

ANTIGUA AND BARBUDA



FAMILY PROCEEDINGS RULES 2022

STATUTORY INSTRUMENT

2022, No. 26

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ANTIGUA AND BARBUDA
FAMILY PROCEEDINGS RULES 2022
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SCHEDULE 2 - FAMILY ENACTMENTS

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ANTIGUA AND BARBUDA
FAMILY PROCEEDINGS RULES, 2022
STATUTORY INSTRUMENT 2022, NO. 26

THE FAMILY PROCEEDINGS RULES 2022 made in exercise of the powers contained in section 17 of the Supreme Court Order 1967 and section 250(3) of the Magistrate's Code of Procedures Act, Cap 255.

1. Citation and Commencement

- (1) These Rules may be cited as the Family Proceedings Rules, 2022.
- (2) These Rules shall come into force on a date fixed by the Chief Justice of the Eastern Caribbean Supreme Court by Order published in the official Gazette and different dates may be fixed for the coming into force of different Parts of these Rules or for different provisions or for application in the Family Division of the High Court or the Family Division of the Magistrate's Court.

PART 1
THE OVERRIDING OBJECTIVE

Contents of this Part

The overriding objective	Rule 1.1
Application by the court of the overriding objective	Rule 1.2
Duty of participants to further overriding objective	Rule 1.3

1.1 The overriding objective

- (1) The overriding objective of these Rules is to enable the court to deal with family matters –
 - (a) justly;
 - (b) in a way which, in proceedings affecting any child of the family, gives first and paramount consideration to the welfare of that child; and
 - (c) in a holistic manner.

- (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;
 - (c) saving expense;
 - (d) dealing with cases in ways which are proportionate –
 - (i) to the complexity of the issues;
 - (ii) to the financial position of each party;
 - (e) ensuring that it is dealt with expeditiously; 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 welfare of any child of the family where any question relating to the maintenance, custody or supervision of, or access to, that child is concerned includes –
 - (a) seeking so far as practicable to encourage the development and improvement of –
 - (i) relationships among parents and others involved in caring for the child and, in particular, communication and cooperation with regard to the parenting of the child;
 - (ii) the relationship between parents and others involved in caring for the child, and the child; and
 - (iii) relationships among the parties and other persons involved in caring for 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 his age and understanding);
 - (ii) his physical, mental, educational, emotional, spiritual, moral and social needs;
 - (iii) his cultural and ethnic background;
 - (iv) the likely effect on him of any change in his circumstances;
 - (v) his age, sex, background and any characteristics of his which the court considers relevant;
 - (vi) any harm which he has suffered or is at risk of suffering; and
 - (vii) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs.

- (4) Dealing with the case in a holistic manner includes taking into consideration all matters affecting the family or household, including-
- (a) the views of social services agencies;
 - (b) existing or potential challenges relating to the physical and learning abilities, mental health, and emotional, psychological and spiritual well-being, of a child of the family; and
 - (c) existing or potential conflicts with the law, and existing or potential social or economic conflicts, affecting the family or household.

1.2 Application by the court of the overriding objective

The court shall seek to give effect to the overriding objective when it –

- (a) exercises any discretion given to it by the Rules; or
- (b) interprets the meaning of any rule.

1.3 Duty of participants to further overriding objective

- (1) It shall be the duty of all persons involved in a family matter to assist the court to further the overriding objective.
- (2) For the purposes of sub-rule (1), “persons involved in a family matter” includes the parties, attorneys-at-law, members of the court staff, social workers, psychologists, psychiatrists, witnesses, guardians and persons who –
 - (a) are before, or are required to be before, the court in any capacity; or
 - (b) have an interest in the proceedings.

PART 2

APPLICATION AND INTERPRETATION OF THE RULES

Contents of this Part

Application of the Rules	Rule 2.1
Definitions	Rule 2.2
Who may exercise the functions of the court	Rule 2.3
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Time - court to state calendar date and time	Rule 2.6
Time - computation	Rule 2.7
Meaning of “month”	Rule 2.8
Documents	Rule 2.9

Certificate of truth

Rule 2.10

2.1 Application of the Rules

- (1) Subject to sub-rule (3), these Rules apply to any family matter commenced in a court on or after the date of the coming into force of these Rules.
- (2) Subject to sub-rule (3), these Rules shall also apply to family matters commenced in the Magistrates' Court or High Court before the date of the coming into force of these Rules –
 - (a) if any party to any 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 court office for a directions hearing under **Part 15**; or
 - (b) if –
 - (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 in either case the court office issues a notice to all parties requiring them to attend a directions hearing.
- (3) These Rules shall apply to a Member State or Territory subject to any enactment in force in that Member State or Territory and where any provision in these Rules is inconsistent with any enactment in force in the territory, then that enactment shall prevail and these Rules shall apply with such modification as may be necessary to bring these Rules into conformity with the enactment.
- (4) A reference to a rule as FPR xx or to rule xx is a reference to the rule so numbered in these Rules.
- (5) A reference to a rule as CPR xx is a reference to a rule so numbered in the Civil Procedures Rules 2000.

2.2 Definitions

In these Rules, unless the context requires otherwise –

“adopted” means adopted pursuant to the Children (Care and Adoption) Act 2015 or any other enactment which was in force in Antigua and Barbuda or in any other manner recognised by law in or outside the relevant Member State or Territory;

“answer” is the means by which a respondent defends a petition, whether or not it includes a counter-petition;

“applicant” means a person who seeks an order by making an application to a court, but does not include a petitioner;

“application” means an application for an order which is made to a court before or during the course of proceedings, but does not include a petition;

“assess”, in relation to costs, means the assessment of costs by the court under **rules 37.4 to 37.7**;

“certificate of marriage” means a certificate of marriage certified by the Registrar General or any other Registrar responsible under any enactment for making such certification or, in the case of any overseas marriage, by the appropriate authority in the country or territory where the marriage took place;

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

“child” means –

- (a) a minor whether born in or out of wedlock and includes a minor adopted in a manner recognized by law;
- (b) a person who is not a minor but whose special circumstances are such that he is unable to reasonably provide for his daily requirements; or
- (c) a person who is not a minor but who is under the age of 25 years and is receiving education at an educational institution or undergoing training for a trade, profession or vocation, whether or not he is employed;

“Child Advocate” means a person appointed as a Child Advocate by or under the Child Justice Act 2015;

“child of the family” in relation to an applicant and a respondent, whether or not they are or were married to each other means –

- (a) a child of both the applicant and the respondent; or
- (b) any other child who has been treated by both of those parties or persons as a child of the family; and,
- (c) where applicable, includes “child of the marriage” as defined in an enactment referred to in Schedule 2;

“counter-petition” means an application by a respondent to a petition, whether or not contained in an answer;

“court office” refers to –

- (a) the place where documents are to be filed in the court, including the registry of the court; and
- (b) members of the court staff who carry out work of a formal or administrative nature under **rule 2.4**;

“CPR” means the Civil Procedure Rules 2000;

“defended petition” means petition proceedings in which a party has filed an answer, with or without a counter-petition;

“disability” means a physical, mental, intellectual or sensory impairment which has a long term adverse effect on the ability of a person to participate fully and effectively in society on an equal basis with other persons;

“domestic relationship” means a relationship between an applicant and a respondent in any of the following ways:

- (a) they are or were married to each other;
- (b) they cohabit or cohabited with each other in a relationship of some permanence;
- (c) they are the parents of a child or are persons who have or had parental responsibility for that child, whether or not at the same time;
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they would be family members related by affinity if the persons referred to in paragraph (b) were married to each other;
- (f) they are or were members of the same household; or
- (g) they share or shared the same dwelling house or place of residence;

“family matter” means any cause, matter or legal proceeding –

- (a) in connection with, arising out of or concerning –
 - (i) any matrimonial or other domestic relationship; or
 - (ii) the maintenance, guardianship, wardship, paternity, custody, adoption or welfare of, or access to, any child,especially those arising under the enactments referred to in **Schedule 2**; or
- (b) arising under the enactment referred to in **Schedule 3**;

“filing”, in relation to a document, means –

- (a) delivering it;
- (b) posting it;

- (c) sending it by facsimile; or
- (d) transmitting it by other electronic means of communication as authorised by the Chief Justice in a practice direction,
to the court office of the court where the matter is proceeding or is intended to proceed;

“guardian ad litem” means a person appointed under **rule 5.13** to take part in proceedings in order to separately represent the interests of a minor;

“household” means two or more individuals, all of whom need not be related, who live in the same dwelling house or place of residence and who are regarded by the court as forming a family unit by reason of the sharing of meals, living expenses, living spaces or other amenities;

“legal practitioner” has the meaning given it by **CPR 2.4**;

“Member State” has the meaning given it by **CPR 2.4**;

“minor” has the meaning given it by **CPR 2.4**;

“next friend” means a person who is authorised or appointed to conduct proceedings on behalf and as the next friend of a minor or patient in accordance with **Part 5**;

“notice of intention to defend” means the notice referred to in **rule 10.2** which is given together with an acknowledgment of service;

“order” means any judgment, order, decision, direction, decree or declaration given by a court and includes a judgment granting a divorce;

“originating application” means a petition or other application in a family matter, other than an application made in pending proceedings, and includes a counter-petition;

“overriding objective” means the objective set out in **rule 1.1**;

“patient” means a person with a disability who is incapable of managing his own affairs;

“petition” is the means by which a party to a marriage seeks –

- (a) a decree nisi, a decree of divorce, or a decree that the other party to the marriage is presumed to be dead and that the marriage is dissolved; or
- (b) where applicable, a grant of divorce or an order declaring that a marriage is void or invalid;

“petition proceedings” means any proceedings which are commenced by means of a petition;

“petitioner” means a party to a marriage who files a petition at the court office;

“practice form” means a form which the Chief Justice designates by practice direction to be a practice form and includes forms prescribed by or under an enactment;

“prescribed fee” means the fee specified in **Schedule 4**;

“production hearing” means a hearing pursuant to **rule 26.18(1)**;

“Registrar” includes Deputy Registrar and Assistant Registrar;

“respondent” –

- (a) in relation to a petition, means the spouse of the petitioner and includes a co-respondent or a second respondent;
- (b) in relation to an application, other than a petition, means the party against whom an order is sought, whether or not such party is named as respondent in the application, and such other person as the court may direct;

“response” is the means by which a respondent defends an originating application, other than a petition;

“social worker” means –

- (a) a qualified person working with the Government Ministry responsible for the care, protection and welfare of children in Antigua and Barbuda and whose responsibilities include investigating reports of domestic violence or child neglect, abuse and exploitation; or
- (b) a psychiatrist, a psychologist or a person with qualifications or experience in social work;

“Territory” has the meaning given it by **CPR 2.4**;

“undefended”, in relation to a proceedings, has the meaning given it by **rule 19.2**; and

“welfare”, in relation to a child, includes access to the child, the custody, education and physical, mental, intellectual, emotional, spiritual, moral and social well-being of the child, and financial provision for the child.

2.3 Who may exercise the functions of the court

- (1) Except where statute, rule or practice direction provide otherwise, the functions of the High Court may be exercised by a Judge or Master and the functions of the Magistrates' Court may be exercised by a Magistrate.
- (2) The Chief Justice or a person designated by the Chief Justice may, by direction, allocate the work of the court among Judges, Masters and, where permitted, Magistrates.

2.4 Court staff

- (1) Where these Rules refer to the court office or require or permit an act of a formal or administrative character, that act may be performed by a member of the court staff authorised by –
 - (a) the Chief Justice; or
 - (b) a person designated by the Chief Justice.
- (2) Where these Rules expressly so provide, any other functions of the court may be carried out by a member of the court staff authorised by –
 - (a) the Chief Justice; or
 - (b) a person designated by the Chief Justice.

2.5 Court's discretion as to where it deals with cases

- (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-at-law.

