHER CASES AFFECTING THE CHILDREN

State with regard to each child whether there have been any previous proceedings in ANY court.
Give name of court, date, type of proceedings and order made.

Attach copy orders wherever possible

4. RESPONDENTS TO THE APPLICATION

Give the full names, addresses and dates of birth and age of each respondent to the application and state their relationship to each child.

5. CARE OF THE CHILDREN

State with reference to each child:

current address,

how long the child has lived there

whether it is the child's normal address

who cares for the child

whether there are other children there and, if so, the child's relationship to the other children.

6. OTHER ADULTS

State with regard to each child whether there is any adult other than a parent living with the child, whether that adult lives there permanently.

whether the adult has been involved in any court proceedings relating to the child

7. THE ORDERS YOU SEEK.

State briefly the orders that you seek in respect of each child - custody, access or other.

8. YOUR REASONS FOR MAKING THE APPLICATION

Set out briefly your reasons, you may be able to amplify them in writing later.

Signed

Dated

NOTICE OF DIRECTIONS HEARING

Directions will be given relating to this application at the directions hearing on

(date) at

(time)

at

[Directions have already been given at the directions hearing on]

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

**FORM 10: REPLY TO APPLICATION RELATING TO
CHILD(REN)**

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition/Application No.

Between**A.B.**

Petitioner

- v -

C.B.

Respondent

REPLY TO APPLICATION RELATING TO CHILD(REN)**FULL NAMES OF EACH CHILD TO WHOM THIS APPLICATION RELATES:****1. THE RESPONDENT**

Give your name,
address,
telephone number, and
date of birth.

Your attorney's name,
address,
telephone number, and
FAX number

2. THE CHILDREN.

State the full names, date of birth or age and your relationship to each child.

3. OTHER CASES AFFECTING THE CHILDREN

State with regard to each child whether you disagree with or can add to the information given by the Applicant in this section

Attach copy orders wherever possible

4. CARE OF THE CHILDREN

State with regard to each child whether you disagree with or can add to the information given by the Applicant in this section

5. OTHER ADULTS

State with regard to each child whether you disagree with or can add to the information given by the Applicant in s section

6. THE ORDERS YOU SEEK.

State briefly any orders that you seek in respect of each child - custody, access or other.

7. YOUR REASONS FOR OPPOSING THE APPLICATION OR FOR MAKING ANY APPLICATION OF YOUR OWN

Set out briefly your reasons, you may be able to amplify them in writing later.

Signed

Dated

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

FORM 11: APPLICATION**20****No.****Demerara/Berbice/Essequibo****In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction****Petition/Application No.****Between****A.B.****Petitioner****- v -****C.B.****Respondent****NOTICE OF APPLICATION**

The [petitioner][applicant][respondent] applies to the court for an order that -

A draft of the order that I seek is attached.

The grounds of the application are -

I/We hereby certify that the facts stated above are true to the best of my/our knowledge, information and belief.

[I/We hereby certify to the best of my/our knowledge, information and belief that the respondent is in default of complying with the rule(s) of court or the court's order(s). Particulars of specific rule(s) and/or order(s) of court to be stated in the application.]

[An affidavit in support accompanies this application]

FORM 12: NOTICE OF PROCEEDINGS (Co-respondent)

20

No.

Demerara/Berbice/Essequibo

In the High Court of the Supreme Court of Judicature

Family, Divorce and Matrimonial Jurisdiction

Petition/Application No.

Between

A.B.

Petitioner

- v -

C.B.

Respondent

D.B.

Co-Respondent

NOTICE OF PROCEEDINGS (co-respondent)

To the co-respondent

(insert address)

NOTICE OF DIRECTIONS HEARING

There will be a Directions Hearing on _____ day the _____ day of _____
at _____ a.m/p.m. at _____

If you wish to defend the petition it is important that you attend this hearing. You should not otherwise attend.

A petition for divorce [judicial separation] has been presented to the court and a copy is served on you with this notice together with a form of acknowledgment of service;

1. You shall complete the attached form of acknowledgment of service and return it to the Registry whose address is given below and on the petition so that they receive it within TWENTY-ONE days of the day on which you receive these documents.
2. If you wish to defend the petition you **shall** give notice to defend by completing the answer to question 7 in the acknowledgment of service and

return it to the Registry whose address is given below and on the petition so that they receive it within TWENTY-ONE days of the day on which you receive these documents AND file an answer at the Registry so that they receive it within the same TWENTY-ONE days after the day on which you receive these documents.

3. There will be a directions hearing unless the court dispenses with it and notice of the date time and place of that hearing is given above. You should attend that hearing only if you wish to defend the proceedings.
4. If the petition is defended the Judge will give directions about the way in which each party should prepare that party's case for a court hearing.
5. If you propose instructing an attorney you should do so immediately. You should NOT delay returning the acknowledgment of service unless you are certain that you can see your attorney in time for the attorney to return it to the court within TWENTY-ONE days of service of the petition on you.

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FORM 13: WITNESS SUMMONS

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition/Application No.

Between**A.B.**

Petitioner

- v -

C.B.

Respondent

To (Witness' name) **of**

(Witness' address)

You are summoned to attend at the Family Court, High Court of Justice, Georgetown/ Berbice/ Essequibo at _____ a.m./p.m on _____ the day of _____, 20____, the day fixed for the hearing of this matter and from day to day till the end of the hearing of the matter to give evidence [and to bring with you and produce the following documents-

[_____]

Sum to be paid to the witness \$

(SEAL)

DATED

This summons was issued on the application of the [petitioner/ applicant/respondent/ co-respondent/ second respondent] whose attorney is of

Telephone:

Fax:

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FORM 14: NOTICE OF APPLICATION FOR *DECREE NISI* TO BE MADE ABSOLUTE

20

No.

Demerara/Berbice/Essequibo

**In the High Court of the Supreme Court of Judicature
Family, Divorce and Matrimonial Jurisdiction**

Petition/Application No.

Between

A.B.

Petitioner

- v -

C.B.

Respondent

Take notice that the petitioner [or respondent] applies for the decree nisi pronounced in [the petitioner's/respondent's] favour on the day of 19 , to be made absolute.

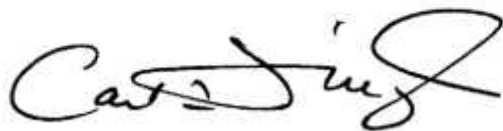
Dated this day of , 20 .

Signed

[Attorney for the Petitioner] [or Respondent]

The Registry is located at The Law Courts, [Georgetown, Demerara/New Amsterdam, Berbice / Suddie Essequibo]. The office is open to the public between 8.00 a.m. and 3.30 p.m. Mondays to Thursdays and 8:00am to 2:30pm on Fridays except on Public Holidays and on such other days as the Registry is closed.

Made by the Rules Committee this 5th day of February 2016



Carl Ashok Singh, OR, CCH
Chancellor of the Judiciary (ag)
and Chairman of the Rules Committee



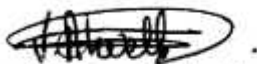
Yvette Cummings-Edwards
Chief Justice (ag)



Roxane George
Puisne Judge



Timothy Munro Jonas
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