2.6 Time - court to state calendar date and time

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

2.7 Time – computation

- (1) This rule shows how to calculate any period of time for doing any act which is fixed –
 - (a) by these Rules; or
 - (b) by any practice direction; or

- (c) by 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, the day on which the period begins and the day on which the period ends 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 seven (7) days or less and includes –
 - (a) a Saturday or Sunday; or
 - (b) any other day on which the court office is closed,
 - (c) that day does not count.
- (5) When the period fixed –
 - (a) by these Rules; or
 - (b) by any practice direction; or
 - (c) by any order,for doing any act at court ends on a day on which the court office is closed, it is in time if done before 4 p.m. on the next day on which the court office 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 on –
 - (a) Saturday or Sunday; or
 - (b) any public holiday; or
 - (c) Carnival Monday or Carnival Tuesday,it shall be done before 4 p.m. on the next ordinary business day.

2.8 Meaning of “month”

Where “month” occurs in any order or any other document, it means a calendar month.

2.9 Documents

- (1) So far as is practicable, every document prepared for use in the court shall be on "letter size" paper, approximately 11 inches (28cm) long by 8.5 inches (21.5cm) wide with Margins of 1" (2.5cm) left at top and bottom and of 1.5" (3.5cm) at each side.
- (2) Every document to be filed at the High Court, Family Division shall –

- (a) be headed “In the High Court, Family Division” and with –
 - (i) the title of the proceedings;
 - (ii) a description of the document; and
 - (iii) a statement of the nature of the case; and
 - (b) where a party is acting in person, be endorsed with –
 - (i) the name of the parties;
 - (ii) the address for service of documents;
 - (iii) the telephone and fax numbers, if any; and
 - (iv) the e-mail or other electronic address, if any, of the party filing the document; and
 - (c) where the party is acting through a legal practitioner, be endorsed with –
 - (i) the name of the parties;
 - (ii) the name of the firm, if applicable;
 - (iii) the address for service of documents;
 - (iv) the telephone and fax numbers, if any; and
 - (v) the e-mail or other electronic address, if any, of that legal practitioner.
 - (d) be endorsed with such other information as may be required by rules of practice in Antigua and Barbuda
- (3) Every document to be filed at the Magistrates’ Court shall be in a practice form and shall –
- (a) be headed "In the Magistrates’ Court, Family Division";
 - (b) be endorsed with the name of the party or other person on whose behalf it is filed; and
 - (c) if the party or person on whose behalf the document is filed is acting without a legal practitioner, be endorsed with the name, address and telephone number of the party or other person on whose behalf the document is filed.

2.10 Certificate of truth

- (1) Information required to be verified under these Rules shall be verified by a certificate of truth.
- (2) A certificate of truth shall be signed by the party personally.

- (3) If it is impracticable for the party personally to sign the certificate as required by sub-rule (2), it may be given by that person’s legal practitioner.
- (4) A certificate of truth given by the legal practitioner shall also certify –
 - (a) that the certificate is given on the client’s instructions; and
 - (b) the reasons why it is impractical for the client to give the certificate.
- (5) A certificate of truth given by a party personally shall be in the following form:

“I *[name]* certify that I believe that the facts stated in this *[name document]* are true.”.
- (6) A certificate of truth given by a legal practitioner for a party shall be in the following form:

“I, *[name of the individual legal practitioner giving the certificate]*, certify that-

 - (a) my client, *[name of client]*, believes that the facts stated in this *[name document]* are true; and
 - (b) this certificate is given on the instructions of my client, *[name of client]*.

My client, *[name of client]* cannot give the certificate because *[state reason]*.”

PART 3
FORMS

Contents of this Part

Forms - Chief Justice designates practice forms	Rule 3.1
Forms	Rule 3.2
Documents to be attached to a form	Rule 3.3

3.1 Forms - Chief Justice designates practice forms

The Chief Justice may, by practice direction, give directions for the use of any form, including a form prescribed by or under an enactment, and designate the form to be a practice form.

3.2 Forms

- (1) Where appropriate, practice forms shall be used in the cases to which they apply.

- (2) Any reference to a form followed by a number is a reference to the appropriate practice form.
- (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, he shall send it without variation except the insertion of the title of the case and the court address to which that document is to be returned.
- (6) A form marked with the word 'Seal' shall bear the seal of the court.

3.3 Documents to be attached to a form

A form shall have attached to it any document which is –

- (a) stated in the form to be required or is otherwise required by any enactment, rule or practice direction; and
- (b) referred to in the form, unless the court directs otherwise.

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
Compliance with practice directions	Rule 4.4
Practice guides	Rule 4.5

4.1 Who may issue practice directions

Practice directions may only be issued by the Chief Justice.

4.2 Scope of practice directions

- (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 a practice direction to be issued, the Chief Justice may give directions as to the practice and procedure to be followed in the court

4.3 Publication of practice directions

Practice directions shall be –

- (a) published in the *Gazette*;
- (b) published on the website of the Eastern Caribbean Supreme Court; and
- (c) made available at each court office.

4.4 Compliance with practice directions

- (1) A party shall comply with any relevant practice direction 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 him under Part 17 or Part 36 or both.

4.5 Practice guides

- (1) The Chief Justice 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 17 or Part 36 or both.

PART 5

REPRESENTATION OF MINORS OR PATIENTS

CHAPTER 1

REPRESENTATION OF MINORS

Contents of this Chapter

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Who may be a minor's next friend	Rule 5.4
Conditions for being a minor's next friend without a court order	Rule 5.5
How a person becomes a minor's next friend without a court order	Rule 5.6
How a person becomes a minor's next friend by court order	Rule 5.7
Court's power to change, or to prevent a person acting as, a minor's next friend	Rule 5.8
Appointment of a minor's next friend by court order – Supplementary	Rule 5.9
Cessation of appointment as a minor's next friend	Rule 5.10
Compromise, etc. by or on behalf of a minor	Rule 5.11
Control of money to be paid to or for a minor	Rule 5.12
Separate representation of a minor	Rule 5.13

CHAPTER 2

REPRESENTATION OF PATIENTS

Contents of this Chapter

Scope of this Chapter	Rule 5.14
Requirement of next friend in proceedings by or against patients	Rule 5.15
Stage of proceedings at which a patient's next friend necessary	Rule 5.16
Who may be a patient's next friend	Rule 5.17
Conditions for being a patient's next friend without a Court order	Rule 5.18
How a person becomes a patient's next friend without a Court order	Rule 5.19
How a person becomes a patient's next friend by court order	Rule 5.20
Court's power to change, or to prevent a person acting as, a patient's next friend	Rule 5.21
Appointment of a patient's next friend by court order – Supplementary	Rule 5.22
Cessation of appointment of a patient's next friend	Rule 5.23
Compromise, etc. by or on behalf of a patient	Rule 5.24
Control of money to be paid to or for a patient	Rule 5.25

CHAPTER 1

REPRESENTATION OF MINORS

5.1 Scope of this Chapter

This Chapter –

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

(Rules 6.5 and 6.17 contain provisions about the service of documents on minors.)

5.2 Requirement of next friend in proceedings by or against minors

- (1) A minor shall have a next friend to conduct proceedings on his behalf.
- (2) A Child Advocate shall be the next friend of a minor, 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, a Child Advocate shall be appointed to be the minor's next friend.
- (5) A minor's next friend shall act by a legal practitioner.

5.3 Stage of proceedings at which a minor's next friend necessary

- (1) A minor 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 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 5.7**,

until the minor has a next friend.

- (3) Any step taken before a minor has a next friend shall be of no effect unless the court otherwise orders.

5.4 Who may be a minor's next friend

- (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 5.5(2)** may act as a minor's next friend without a court order appointing him, unless –
 - (a) the court has already appointed a next friend; or
 - (b) the court makes or has made an order under **rule 5.8**.

5.5 Conditions for being a minor's next friend without a court order

- (1) Sub-rule (2) specifies the conditions to be satisfied for the purposes of **rule 5.4(2)**.
- (2) A person may act as a next friend of a minor if he –
 - (a) can fairly and competently conduct proceedings on behalf of the minor; and
 - (b) has no interest adverse to that of the minor.

5.6 How a person becomes a minor's next friend without a court order

- (1) If the court has not appointed a next friend for a minor, a person who wishes to act as next friend for the minor shall follow the procedures set out in this rule.
- (2) A person who wishes to act as next friend for a minor shall –
 - (a) file a certificate that he satisfies the conditions specified in **rule 5.5(2)**; and
 - (b) serve a copy of the certificate on every person on whom, in accordance with **rule 6.5**, the petition or application should have been served.
- (3) A person who is to act as a next friend for a petitioner or an applicant shall –
 - (a) file the authorisation; or
 - (b) file –
 - (i) the certificate under sub-rule (2)(a); and
 - (ii) a certificate stating that the certificate under sub-rule (2)(a) has been served in accordance with sub-rule (2)(b) at the time when the petition or application is issued.

- (4) A person who is to act as a next friend for a respondent shall –
 - (a) file the authorisation; or
 - (b) file –
 - (i) the certificate under sub-rule (2)(a); and
 - (ii) a certificate stating that the certificate under sub-rule (2)(a) has been served in accordance with sub-rule (2)(b) at the time when he first takes a step in the proceedings on behalf of the respondent.

5.7 How a person becomes a minor's next friend by court order

- (1) The court may make an order appointing a next friend for a minor with or without an application.
- (2) An application for an order appointing a next friend for a minor 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; and
 - (b) the minor has no next friend; or
 - (c) either –
 - (i) someone who is not entitled to be a next friend files an answer, counter-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.
- (4) An application for an order appointing a next friend shall be supported by evidence.
- (5) The court shall not appoint a next friend under this rule unless it is satisfied that the person to be appointed complies with the conditions in **rule 5.5(2)**.

5.8 Court's power to change, or to prevent person acting as, a minor's next friend

- (1) The court may –
 - (a) direct that a person shall not act as a next friend for a minor;
 - (b) terminate a next friend's authority to act for a minor; or

- (c) appoint a new next friend for a minor 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 for a minor 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 5.5(2)**.

5.9 Appointment of a minor's next friend by court order - Supplementary

- (1) An application for an order under **rule 5.7** or **5.8** shall be served on every person on whom, in accordance with **rule 6.5**, the petition should have been served.
- (2) An application for an order under **rule 5.8** 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 5.7** or **5.8**, the court may appoint the person proposed or any other person.

5.10 Cessation of appointment as a minor's next friend

- (1) The appointment of a minor's next friend ceases when a minor who is not a patient ceases to be a minor.
- (2) The party in respect of whom a next friend was appointed shall serve notice on the other parties –
 - (a) stating that the appointment of his next friend has ceased;
 - (b) giving his address for service; and
 - (c) stating whether or not he chooses to carry on the proceedings.
- (3) If he 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 him.
- (4) The liability of a minor's next friend for costs continues until –
 - (a) the minor for whom he acted as next friend serves the notice referred to in sub-rule (2); or
 - (b) the next friend serves notice on the other parties that his appointment to act has ceased.

5.11 Compromise etc., by or on behalf of a minor

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

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

- (1) Where in any proceedings money is to be paid to or on behalf of or for the benefit of a minor, 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.

5.13 Separate representation of a minor

- (1) If in any matter the court considers that a minor should be separately represented it may –
 - (a) appoint a person to act as guardian ad litem if he consents; or
 - (b) if he does not, 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.
- (2) A person may act as a guardian ad litem if he –
 - (a) can fairly and competently take part in proceedings on behalf of the minor; and
 - (b) has no interest adverse to that of the minor.
- (3) 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.

CHAPTER 2

REPRESENTATION OF PATIENTS

5.14 Scope of this Chapter

- (1) This Chapter –
 - (a) contains special provisions which apply in proceedings to which patients are parties; and
 - (b) sets out how a person becomes a patient's next friend.

(Rules 6.5 and 6.17 contain provisions about the service of documents on patients.)
- (2) This Chapter does not apply to a patient who is a minor.

5.15 Requirement of next friend in proceedings by or against patients

- (1) A patient shall have a next friend to conduct proceedings on his behalf
- (2) A patient's next friend shall act by a legal practitioner.

5.16 Stage of proceedings at which a patient's next friend necessary

- (1) A patient shall have a next friend in order to issue proceedings.
- (2) A person may not –
 - (a) make any application against a 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 5.20**,until the 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 patient has a next friend shall be of no effect unless the court otherwise orders.

5.17 Who may be a patient's next friend

- (1) A person authorised by any order or document to conduct legal proceedings in the name of the patient or on his behalf, is entitled to be the next friend of the patient in any proceedings to which his authority extends.
- (2) If no one is authorised under sub-rule (1) –
 - (a) the person appointed as Public Trustee or the Solicitor General, if he consents, is to be the next friend of the patient; or
 - (b) a person who satisfies the conditions set out in **rule 5.18(2)** may apply under **rule 5.20** to be a patient's next friend.

5.18 Conditions for being a patient's next friend without a court order

- (1) Sub-rule (2) specifies the conditions to be satisfied for the purposes of **rule 5.17(2)(b)**.
- (2) A person may act as a next friend if he –
 - (a) can fairly and competently conduct proceedings on behalf of the patient; and
 - (b) has no interest adverse to that of the patient.

5.19 How a person becomes a patient's next friend without a court order

- (1) If the court has not appointed a next friend for a patient, a person who wishes to act as the patient's next friend shall follow the procedures set out in this rule.
- (2) A person referred to in **rule 5.17(1)** shall file an official copy of the order or other document which constitutes his authority to act.
- (3) Any other person shall –
 - (a) file a certificate that he satisfies the conditions specified in **rule 5.18(2)**; and
 - (b) serve a copy of the certificate on every person on whom, in accordance with **rule 6.5**, the petition or application should have been served.
- (4) A person who is to act as a next friend for a petitioner or an applicant shall –
 - (a) file the authorisation; or
 - (b) file –
 - (i) the certificate under sub-rule (3)(a); and

- (ii) a certificate stating that the certificate under sub-rule (3)(a) 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 –
 - (a) file the authorisation; or
 - (b) file –
 - (i) the certificate under sub-rule (3)(a); and
 - (ii) a certificate stating that the certificate under sub-rule (3)(a) has been served in accordance with sub-rule (3)(b) at the time when he first takes a step in the proceedings on behalf of the respondent.

5.20 How a person becomes a patient's next friend by court order

- (1) The court may make an order appointing a next friend for a patient with or without an application.
- (2) An application for an order appointing a next friend for a patient 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 patient; and
 - (b) the patient has no next friend; and
 - (c) either –
 - (i) someone who is not entitled to be a next friend files an answer, counter-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 patient.
- (4) An application for an order appointing a next friend for a patient shall be supported by evidence.
- (5) The court shall not appoint a next friend under this rule unless it is satisfied that the person to be appointed complies with the conditions in **rule 5.18(2)**.

5.21 Court's power to change, or to prevent person acting as, a patient's next friend

- (1) The court may –
 - (a) direct that a person shall not act as a next friend for a patient;
 - (b) terminate a next friend's authority to act for a patient; or
 - (c) appoint a new next friend for a patient 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 for a patient 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 5.18(2)**.

5.22 Appointment of a patient's next friend by court order - supplementary

- (1) An application for an order under **rule 5.20** or **5.21** shall be served on every person on whom, in accordance with **rule 6.5**, the petition should have been served.
- (2) An application for an order under **rule 5.21** 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 5.20** or **5.21**, the court may appoint the person proposed or any other person.

5.23 Cessation of appointment as a patient's next friend

- (1) 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.
- (2) An application for an order under sub-rule (1) may be made by –
 - (a) the former patient; or
 - (b) the next friend; or
 - (c) a party.
- (3) 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 his next friend has ceased;

- (b) giving his address for service; and
 - (c) stating whether or not he chooses to carry on the proceedings.
- (4) If the former patient 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 him.
- (5) The liability of a patient's next friend for costs continues until –
- (a) the patient for whom he acted as next friend serves the notice referred to in sub-rule (3); or
 - (b) the next friend serves notice on the other parties that his appointment to act has ceased.

5.24 Compromise etc., by or on behalf of a patient

Where financial relief is claimed by or on behalf of a 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.

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

- (1) Where in any proceedings money is to be paid to or on behalf of or for the benefit of a 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.

PART 6

SERVICE OF DOCUMENTS

CHAPTER 1

SERVICE OF PETITIONS, ANSWERS AND COUNTER-PETITIONS

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CHAPTER 2

SERVICE OF ORIGINATING APPLICATIONS OTHER THAN PETITIONS

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CHAPTER 3

SERVICE OF DOCUMENTS OTHER THAN ORIGINATING APPLICATIONS

Contents of this Chapter

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CHAPTER 1

SERVICE OF PETITIONS, ANSWERS AND COUNTER-PETITIONS

6.1 Scope of this Chapter

This Chapter deals with the service of petitions, answers and counter-petitions.

6.2 Service of petition - normal method

- (1) The general rule is that the petition shall be served personally on each respondent.
- (2) Service shall be effected by –
 - (a) the Provost Marshal or some other person deputed by him; or
 - (b) a Process Server who has no interest in the proceedings.
- (3) Service shall not be effected by the petitioner but the petitioner may be present when service is effected.

6.3 Method of personal service

Personal service shall be effected by delivering to and leaving with the person to be served –

- (a) a copy of the petition which shall be sealed by the court; and
- (b) a copy of any other document to be served with the petition.

6.4 Proof of personal service

- (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; and
 - (b) the precise place or address at which it was served; and
 - (c) precisely how the respondent was identified.
- (2) If the person served was identified by another person, there shall also be filed where practicable an affidavit by that person –
 - (a) proving the identification of the person served; and
 - (b) stating how the maker of the affidavit was able to identify the person served.

- (3) If the server identified the person to be served by means of a photograph or description there shall also be filed an affidavit by a person –
 - (a) verifying the description or photograph as being of the person intended to be served; and
 - (b) stating how the maker of the affidavit is able to verify the description or photograph as being of the person intended to be served.

6.5 Service of petition on minors and patients

- (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 –
 - (a) on one of the minor's parents or guardians or, if there is no parent or guardian, on an adult (other than the petitioner) with whom the minor resides or in whose care the minor is; or
 - (b) on the petitioner in such manner as the court may direct, where there is no parent or guardian or no adult (other than the petitioner) with whom the minor resides or in whose care the minor is.
- (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 any enactment to conduct the proceedings in the name of the patient or on his behalf, a petition shall be served on that person.
- (5) If there is no person so authorised, a petition shall be served on the person with whom the patient resides (other than the respondent) or in whose care the patient is.
- (6) 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).
- (7) An application for an order under sub-rule (6) may be made without notice.

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

- (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.

6.7 Proof of service by specified method

Service is proved by an affidavit of compliance made by the person who served the document showing that the terms of the order have been carried out.

6.8 Translation of petition where party being served does not understand English

- (1) Where there is reason to believe that a respondent does not understand English, every copy of the petition shall be accompanied by a translation of the petition, notice of proceedings and acknowledgment of service forms.
- (2) The translation shall be in a language which the respondent will understand.
- (3) The petitioner shall file evidence to show that the 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) his address; and
 - (c) his qualifications for making a translation.

6.9 Power of court to dispense with service or deem petition to be properly served

- (1) The court may, if it is appropriate to do so –
 - (a) dispense with service of a petition; or
 - (b) deem a petition to have been properly served
- (2) An application for an order to dispense with service or to deem a petition properly served may be made without notice but shall be supported by evidence showing that it is appropriate to make such an order.

6.10 Service of answers and counter-petitions

An answer or counter-petition shall be served –

- (a) if the petitioner has a legal practitioner on record, by delivering it to the address of that legal practitioner; or

- (b) if the petitioner does not have a legal practitioner on record, personally on the petitioner.

CHAPTER 2

SERVICE OF ORIGINATING APPLICATIONS OTHER THAN PETITIONS

6.11 Scope of this Chapter

This Chapter deals with the service of originating applications, other than petitions.

6.12 Service of originating application – normal method

The general rule is that an originating application shall be served personally on each respondent.

6.13 Method of personal service

Personal service of an originating application shall be effected by delivering it to or leaving it with the person to be served, together with a copy of any other document to be served with it.

6.14 Permitted place of service

Except as permitted by **Part 7**, an originating application shall be served at a place within the jurisdiction.

6.15 Proof of personal service

- (1) Personal service of an originating application may be proved by an affidavit sworn by the server stating –
 - (a) the date and time of service;
 - (b) the precise place or address at which it was served;
 - (c) precisely how the person on whom it was served was identified; and
 - (d) precisely how it was served.
- (2) If the person served was identified by another person, there shall also be filed, where practicable, an affidavit by that other person –
 - (a) proving the identification of the person served; and

- (b) stating how the maker of the affidavit was able to identify the person served.
- (3) If the server identified the person to be served by means of a photograph or description there shall also be filed an affidavit by a person –
 - (a) verifying the description or photograph as being of the person intended to be served; and
 - (b) stating how the maker of the affidavit is able to verify the description or photograph as being of the person intended to be served.

6.16 Service on legal practitioner

If a legal practitioner –

- (a) is authorised to accept service of the originating application on behalf of a party; and
 - (b) has notified the applicant in writing that he or she is so authorised,
- the originating application shall be served on that legal practitioner.

6.17 Service on minors and patients

- (1) Sub-rules (2) to (5) specify the persons on whom an originating application shall be served if it would otherwise be served on a minor or patient.
- (2) An originating application which would otherwise be served on a minor who is not also a patient shall be served on –
 - (a) one of the minor's parents or guardians or, if there is no parent or guardian, on an adult (other than the applicant) with whom the minor resides or in whose care the minor is; or
 - (b) the respondent in such manner as the court may direct, where there is no parent or guardian or no adult (other than the respondent) with whom the minor resides or in whose care the minor is.
- (3) A copy of the originating application shall also be served on a respondent or applicant who is a minor but not also a patient.
- (4) If a person is authorised under any enactment to conduct the proceedings in the name of the patient or on the patient's behalf, the originating application shall be served on that person.
- (5) If there is no person so authorised, the originating application shall be served on the person with whom the patient resides (other than the respondent) or in whose care the patient is.

- (6) The court may make an order permitting the application to be served on the minor or patient, or on some person other than the person specified in sub-rules (2) to (5).
- (7) The court may order that, although sub-rules (2) to (5) have not been complied with, the originating application is to be treated as properly served.
- (8) An application for an order under sub-rule (6) or (7) may be made without notice but shall be supported by evidence on affidavit.

6.18 Power of court to make order for service by specified method

- (1) The court may direct that an originating application served 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 on affidavit –
 - (a) specifying the method of service proposed; and
 - (b) showing that that method of service is likely to enable the person to be served to ascertain the contents of the originating application.

6.19 Proof of service by specified method

Service is proved by an affidavit of service made by the person who served the document showing that the terms of the order have been carried.

CHAPTER 3

SERVICE OF DOCUMENTS OTHER THAN ORIGINATING APPLICATIONS

6.20 Scope of this Chapter

This Chapter deals with the service of any document other than an originating application

6.21 Who is to serve documents other than an originating application

- (1) Any order shall be served by the court, unless the court orders otherwise.
- (2) Any document other than an originating application or order that requires service, shall be served by a party, unless the court orders otherwise.

6.22 Method of service

- (1) An order shall be served personally.
- (2) A document, other than an originating application or order may be served by any of the following methods:
 - (a) personal service;
 - (b) prepaid post;
 - (c) delivery by courier;
 - (d) facsimile transmission, email or other means of electronic communication if this is permitted by a relevant practice direction;
 - (e) by leaving it with an adult for the person to whom it is directed at his last known or usual place of residence,
unless the court orders otherwise.
- (3) The court may, on application without notice and supported by an affidavit, order that service be effected by a method other than a method listed in sub-rule (2)(a) to (e).
- (4) Where service is by prepaid post or delivery by courier on a party who –
 - (a) has a legal practitioner on record for him, the documents shall be posted or delivered to the legal practitioner at his address;
 - (b) Is acting in person and has given an address for service, the documents shall be posted or delivered to him at that address.
- (5) Where a party's address for service under sub-rule (4) includes –
 - (a) a number for facsimile transmission, the documents may be transmitted to him at that number; or
 - (b) an email address, the documents may be transmitted to him at that address,
if this is permitted by a relevant practice direction.

6.23 Service of documents on a person not a party

If the court or a party is to serve documents on a person who is not a party, such documents shall be served personally.

6.24 Deemed date of service

- (1) A document which is served within the jurisdiction in accordance with these Rules is deemed to be served on the day shown in the following table:

Method of Service	Deemed Date of Service
Post	Fourteen (14) days after posting.
Leaving document at a permitted address	The day after leaving the document.
Facsimile	(a) If it is transmitted on a business day before 4.00 pm – the day of transmission. (b) In any other case – the business day after the day of transmission.
Any other electronic method of service	The business day after the day of transmission.

Any document served after 4.00 pm on a business day or any time on a day other than a business day is deemed to be served the next business day.

- (2) In this rule, “business day” means any day other than –
- (a) a Saturday, Sunday or public holiday; or
 - (b) a day on which the court office is closed.

PART 7

SERVICE OUT OF THE JURISDICTION

Contents of this Part

Scope of this Part	Rule 7.1
Service out of jurisdiction – petitions	Rule 7.2
Service out of jurisdictions – other originating applications and other documents	Rule 7.3
Translation of document where party being served does not understand English	Rule 7.4

7.1 Scope of this Part

This Part deals with the service of originating applications and other documents out of the jurisdiction.

7.2 Service out of jurisdiction – petitions

- (1) A petition and any other document in family proceedings to be served with the petition may be served on a person out of the jurisdiction by any method approved by a Judge upon an application without notice.
- (2) An order made under sub-rule (1) shall fix a time for giving notice of intention to defend and filing an answer.

7.3 Service out of jurisdiction – other originating applications and other documents

- (1) An originating application and any other document to be served with or without an originating application may be served on a person out of the jurisdiction by any method approved by a Judge upon an application without notice.
- (2) An order made under sub-rule (1) shall fix a time for giving notice of intention to defend and filing an answer.

7.4 Translation of document where party being served does not understand English

- (1) Where there is reason to believe that a party does not understand English, every document served shall be accompanied by a translation of the document.
- (2) The translation shall be in a language which the party being served will understand.
- (3) A party shall file evidence to show that the party being served understands the language into which the document 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) his address; and
 - (c) his qualifications for making a translation.

PART 8

GENERAL RULES ABOUT APPLICATIONS FOR COURT ORDERS OTHER THAN GRANT OF DECREE OF DIVORCE ETC.

Contents of this Part

Scope of this Part	Rule 8.1
Where to make an application	Rule 8.2
Application in writing	Rule 8.3
Notice of application and evidence in support	Rule 8.4
Time when an application is made	Rule 8.5
What an application for a procedural order shall include	Rule 8.6
Contents of notice of application for procedural order	Rule 8.7
Service of notice of application	Rule 8.8
Powers of the court in relation to the conduct of an application	Rule 8.9
Applications which may be dealt with without a hearing	Rule 8.10
Service of application where order made on application made without notice	Rule 8.11
Application to set aside or vary order made on application made without notice	Rule 8.12
Power of the court to proceed in the absence of a party	Rule 8.13

8.1 Scope of this Part

- (1) This Part deals with applications for court orders made before or during the course of proceedings; it does not deal with applications made by petition in accordance with **Part 9**, such as applications for a grant or decree of divorce.
- (2) This Part deals generally with applications for orders affecting children and financial relief orders which are dealt with in more detail by **Parts 11** and **12** respectively.

8.2 Where to make an application

The general rule is that an application should be made to the court office.

8.3 Application in writing

- (1) The general rule is that an application shall be in writing.

- (2) An application may be made orally if –
 - (a) this is permitted by a rule or practice direction; or
 - (b) the court dispenses with the requirement for the application to be made in writing.

8.4 Notice of application and evidence in support

- (1) The general rule is that the applicant shall give notice of the application to each respondent.
- (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.
- (3) Notice of the application shall be included in the form used to make the application.
- (4) Where evidence in support is required it shall be given by affidavit.

8.5 Time when an application is made

Where an application is required to be within a specified period, it is so made if it is received by the court office or made to the court within that period.

8.6 What an application for a procedural order shall include

- (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 that is being sought.

- (4) Either the applicant or the legal practitioner on behalf of the applicant shall certify on the application that he believes any facts stated in the application are true.

8.7 Contents of notice of application for procedural order

- (1) The notice shall state whether there will be a hearing.
(Rule 8.10 sets out the circumstances in which there may not 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.

8.8 Service of notice of application

- (1) Notice of an application shall be served –
 - (a) forthwith 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 6** or **Part 7**.

8.9 Powers of the court in relation to the conduct of an application

- (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; and
 - (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 him and asking him to give 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.

8.10 Applications which may be dealt with without a hearing

- (1) The court may deal with an application without a hearing if –
 - (a) the parties agree that the court should dispose of its 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 respective legal practitioner; 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.

8.11 Service of application where order made on application made without notice

- (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 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, he shall serve copies of the application and evidence on all other parties affected by the order.

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

- (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 7 days after the date on which the order was served on him.
- (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.

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

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 his absence.

PART 9**PETITIONS FOR DIVORCE****Contents of this Part**

How to commence proceedings for divorce	Rule 9.1
Form of petition	Rule 9.2
Contents of petition	Rule 9.3
Parties	Rule 9.4
Marriage certificate to be filed	Rule 9.5
Statement of arrangements for children	Rule 9.6
Service of petition	Rule 9.7

9.1 How to commence proceedings for divorce

- (1) Proceedings for divorce are commenced when the court issues a petition.
- (2) A petition shall be issued by the Registrar of the High Court.
- (3) A petition is issued on the date entered on the form by the court office.
- (4) The petition may be issued if the petitioner presents to the court office –
 - (a) the petition together with sufficient copies for service on all respondents; and

- (b) the statement of arrangements for children (if any) required by **rule 9.6**, together with sufficient copies for service on all respondents; and
- (c) the marriage certificate required by **rule 9.5**, and
- (d) a statement as to reconciliation in the appropriate practice form.

9.2 Form of petition

- (1) The petition shall be in the appropriate practice form.
- (2) The petition shall be verified by affidavit.

9.3 Contents of petition

- (1) The petition shall be in the relevant practice form and contain such information as is appropriate to the type of petition issued.
- (2) The petition shall state the names and addresses of all persons to be served and whether any such person is a minor or a patient.
- (3) The petition shall end with a prayer giving details of the relief sought including —
 - (a) the ground or grounds on which the divorce is sought;
 - (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 3 miles of the court office.
- (5) The petitioner shall sign the petition and verify that the contents are true.

9.4 Parties

- (1) The person who files the petition is referred to as “the petitioner”.
- (2) The spouse of the person who files the petition is referred to in the proceedings based on the petition as “the respondent”.
- (3) Any other named person who is alleged to have committed adultery with the respondent or, in the case of an Answer, with the petitioner is called “the co-respondent”.
- (4) Where the petitioner alleges that the respondent has been guilty of an improper relationship with a named person or of rape upon a person named, the petitioner

shall apply immediately after filing the petition for directions whether that person should be named as a co-respondent.

- (5) An application under sub-rule (4) may be made without notice but shall be supported by evidence on affidavit.

9.5 Marriage certificate to be filed

- (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 on affidavit.

9.6 Statement of arrangements for children

- (1) On filing any petition, the petitioner shall file a statement of the existing and proposed arrangements for each relevant child.
- (2) That statement of arrangement shall be in the appropriate practice form.
- (3) The statement shall be signed by the petitioner and certified as true.
- (4) The statement may also be signed by the respondent spouse if that spouse agrees with the statement.

9.7 Service of petition

- (1) The petition shall be served in accordance with **Part 6** or **Part 7**.
- (2) There shall be served with the petition –
 - (a) the statement of arrangements for the relevant child or children (if any);
 - (b) a blank form of acknowledgment of service; and
 - (c) a notice of proceedings,in the appropriate practice forms.
- (3) The petition shall be served within six (6) months of the date of issue.

PART 10
ACKNOWLEDGMENT OF SERVICE AND NOTICE OF INTENTION TO DEFEND

Contents of this Part

Scope of this Part	Rule 10.1
Acknowledgment of service giving notice of intention to defend	Rule 10.2
Effect of notice of intention to defend	Rule 10.3
Petition based on separation and consent	Rule 10.4
Right of respondent to be heard whether or not notice of intention to defend or answer filed	Rule 10.5
Right of respondent to file statement of arrangement for the children	Rule 10.6

10.1 Scope of this Part

This Part deals with the procedure to be adopted by a respondent on being served with the petition.

10.2 Acknowledgment of service

- (1) The respondent shall within 14 days from the date of service file an acknowledgment of service by completing the form of acknowledgement of service and returning it to the court office.
- (2) A respondent may, if he or she intends to oppose the petition or file a counter-petition, file a notice of intention to defend with the acknowledgment of service.
- (3) The court shall notify the petitioner in writing that an acknowledgment of service has been filed.
- (4) If the respondent does not file an acknowledgement of service within the time specified in sub-rule (1), the petitioner may file an Affidavit of Service of the petition on the respondent and thereafter the court may proceed with the matter.

10.3 Time for giving notice of intention to defend

The time for giving notice of intention to defend is 14 days from the date of service of the petition.

10.4 Effect of notice of intention to defend

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

(Rule 20.3 states the time for filing an answer.)

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

- (1) Whether or not a respondent spouse files a notice of intention to defend or an answer, a respondent who has filed an acknowledgment of service 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.
(Part 12 defines financial relief.)
- (2) Whether or not a respondent or co-respondent files a notice of intention to defend or an answer, he may be heard as to costs but shall 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.

10.6 Right of respondent to file statement of arrangement for the children

- (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 the prescribed form.
- (3) The statement shall be signed by the respondent and shall be certified as true.

PART 11

APPLICATIONS RELATING TO CHILDREN

Contents of this Part

Scope of this Part	Rule 11.1
How to make an application relating to a child	Rule 11.2
Injunction or order to restrain any person from removing a Child from the jurisdiction etc.	Rule 11.3
Order to restrain a person from leaving the jurisdiction to avoid maintenance payments	Rule 11.4
Where to make an application	Rule 11.5
Other proceedings	Rule 11.6
Directions hearing	Rule 11.7
Service of application	Rule 11.8
Response to application	Rule 11.9
Service of evidence	Rule 11.10
Appointment of social worker	Rule 11.11
Evidence of social worker	Rule 11.12
Application by social worker for discharge or variation of supervision order	Rule 11.13
Court may utilise services of other persons	Rule 11.14
Mediator may not be compelled to give evidence or to report	Rule 11.15

11.1 Scope of this Part

This Part deals with applications by any person relating to the welfare of any child (including any application for a paternity order) other than applications dealing solely with financial relief for a child, or wardship applications, whether or not –

- (a) the child is a child of the family; or
- (b) petition proceedings are pending.

(Part 12 deals with applications for financial relief. Part 34 deals with wardship applications.)

11.2 How to make an application relating to a child

- (1) An applicant may apply by filing an application in the appropriate practice form.
- (2) An application shall be supported by evidence.

11.3 Injunction or order to restrain any person from removing a child from the jurisdiction etc

- (1) An application for an injunction or order to restrain any person from removing a child from the jurisdiction or out of the custody, care and control of any person named in the application may be made without notice.
- (2) The application shall be supported by –
 - (a) evidence on affidavit; and
 - (b) a sworn statement which shall state reasons for no notice having been given.
- (3) Where the court makes an order without notice, the applicant shall serve a copy of the order (together with notice of the returnable date, where applicable) on the other parties as soon as practicable after the order is made, unless the court directs otherwise.
- (4) Where the court refuses to make an order on an application without notice, the court may direct that the application be made on notice or that notice of the application be served on the parties before the hearing.

11.4 Order to restrain a person from leaving the jurisdiction to avoid maintenance payments

- (1) An application for an order to restrain a person from leaving the jurisdiction to avoid maintenance payments may be made without notice.
- (2) The application shall be supported by –
 - (a) evidence on affidavit; and
 - (b) an affidavit stating reasons for no notice having been given.
- (3) Where the court makes an order without notice, the applicant shall serve a copy of the order (together with notice of the returnable date, where applicable) on the other parties as soon as practicable after the order is made, unless the court directs otherwise.
- (4) Where the court refuses to make an order on an application without notice, the court may direct that the application be made on notice or that notice of the application be served on the parties before the hearing.

11.5 Where to make an application

The application shall be filed in the court office.

11.6 Other proceedings

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 notify the court of those proceedings by filing a statement of the nature of those proceedings.

11.7 Directions hearing

- (1) The general rule is that the court office shall fix a directions hearing in accordance with **Part 15** and notice of the date, time and place of that hearing shall be endorsed on the application.
- (2) If directions have already been given relating to the application, no further directions hearing need be fixed.

11.8 Service of application

An application made under this Part shall be served in accordance with **Part 6** or **Part 7**.

11.9 Response to application

The respondent may file a response to the application in the appropriate practice form.

11.10 Service of evidence

- (1) Any party shall, immediately upon filing evidence, cause a copy of that evidence to be served on all other parties.
- (2) Where required by any enactment or the court so directs, any evidence which contains an allegation of adultery or an improper association with a named person shall be served on that person together with a notice of the proceedings in the appropriate practice form.
- (3) Any person served with a notice under sub-rule (2) may apply to intervene in the proceedings.

11.11 Appointment of social worker

- (1) At any directions hearing, the court may consider whether a social worker 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 social worker on any matter relating to the welfare of any child.
- (3) Any report by the social worker shall be addressed to the court and filed at the court office.

- (4) Upon the report being filed, the court office shall refer the report to the Magistrate or Judge.
- (5) If the Magistrate or Judge so directs, the court office shall send a copy of the report to all parties.
- (6) 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 respective attorneys at law and that disclosure to any other person without the permission of the court amounts to contempt of court.
- (7) The social worker shall be given notice of any hearing of any proceedings with regard to which he has reported to the court.
- (8) The court office shall also send to the social worker a copy of –
 - (a) any application or evidence filed; and
 - (b) any order made by the court,in those proceedings.

11.12 Evidence of social worker

- (1) Unless the court directs otherwise, the social worker shall attend court on the date that the report is being considered.
- (2) The court may take into account the contents of the report by the social worker without the social worker being sworn or giving oral evidence.
- (3) The court may direct that the social worker give evidence.
- (4) A direction under sub-rule (3) may be made on or without an application by a party.
- (5) Where the social worker is directed to give oral evidence the social worker shall be sworn and may be cross-examined by any party.

11.13 Application by social worker for discharge or variation of supervision order

- (1) A social worker may apply to the court for the discharge or variation of a supervision order 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 social worker and any guardian ad litem.

11.14 Court may utilize services of other persons

Where the court considers that it is appropriate to obtain the services of a social worker, the court may nonetheless utilise the services of any person whose qualifications are similar to those of a social worker and who is –

- (a) either –
 - (i) a public officer; or
 - (ii) employed on contract by the Crown or the State; or
- (b) With the consent of the parties and the court, a private medical practitioner, psychiatrist, psychologist, mediator, counsellor or other professional paid by the parties.

11.15 Mediator not compelled to give evidence or to report

Notwithstanding **rule 11.14**, where the court utilises the services of a mediator, the court shall not compel the 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 an agreement.

PART 12**APPLICATIONS FOR FINANCIAL RELIEF****Contents of this Part**

Scope of this Part	Rule 12.1
How to make an application	Rule 12.2
Evidence in support of application - general	Rule 12.3
Where to make an application	Rule 12.4
Directions hearing	Rule 12.5
Service of application	Rule 12.6
Proceedings against estate of dead spouse or former spouse	Rule 12.7
Evidence in answer - general	Rule 12.8
Evidence in answer - special requirements	Rule 12.9
Further evidence	Rule 12.10
Service of evidence	Rule 12.11
Application to approve agreement relating to financial relief	Rule 12.12
Corresponding order	Rule 12.13

12.1 Scope of this Part

- (1) This Part deals with applications by a husband or wife for financial relief for himself or herself or by a parent or any other person by or on behalf of a child for financial relief for that child whether or not there are petition proceedings pending.
- (2) In this Part, “an application for financial relief” means any application for financial provision of any nature for a spouse, a child or both a spouse and a child, and includes but is not limited to an application for one or more of the following under the relevant enactment –
 - (a) periodic sums;
 - (b) lump sum;
 - (c) a variation, rescission or suspension of support order;
 - (d) an application to vary, discharge, suspend or revive an order for maintenance of a spouse or child;
 - (e) a variation of a maintenance agreement; or
 - (f) an order for maintenance from a deceased's estate or for the discharge of such an order;
- (3) This Part may also be used for making an application for property under the Married Women’s Property Act.

12.2 How to make an application

An application for financial relief or relief under the Married Women’s Property Act shall be made by filing an application in the appropriate practice form or in the manner prescribed under the relevant enactment.

12.3 Evidence in support of application – general

- (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) Where practicable the affidavit shall be in the appropriate practice form.
- (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.

12.4 Where to make an application

The application shall be filed in the court office.

12.5 Directions hearing

- (1) The general rule is that the court office shall fix a directions hearing in accordance with **Part 15** 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.

12.6 Service of application

- (1) If petition proceedings are pending or there are other proceedings for financial relief, the application may be served in accordance with **Part 6** or **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** or **Part 7**.
- (3) In addition, a copy of the application and of any evidence in support shall be served by the applicant –
 - (a) in the case of an application –
 - (i) to vary a maintenance agreement after the death of a spouse or former spouse;
 - (ii) for maintenance out of the estate of a spouse or former spouse, on the personal representatives of the spouse or former spouse; and
 - (b) in any other case, on any person whom the court may direct.
- (4) In the case of an application for an order for the vesting of the tenancy of a matrimonial home under any relevant enactment, a notice in the appropriate practice form shall be served on the landlord of the dwelling house.

12.7 Proceedings against estate of dead spouse or former spouse

- (1) Where in any proceedings it appears that a deceased person was a respondent in the proceedings, then, if the deceased respondent has no personal representatives, the court may make an order appointing someone to represent his estate for the purpose of the proceedings.
- (2) A person may be appointed as a representative if he –

- (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 with or without an application.
- (4) Until the court has appointed someone to represent the respondent'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 dead respondent's estate.

12.8 Evidence in answer – general

- (1) Within 28 days of service of the application on the respondent, the respondent shall file a response in the appropriate practice form indicating –
 - (a) agreement in whole to the terms of the order; or
 - (b) agreement in part and the respondent's position in response to the application for financial relief,and if any other relief is being sought by the respondent.
- (2) Any other person who has been served with a copy of the application under rule 12.6 may file evidence by affidavit within 28 days of service of the application upon him.

12.9 Evidence in answer - special requirements

A respondent to an application –

- (a) for the alteration of a maintenance agreement after the death of one of the parties; or
- (b) for an order for maintenance from a deceased's estate,

who is a personal representative of the deceased shall state –

- (i) the capital, income, assets and liabilities of the surviving spouse or former spouse so far as they are known to the applicant;
- (ii) full particulars of the value of the deceased's estate;
- (iii) the person or classes of persons beneficially interested in the estate, their addresses and the value of their interests so far as ascertained;

- (iv) whether any beneficiary is a minor or patient and, if so, state the name of the beneficiary; and
- (v) any other facts relevant to the application.

12.10 Further evidence

No further evidence may be filed without permission before the directions hearing, except with the written consent of any other party.

12.11 Service of evidence

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

12.12 Application to approve agreement relating to financial relief

- (1) This rule applies where the parties are agreed in whole on the terms of an order for financial relief.
- (2) No such agreement for an order for financial relief 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 legal practitioner 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 the appropriate practice form 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) 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; or
 - (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 divorce, decree nisi or a decree of judicial separation.

12.13 Corresponding order

- (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 court office 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 court office shall fix a directions hearing.

PART 13

JOINT APPLICATIONS

Contents of this Part

Scope of this Part	Rule 13.1
Right to make application which includes two or more claims	Rule 13.2
Application not to fail by adding or failing to add parties	Rule 13.3

13.1 Scope of this Part

This Part deals with joint applications.

13.2 Right to make application which includes two or more claims

An applicant may use a single practice form to include in a single application all or any other claims which can be conveniently disposed of in the same proceedings.

13.3 Application not to fail by adding or failing to add parties

- (1) The general rule is that an application will not fail because a person –
 - (a) who should have been made a party was not made a party to the proceedings; or
 - (b) was added as a party to the proceedings who should not have been added.
- (2) However –
 - (a) where an applicant claims a remedy to which some other person is jointly entitled, all persons jointly entitled to the remedy shall be parties to the proceedings, unless the court orders otherwise; and
 - (b) if any such person does not agree to be an applicant, that person shall be made a respondent, unless the court orders otherwise.

PART 14

INTERIM REMEDIES

Contents of this Part

Scope of this Part	Rule 14.1
Orders for interim remedies	Rule 14.2
Time when an order for interim remedy may be made	Rule 14.3
How to apply for interim remedy	Rule 14.4
Interim injunction to cease if application is stayed	Rule 14.5

14.1 Scope of this Part

This Part does not apply to proceedings in a Magistrates' Court.

14.2 Orders for interim remedies

- (1) The court may grant the following interim remedies:
 - (a) an interim injunction;
 - (b) an interim declaration;
 - (c) an order for –
 - (i) the detention, custody or preservation of relevant property;
 - (ii) the inspection of relevant property;
 - (iii) the taking of a sample of relevant property;
 - (iv) the carrying out of an experiment on or with relevant property;
 - (v) the sale of relevant property which is of a perishable nature or which for any other good reason it is desirable to sell quickly; and
 - (vi) the payment of income from relevant property until an application is decided;
 - (d) an order authorising a person to enter any land or building in the possession of a party to the proceedings for the purposes of carrying out an order under paragraph (c);
 - (e) an order to deliver up goods;
 - (f) an order (referred to as a “freezing injunction”) restraining a party from –
 - (i) removing from the jurisdiction assets located there;
 - (ii) dealing with any assets whether located within the jurisdiction or not;

- (g) an order directing a party to provide information about the location of relevant property or assets or to provide information about relevant property or assets which are or may be the subject of an application for a freezing injunction;
 - (h) an order (referred to as a “search order”) requiring a party to admit another party to premises for the purpose of preserving evidence, etc.;
 - (i) an order for a specified fund to be paid into court or otherwise secured, where there is a dispute over a party’s right to the fund;
 - (j) an order permitting a party seeking to recover personal property to pay a specified sum of money into court pending the outcome of the proceedings and directing that, if the party does so, the property shall be given up to the party;
 - (k) an order directing a party to prepare and file accounts relating to the dispute;
 - (l) an order directing an account to be taken or inquiry to be made by the court.
- (2) In sub-rule (1)(c) and (g), “**relevant property**” means property which is the subject of an application or in relation to which any question may arise on an application.
- (3) The fact that a particular type of interim remedy is not listed in sub-rule (1) does not affect any power that the court may have to grant that remedy.

14.3 Time when an order for interim remedy may be made

- (1) Subject to sub-rules (2) and (3), an order for an interim remedy may be made at any time, including –
- (a) before proceedings are started; and
 - (b) after judgment has been given.
- (2) Sub-rule (1) is subject to any enactment, rule or practice direction which provides otherwise.
- (3) The court may grant an interim remedy before an application has been started only if –
- (a) the matter is urgent; or
 - (b) it is otherwise necessary to do so in the interests of justice.
- (4) If the court may grants an interim remedy before an application has been started, it shall give directions requiring an application to be started.

14.4 How to apply for interim remedy

- (1) The court may grant an interim remedy on an application made without notice if it appears to the court that there are good reasons for not giving notice.
- (2) An application for an interim remedy shall be supported by evidence unless the court orders otherwise.
- (3) If the applicant makes an application without giving notice, the evidence in support of the application shall state the reasons why notice has not been given.

14.5 Interim injunction to cease if application is stayed

If –

(a) the court has granted an interim injunction other than a freezing injunction;
and

(b) the application is stayed other than by agreement between the parties,
the interim injunction will be set aside unless the court orders that it should continue to have effect even though the application is stayed.

PART 15

DIRECTIONS HEARING

Contents of this Part

Scope of this Part	Rule 15.1
How a directions hearing is fixed	Rule 15.2
When directions hearing is to take place	Rule 15.3
Service of notice of directions hearing	Rule 15.4

15.1 Scope of this Part

This Part deals with the procedures whereby the court can give directions in relation to –

- (a) an originating application;
- (b) any application relating to a child of the family; or
- (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.

15.2 How a directions hearing is fixed

Upon the filing of –

- (a) an originating application;
- (b) any application relating to any child of the family;
- (c) any application for financial relief; or
- (d) any other application relating to a family matter,

the court office 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.

15.3 When directions hearing is to take place

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

15.4 Service of notice of directions hearing

The notice of the directions hearing shall be served with the petition or application to which it relates.

PART 16**DIRECTIONS HEARING - THE OBJECTIVES****Contents of this Part**

Court's duty to manage cases

Rule 16.1

16.1 Court's duty to manage cases

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 any appropriate form of dispute resolution including, in particular, mediation, if the court considers it appropriate and facilitating the 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, without requiring the parties to attend court, where it appears appropriate to do so;
- (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.

(The overriding objective is set out in Part 1.)

PART 17
CASE MANAGEMENT – THE COURT'S POWERS

Contents of this Part

Court's general powers of management	Rule 17.1
Sanctions	Rule 17.2
Court's general power to strike out petition, application, etc.	Rule 17.3
Setting aside order for striking out, etc.	Rule 17.4
Court's powers in cases of non-compliance with rules or orders	Rule 17.5
Relief from sanctions	Rule 17.6
General power of court to rectify matters where there has been an error of procedure	Rule 17.7

17.1 Court's general powers of management

- (1) The court may –
- (a) transfer the whole or any part of any proceedings from one court office to another;
 - (b) consolidate proceedings;
 - (c) extend or shorten the time for compliance with any rule, practice direction, order or direction of the court, even if the application for an extension is made after the time for compliance has passed;
 - (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 an originating application, counter-petition, answer or application after a decision on a preliminary issue;
 - (j) require the maker of an affidavit to attend for cross examination;
 - (k) deal with a matter without the attendance of any parties;
 - (l) hold a hearing by telephone, video conference or use any other method of direct communication;

- (m) instead of holding an oral hearing deal with a matter on written representations submitted by the parties;
 - (n) exclude an issue from consideration;
 - (o) dismiss or give a decision on an application after a decision on a preliminary issue;
 - (p) direct that notice of any application be given to any person; and
 - (q) 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) a condition requiring a party to give security;
 - (b) a condition requiring the payment of money into court or as the court may direct;
 - (c) a condition requiring a party to pay all or part of the costs of the proceedings; and
 - (d) a condition that a party shall permit entry to property owned or occupied by him to another party or someone acting on behalf of another party.
- (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)(k), (l) or (m), 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.

17.2 Sanctions

The court may –

- (a) strike out an originating application, counter-petition, answer or application 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 originating application or application is an abuse of the process of the court; or
 - (iii) that the originating application, an answer or an application to be struck out discloses no grounds for bringing or defending the petition or application;

- (b) make a wasted costs order;
- (c) assess costs and order them to be paid immediately or within a specified time.

17.3 Court's general power to strike out petition, application, etc.

- (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 his petition, application etc., will be struck out.
- (3) Such an application 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) verifies that the other party is in default.
- (4) The court office shall refer any such application immediately to a Magistrate, Master or Judge who may –
 - (a) grant the application upon an indication from the respondent that the application is unopposed; or
 - (b) direct that an appointment be fixed to consider the application and that the court office 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, his petition, answer, counter-petition or application is struck out or, if he be the respondent to an application, he is debarred from defending it.
- (7) **Rules 17.6 and 17.7** do not apply.

17.4 Setting aside order for striking out, etc.

- (1) Where the court has ordered that a party's originating application, answer, counter-petition or application be struck out or that he be debarred from defending an application, that party may, within 7 days from the making of the order, apply to the court to set the order aside.

- (2) **Rule 17.6** applies to such an application.

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

- (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 17.7** does not apply.

17.6 Relief from sanctions

- (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 whether –
 - (a) the breach of the rule was intentional;
 - (b) there is a good explanation for the breach;
 - (c) the party in default has generally complied with all other relevant rules and orders;
 - (d) the breach was due to the party or his legal practitioner;
 - (e) the breach has been or can be remedied within a reasonable time; and
 - (f) the hearing date can still be met if relief is granted.
- (4) Where the relief is sought in an application relating to a child the court shall give priority to the welfare 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.

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

- (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 18

DIRECTIONS HEARING – PROCEDURE

Contents of this Part

Scope of this Part	Rule 18.1
Attendance at directions hearing	Rule 18.2
Dispensing with attendance at directions hearing	Rule 18.3
Purpose of directions hearing	Rule 18.4
Settlement and mediation	Rule 18.5
Arrangements for the relevant children	Rule 18.6
Timetable	Rule 18.7
Adjournment of directions hearing	Rule 18.8
Variation of case management timetable	Rule 18.9
Listing questionnaire	Rule 18.10
Fixing hearing date	Rule 18.11

18.1 Scope of this Part

- (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.

18.2 Attendance at directions hearing

- (1) If a party is represented by a legal practitioner, a legal practitioner who has conduct of the matter or a legal practitioner who is fully authorised and competent to deal with the matter shall attend the directions hearing.

- (2) The general rule is that each party shall attend the directions hearing.
- (3) If the directions hearing is not attended by the legal practitioner and the party, the court may adjourn the directions hearing to a fixed date and may exercise any of its powers under **Part 17**.
- (4) A directions hearing is to be in chambers.

18.3 Dispensing with attendance at directions hearing

The court may dispense with a directions hearing if it is satisfied that –

- (a) the original application or counter-petition is undefended; and
- (b) there are no children of the family; and
- (c) either –
 - (i) all financial issues have been agreed between the parties; or
 - (ii) there is not, and is not likely to be, any claim for financial relief;and
- (d) in the case of petition proceedings, there is sufficient evidence of service of the petition on the respondent, co-respondent or second respondent.

18.4 Purpose of directions hearing

- (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 an application has been made for a particular issue to be decided by the court.
- (3) The court may give directions on –
 - (a) the original application or counter-petition;
 - (b) the arrangements for the children;
 - (c) any application or anticipated application relating to any child; and
 - (d) any application or anticipated application for financial relief.

(The procedures for dealing with the following matters are dealt with in the following Parts:

Custody or access to children
Financial Relief
Undefended divorce

Part 11
Part 12
Part 19

18.5 Settlement and mediation

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.

18.6 Arrangements for the relevant children

The court shall whenever practicable consider the existing and proposed arrangements for the relevant children and –

- (a) certify that it is satisfied with the arrangements; or
- (b) fix a directions date and give when further consideration may be given.

18.7 Timetable

- (1) The court shall fix a timetable which deals with –
 - (a) 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) 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 court office 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 legal issues;

- (vii) 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.

18.8 Adjournment of directions hearing

- (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; or
 - (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 court office promptly if the matter has been settled.

18.9 Variation of case management timetable

- (1) A party shall apply to the court if he 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 he shall apply to the court no later than the date which the court has fixed (i.e. the date which he is seeking to vary).
- (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 he has become subject under these Rules or any court order.

(Rule 17.6 provides for applications for relief from sanctions.)

- (4) The parties may agree to vary a date in the timetable other than a date 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 shall be varied accordingly unless the court directs otherwise.

18.10 Listing questionnaire

- (1) The court office shall send each party a listing questionnaire on the date stated in the directions for the preparation of the case.
- (2) Each party shall file the completed listing questionnaire at the court office 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 court office 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 court office 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) A listing appointment may be before a Judge, a Magistrate or the Registrar.
- (7) 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 unless there is a special reason why it should not make such an order.
- (8) Apart from the requirement to complete a listing questionnaire, the court may at any time make further enquiries of the parties to assist it in the management of the case.

18.11 Fixing hearing date

- (1) As soon as practicable after –
 - (a) each party has returned a completed listing questionnaire to the court office; or
 - (b) the court has held a listing appointment under **rule 18.10(3)**,
the court office 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 court office shall give the parties at least 21 days' notice of the date of the hearing.
- (3) The court office may however give shorter notice –
 - (a) if the parties agree;
 - (b) in urgent cases; or
 - (c) if the court directs.

PART 19
UNDEFENDED PROCEEDINGS FOR DIVORCE - PROCEDURE

Contents of this Part

Scope of this Part	Rule 19.1
Undefended proceedings	Rule 19.2
Amendments to petition and supplemental petition	Rule 19.3
Grant of divorce or decree nisi	Rule 19.4
Proof of service of petition or counter-petition	Rule 19.5

19.1 Scope of this Part

This Part applies to undefended proceedings for divorce.

19.2 Undefended proceedings

Proceedings are undefended if –

- (a) the respondent has not given notice of intention to defend within the time prescribed by **rule 10.3**;
- (b) no answer has been filed or the answer or counter-petition has been struck out or discontinued; or
- (c) they proceed only on the counter-petition and no reply has been filed or any reply filed has been struck out or discontinued.

19.3 Amendments to petition and supplemental petitions

- (1) When proceedings are undefended a petitioner may amend his or her petition or file a supplemental petition without permission.
- (2) The petitioner shall file the amended or supplemental petition together with sufficient copies for service (where required) on the other parties.
- (3) The petitioner shall sign the amended petition.
- (4) An amended petition or a supplemental petition shall be filed at the court office and served on the other parties.
- (5) The provisions of sub-rule (1) to (4) apply to an amended or supplemental counter-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.

19.4 Grant of divorce or decree nisi

- (1) If it appears that –
- (a) the petition or counter-petition has been served on all parties named in the petition or counter-petition;
 - (b) the proceedings are undefended; and
 - (c) in the case of a divorce, the petitioner has established one of the facts required for the grant of the divorce; and
 - (d) where applicable, it appears that satisfactory arrangements have been made for the child of the family,
- the general rule is that the court should pronounce the grant of divorce, or decree nisi at the directions hearing.
- (2) The court may however as it thinks fit, adjourn the pronouncement of the granting of divorce or decree nisi to a fixed date.

19.5 Proof of service of petition or counter-petition

- (1) Evidence of service of a petition may be given –
- (a) by filing an affidavit of service sworn by the server of the petition and any supporting evidence in accordance with **rule 6.4**;
 - (b) by filing the respondent’s acknowledgement of service;
 - (c) by filing an affidavit showing that service has been effected in accordance with any order made under **rule 6.7**.
- (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 7.2**.
- (3) Service of a counter-petition may be proved –
- (a) by any of the methods set out under sub-rule (1); or
 - (b) by proving that the counter-petition, acknowledgment of service and notice of proceedings have been sent or delivered to the petitioner at any address given by him for service.

PART 20

PROCEDURE

Contents of this Part

Scope of this Part	Rule 20.1
Answer	Rule 20.2
Time for filing an answer	Rule 20.3
Respondent's duty to set out his case	Rule 20.4
Consequences of not setting out detailed defence	Rule 20.5
Counter-petition	Rule 20.6
Additional matters which shall be included in the answer	Rule 20.7
Answer to counter-petition	Rule 20.8
Service of answer, etc.	Rule 20.9
Reply to answer	Rule 20.10
Amendments etc., to answer and reply	Rule 20.11
Directions for trial	Rule 20.12
Fixing date for trial	Rule 20.13

20.1 Scope of this Part

This Part deals with the procedure for defended petitions or answers where grants of divorce, are sought.

20.2 Answer

A respondent who wishes –

- (a) to defend a petition;
- (b) to counter-petition; or
- (c) to oppose the grant of a divorce,

shall file an answer in the appropriate practice form.

20.3 Time for filing an answer

Unless otherwise provided by an enactment in force in Antigua and Barbuda, a respondent has 28 days from the date of service of the petition on him or her to file an answer.

20.4 Respondent's duty to set out his case

- (1) The respondent shall include in his answer a short statement of all the facts on which he relies to dispute the petition.
- (2) In his answer the respondent shall say –
 - (a) which (if any) allegations in the petition he admits;
 - (b) which (if any) allegations in the petition he denies; and
 - (c) which (if any) allegations in the petition he neither admits nor denies, because he does not know whether they are true, but which he wishes the petitioner to prove.
- (3) Where the respondent denies any of the allegations in the petition –
 - (a) he shall give his reasons for doing so; and
 - (b) if he intends to prove a different version of events from that given by the petitioner, he shall give his own version.
- (4) 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,he shall state each of his reasons for resisting the allegation.

20.5 Consequences of not setting out detailed defence

- (1) The respondent may not rely on any allegation or factual argument which he did not mention in his answer, but which he should have mentioned there, unless the court gives permission or the parties agree.
- (2) The court may give the respondent such permission after the directions hearing unless the respondent can satisfy the court that there has been a significant change in circumstances since the date of the directions hearing.

20.6 Counter-petition

- (1) An answer which contains a prayer for divorce, (“a counter-petition”) shall also comply with **rules 9.2(1), 9.3, 9.4(4), 9.6 and 9.7** as if references to a “petition” in those rules were references to a “counter-petition” and references to “petitioner” were references to “respondent”.

- (2) A counter-petition shall be headed immediately below the title of the proceedings “Answer and Counter-petition”.

20.7 Additional matters which shall be included in the answer

The respondent shall include in the answer or counter-petition an address to which documents may be sent, unless he has filed an acknowledgment of service which includes such an address.

20.8 Answer to counter-petition

- (1) Where the respondent serves a counter-petition seeking a grant of divorce, the petitioner may file an answer to the counter-petition within 14 days of the service of the answer on him.
- (2) When the petitioner files an answer to the counter-petition, he shall also serve a copy on the other party or parties.
- (3) **Rules 20.4 and 20.5** apply to an answer to a counter-petition as if in those rules —
 - (a) the word “counter-petition” appeared instead of “petition”;
 - (b) the word “respondent” appeared instead of “petitioner”; and
 - (c) The word “petitioner” appeared instead of “respondent”.

20.9 Service of answer, etc.

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

20.10 Reply to answer

- (1) No reply to answer shall be filed by a petitioner without leave of court.
- (2) Leave to reply to an answer shall only be given at a directions hearing.

20.11 Amendments etc., to answer and reply

- (1) While petition proceedings are being defended, a respondent may not, after the directions hearing under **Part 18**, amend an answer or cross-petition nor file a supplemental answer or counter-petition, and a petitioner may not, after the directions hearing under **Part 18** amend a petition, an answer to a counter-petition or a reply nor file a supplemental petition without the permission of the court.
- (2) A party shall file the amended or supplemental petition, answer, counter-petition or reply together with sufficient copies for service on the other parties.
- (3) The respondent shall sign an amended counter-petition and verify by affidavit that the contents are true.
- (4) On giving permission to amend an answer or counter-petition or reply or file a supplemental counter-petition the court shall give directions for service.
- (5) The provisions of this Part apply to an amended or supplemental answer as they do to an answer.
- (6) **Part 10** applies to proceedings on an amended petition or counter-petition as it does to proceedings on a petition.

20.12 Direction for trial

- (1) At the directions hearing the court shall take all practicable steps to promote a settlement of any disputes between the parties by negotiation, mediation or otherwise.
- (2) The court may adjourn the directions hearing to a fixed date to enable the parties to negotiate, receive counselling or attend mediation.
- (3) If there does not appear to be any prospect of settlement the court shall give such directions as appear appropriate to ensure an economical trial of the matter.

20.13 Fixing date for trial

After the directions hearing the court office shall fix a date for the trial of the petition proceedings and shall give to each party at least 28 days' notice of the date, time and place of the trial.

PART 21

DISCLOSURE AND INSPECTION OF DOCUMENTS

Contents of this Part

Scope of this Part	Rule 21.1
Duty of disclosure limited to documents which are or have been in party's control	Rule 21.2
Disclosure of copies	Rule 21.3
Standard disclosure	Rule 21.4
Specific disclosure	Rule 21.5
Criteria for ordering specific disclosure	Rule 21.6
Procedure for disclosure	Rule 21.7
Duty of legal practitioner	Rule 21.8
Requirement for party to certify that he understands duty of disclosure	Rule 21.9
Disclosure in stages	Rule 21.10
Inspection and copying of listed documents	Rule 21.11
Duty of disclosure continuous during proceedings	Rule 21.12
Consequences of failure to disclose documents under an order for disclosure	Rule 21.13
Claim of right to withhold disclosure or inspection of a document	Rule 21.14
Restrictions on the use of privileged document inspection of which has been inadvertently allowed	Rule 21.15
Documents referred to in petition etc.	Rule 21.16
Subsequent use of disclosure documents	Rule 21.17
Notice to prove a document	Rule 21.18

21.1 Scope of this Part

- (1) This Part sets out rules about the disclosure and inspection of documents.
- (2) In this Part -

“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;

“document” means anything on or in which information of any description is recorded.

- (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.

21.2 Duty of disclosure limited to documents which are or have been in party’s control

- (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 or take copies of it.

21.3 Disclosure of copies

- (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 another 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.

21.4 Standard disclosure

Where a party is required by any direction of the court to give standard disclosure, that party shall disclose all documents which are directly relevant to the matters in question in the proceedings.

21.5 Specific disclosure

- (1) 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 disclose any documents located as a result of that search.
- (2) An order for specific disclosure may be made on or without an application.
 - (3) An application for specific disclosure may be made without notice at a case management conference.
 - (4) An application for specific disclosure may identify documents –
 - (a) by describing the class to which they belong; or
 - (b) in any other manner

21.6 Criteria for ordering specific disclosure

- (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 claim or to save costs.
- (2) It shall have regard to –
 - (a) the likely benefits of specific disclosure;
 - (b) the likely cost of specific disclosure; and
 - (c) Whether it is satisfied that the financial resources of the party against whom the order would be made is likely to be sufficient to enable that party to comply with any such order.
- (3) If, having regard to sub-rule (2)(c), the court would otherwise refuse to make an order for specific disclosure, it may however make such an order on terms 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** when **Part 37** is in force.

21.7 Procedure for disclosure

- (1) Sub-rule (2) to (5) set out the procedure for disclosure.
- (2) Each party shall make and serve on every other party a list of documents.
- (3) The list shall identify the documents or categories of documents in a convenient order and manner and as concisely as possible.
- (4) The list shall indicate those documents which are no longer in the party's control and

- (a) what has happened to those documents; and
 - (b) the location of each document to the best of the party's knowledge, information or belief.
- (5) The court shall include documents already disclosed.

21.8 Duty of legal practitioner

The legal practitioner for a party shall –

- (a) explain to the maker of the list of documents –
 - (i) the necessity of making full disclosure in accordance with the terms of the order for disclosure and these Rules; and
 - (ii) the possible consequences of failing to do so; and
- (b) certify on the list of documents under **rule 21.7(2)** or **rule 21.12(3)** that the explanations required by paragraph (a) has been given.

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

- (1) The party shall certify in the list of documents -
 - (a) that he or she understands the duty of disclosure; and
 - (b) that the certificate was signed on the party's instructions.
- (2) If it is impracticable for the party to sign the certificate required by sub-rule (1), it may be signed by that party's legal practitioner.
- (3) A certificate signed by a party's legal practitioner shall also certify –
 - (a) The reasons why it is impractical for the party to give the certificate; and
 - (b) that the certificate was signed on the party's instructions.

21.10 Disclosure in stages

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

21.11 Inspection and copying of listed documents

- (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 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 cost 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.

21.12 Duty of disclosure continuous during proceedings

- (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.

21.13 Consequences of failure to disclose documents under an order for disclosure

- (1) A party who fails to give disclosure by the date 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, counter-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.

(Rule 8.12 deals with applications to set aside order made on application without notice. Rule 17.3 deals with the striking out of petitions, etc. Rule 17.6 deals with applications for relief.)

21.14 Claim of right to withhold disclosure or inspection of a document

- (1) A person 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 may apply to the court, without notice, for an order permitting that person not to disclose the existence of a 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 —
 - (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 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.

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

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 the agreement of the party disclosing the document

21.16 Documents referred to in petition etc.

- (1) A party may inspect and copy a document mentioned in –
 - (a) the petition;
 - (b) a counter-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

21.17 Subsequent use of disclosed documents

- (1) A party to whom a 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) any of the following gives permission:
 - (i) the party disclosing the document;
 - (ii) the person to whom the document belongs; or
 - (iii) the court.
- (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 –
 - (a) by a party; or
 - (b) by any person to whom the document belongs

21.18 Notice to prove a document

- (1) A party shall be deemed to admit the authenticity of any document disclosed to him 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 22
EVIDENCE****Contents of this part**

Scope of this Part	Rule 22.1
Duty of court to control evidence	Rule 22.2
Evidence at hearing - general rule	Rule 22.3
Evidence by video link or other means	Rule 22.4
Evidence of foreign marriage	Rule 22.5
Court not bound by rules of hearsay evidence	Rule 22.6

22.1 Scope of this Part

- (1) This Part deals with the court's control and admissibility of evidence.
- (2) In this Part, "**hearsay evidence**" means a statement made otherwise than by a person while giving oral evidence in proceedings which is tendered as evidence of the matter stated.
- (3) In this Part, "**the Evidence Act**" means an enactment or other relevant statutory provision which provides for the admissibility of evidence in court proceedings.

22.2 Duty of court to control evidence

It is the duty of the court to control the evidence by deciding –

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

22.3 Evidence at hearing – general rule

- (1) The general rule is that any fact which needs to be proved at a trial or hearing of any matter by the evidence of witnesses is to be proved by their oral evidence.
- (2) This is subject –
 - (a) to any provision to the contrary contained in these Rules or elsewhere; and
 - (b) to any order of the court.

22.4 Evidence by video link or other means

Upon application by any party made no later than 7 days prior to the hearing the court may allow the witness to give evidence without attending, through a video link or by any other means.

22.5 Evidence of foreign marriage

- (1) Unless the existence and validity of the marriage is disputed, the celebration and validity of a marriage outside the jurisdiction may be proved –
 - (a) by the evidence of one party to the marriage;
 - (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) his qualifications for making a translation.

22.6 Court not bound by rules of hearsay evidence

- (1) The court is not bound by any rules of hearsay evidence in relation to any fact which needs to be proved by the oral evidence of a person at a trial or hearing of any matter.

- (2) The court may act without regard to technicalities and legal form and is not bound to follow the rules of hearsay evidence stipulated in the Evidence Act.
- (3) The court may –
 - (a) inform itself on any matter in the manner that it thinks just; and
 - (b) take into account hearsay evidence and such facts as it considers relevant and material,but in any circumstance listed in paragraphs (a) and (b), the parties to the proceeding shall be given the opportunity, if they so desire, of adducing evidence in relation to the matter.
- (4) Nothing in the Evidence Act shall prevent the court from adopting its own procedure with a view to arriving at a decision on any matter before it

PART 23

AFFIDAVITS

Contents of this Part

Affidavit evidence	Rule 24.1
Form of affidavit	Rule 24.2
Contents of affidavit	Rule 24.3
Documents to be used in conjunction with affidavit	Rule 24.4
Making of affidavit	Rule 24.5
Service of affidavit	Rule 24.6

23.1 Affidavit evidence

- (1) The court may require evidence to be given by affidavit instead of, or in addition to oral evidence.
- (2) In this Part, "**deponent**" means the maker of an affidavit.
- (3) Whenever an affidavit is to be used in evidence, any party may apply to the court for an order requiring the deponent to attend to be cross-examined.
- (4) Such an application shall be made not less than, in the case of –
 - (a) a trial – 21 days; or
 - (b) any other hearing – 7 days,

before the date of the hearing at which it is intended to cross-examine the deponent.

- (5) If the deponent does not attend as required by the court order, the affidavit may not be used as evidence unless the court permits.
- (6) The general rule is that an affidavit shall be filed before it may be used in any proceedings.
- (7) In a case of urgency the court may make an order on an affidavit which has not been filed if the party tendering it undertakes to file it.

23.2 Form of Affidavit

Every affidavit shall –

- (a) be headed with the title of the proceedings;
- (b) be divided into paragraphs numbered consecutively;
- (c) be in the first person and state the name, address and occupation of the deponent and, if more than one, of each of them;
- (d) be marked on the top right hand corner of the affidavit (and of the back sheet) with –
 - (i) the name of the party on whose behalf it is filed;
 - (ii) the initials and surname of the deponent;
 - (iii) (where the deponent swears more than one affidavit in any proceedings), the number of the affidavit in relation to the deponent;
 - (iv) the identifying reference of each exhibit referred to in the affidavit;
 - (v) the date when sworn; and
 - (vi) the date when filed; (Example: “Claimant: N. Berridge: 2nd: NB 3 and 4:1.10.98: 3.10.98.”) and
- (e) state if any deponent is employed by a party to the proceedings

23.3 Contents of Affidavit

- (1) The general rule is that an affidavit may contain only such facts as the deponent is able to prove from his or her own knowledge.
- (2) An affidavit may contain statements of information and belief –
 - (a) if any of these Rules so allows; and

- (b) if the affidavit is for use in an application for summary judgment under **Part 19** or any procedural or interlocutory application, provided that the affidavit indicates –
 - (i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and
 - (ii) the source of any matters of information and belief.
- (3) The court may order that any scandalous, irrelevant or otherwise oppressive matter be struck out of any affidavit.
- (4) An affidavit containing any alteration may not be used in evidence unless all such alterations have been initialled both by the deponent and the person before whom the affidavit is sworn.

23.4 Documents to be used in conjunction with affidavit

- (1) Any document to be used in conjunction with an affidavit shall be exhibited with it.
- (2) If there is more than one such document those documents may be included in a bundle which is arranged chronologically or in some other convenient order and is properly paginated.
- (3) Clearly legible photocopies of original documents may be exhibited, provided that the originals are made available for inspection by the other parties before the hearing and by the court at the hearing.
- (4) Each exhibit or bundle of exhibits shall be —
 - (a) produced to and verified by the deponent;
 - (b) accurately identified by an endorsement on the exhibit or on a certificate attached to it signed by the person before whom the affidavit is sworn or affirmed; and
 - (c) marked in accordance with **rule 23.2(d)**.

23.5 Making of Affidavit

- (1) An affidavit shall –
 - (a) be signed by all deponents.
 - (b) be sworn or affirmed by each deponent;
 - (c) be completed and signed by the person before whom the affidavit is sworn or affirmed; and

- (d) contain the full name, address and qualifications of the person before whom it is sworn or affirmed.
- (2) The statement authenticating the affidavit (“the jurat”) shall follow immediately from the text and not be on a separate page.
- (3) An affidavit may not be admitted into evidence if sworn or affirmed before the legal practitioner of the party on whose behalf it is to be used or before any agent, partner, employee or associate of such legal practitioner.
- (4) If it appears that the deponent is illiterate or blind, the person before whom the affidavit is sworn or affirmed shall certify in the jurat that the –
 - (a) affidavit was read to the deponent by him or her in his or her presence;
 - (b) deponent appeared to understand it; and
 - (c) deponent signed or made his or her mark in his or her presence.
- (5) A person may make an affidavit outside the jurisdiction in accordance with –
 - (a) the law of the place where the affidavit is made; or
 - (b) this Part.
- (6) Any affidavit which purports to have been sworn or affirmed in accordance with the law and procedure of any place outside the jurisdiction is presumed to have been so sworn.

23.6 Service of Affidavit

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

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
Admissibility of electronic court documents	Rule 24.3
Evidence by affidavit or electronic recording	Rule 24.4

24.1 Use of plans, photographs, etc. as evidence

- (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,he shall disclose his intention to the other parties in accordance with this rule.
- (2) If a party fails to disclose his 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, he shall disclose his intention not later than the latest date for serving witness statements.
- (4) He shall disclose the evidence at least 21 days before the hearing at which he proposes to put in the evidence, if –
 - (a) there are not to be witness statements; or
 - (b) he intends 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, he shall disclose his intention 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, he shall disclose his intention at least 21 days before the hearing at which he proposes to put in the evidence.
- (7) Where a party has disclosed his intention to put in the evidence he shall give every other party an opportunity to inspect it and to agree to its admission without proof.

24.2 Evidence of finding on question of foreign law

- (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) He shall first give any other party notice of his intention.
- (3) He 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 he proposes 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.

24.3 Admissibility of electronic documents

- (1) In this rule –

"electronic court document" means information that –

- (a) is recorded or stored on any medium in or by an electronic court system; and
- (b) can be read or perceived by a person, or by a computer system or other similar device,

and includes a display, print out or other output of that information, other than a printout that has been manifestly or consistently acted on, relied on or used as the record of the information shown on the printout;

"electronic court system" means an electronic information or record system that is –

- (a) maintained by or on behalf of a court for the purposes of the administration of justice, including a court case management or tracking system; and
- (b) designated under sub-rule (2) as an electronic court system.

- (2) The Chief Justice may by practice directions –

- (a) designate electronic information or record systems as electronic court systems
- (b) prescribe the conditions under which documents may be served or filed electronically.

- (3) Despite any rule to the contrary, an electronic court document is admissible in evidence unless, on cause shown before the court, the court has reason to doubt the integrity of the electronic court document, either because reliable encryption techniques were not used to support the making of the electronic court document or for another reason.

24.4 Evidence by electronic recording

- (1) The court may allow a witness to give evidence at trial by electronic recording if –
- (a) the parties consent;
 - (b) the witness is ill or unavailable to come to court for some other good reason;
 - (c) the evidence concerns minor or uncontroversial issues; or
 - (d) it is in the interests of justice to do so.
- (2) Evidence at trial by electronic recording may be used only if –
- (a) the use is in accordance with an order under sub-rule (1);
 - (b) the evidence would have been admissible if given by the witness in court

PART 25 EXPERTS AND ASSESSORS

Contents of this Part

Expert's overriding duty to court	Rule 25.1
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Expert's reports to be addressed to court	Rule 25.9
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Consequence of failure to disclose expert's report	Rule 25.12
Appointment of assessors	Rule 25.13
Fees for experts or assessors	Rule 25.14
Cross-examination of court expert	Rule 25.15

25.1 Expert's overriding duty to court

- (1) It is the duty of an expert witness to help the court impartially on the matters relevant to his expertise.
- (2) This duty overrides any obligations to the person from whom he has received instructions.

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

- (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 his expertise.
- (3) An expert witness shall state the facts or assumptions upon which his opinion is based. He should not omit to consider material facts which could detract from his concluded view.
- (4) An expert witness shall make it clear if a particular matter or issue falls outside his expertise.
- (5) If an expert's opinion is not properly researched 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 his view on a material matter such change of view shall be communicated to the other party and to the court.

25.3 Expert's right to apply to court for directions

- (1) An expert may apply to the court for directions to assist him in carrying out his functions as an expert and his duty to the court.
- (2) Where an expert applies for directions under this rule, he shall give notice of the application to the party instructing him.
- (3) The court may direct that notice be given to any other parties.

25.4 General duty of court and of parties

The court shall restrict expert evidence to that which is reasonably required to resolve the proceedings justly.

25.5 Court's power to restrict expert evidence

- (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 of an expert's report be disclosed.

25.6 Particular duty of the court with regards to medical examination of a minor

- (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

25.7 Court's power to appoint a single expert

- (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; or
 - (c) in such manner as the court may direct.

- (2) If the court gives such a direction, it shall specify in it the issues on which the expert is to report.
- (3) 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 the parties; or
 - (d) to assess the evidence to be given by experts instructed by the parties.
- (4) 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.

25.8 Joint instructions to experts

- (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 him with a copy of this Part and give every other party –
 - (a) notice of –
 - (i) the name and address of the expert; or
 - (ii) the names and addresses of a number of experts, one of whom the party intends to instruct; and
 - (b) notice of the scope of the instructions to be given to him.
- (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; or
 - (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.

25.9 Expert's reports to be addressed to court

An expert shall address his report to the court and not to any person from whom he has received instructions

25.10 Contents of report

- (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 his 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) summarise the range of opinion; and
 - (ii) give reasons for his opinion.
- (2) At the end of an expert's report there shall be a statement that –
 - (a) the expert understands his duty to the court; and he has complied with that duty;
 - (b) his report includes all matters relevant to the issue on which his expert evidence is given; and
 - (c) he has given details in his report of any matters which, to his knowledge, might affect the validity of his report.

(Rules 25.1 and 25.2 set out the expert's duty to the court.)

- (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 him from the party instructing him, his legal practitioner or any other person acting on behalf of the party.
- (4) Where expert evidence refers to photographs, learned literature or other similar documents, these shall be provided to the opposite party at the same time as the exchange of reports.

25.11 Meeting of experts

- (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 any issues within their expertise –
 - (a) on which they agree; and
 - (b) on which they disagree and their reasons for disagreeing.

25.12 Consequences of failure to disclose expert's report

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

(Rule 17.6 deals with applications for relief.)

25.13 Appointment of assessor's

- (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.

25.14 Fees for experts or assessors

- (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.

25.15 Cross-examination of court expert

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

PART 26

COURT ATTENDANCE BY WITNESSES

Contents of this Part

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Restrictions on subsequent use of depositions taken for the purpose of any hearing except trial	Rule 26.16
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Early appointment to produce documents	Rule 26.18

26.1 Scope of this Part

This Part provides –

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

26.2 Witness summonses

- (1) A witness summons is a document issued by the court requiring a witness to attend court –

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

26.3 Issue of witness summons

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

26.4 Time for serving witness summons

- (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

26.5 Who is to serve witness summons

- (1) The general rule is that a witness summons is to be served by the party on whose behalf it is issued.
- (2) The court office may serve the summons if the party on whose behalf it is issued requests the court office to do so when he issues it.
- (3) Where the court office 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**.

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

At the time of service of a witness summons, the witness shall be offered or paid –

- (a) a sum reasonably sufficient to cover his subsistence and expenses in travelling to and from the court; and **Error! Bookmark not defined.**
- (b) such sum by way of compensation for loss of time as may be specified in a practice direction.

26.7 Evidence by deposition

- (1) A party may apply for an order for a person to be examined before the trial or the hearing of any application in the proceedings.
- (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;
 - (b) a legal practitioner who has practiced for at least 5 years;
 - (c) a Master;
 - (d) a Magistrate;
 - (e) the Registrar,and a person specified in paragraphs (a) to (e) is referred to as an "examiner".
- (4) The order may require the production of any document which the court considers is necessary for the purposes of the examination.

- (5) The order shall state the date, time and place of the examination.
- (6) 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.**
- (7) An application may be made by any party whether or not that party would otherwise call the witness.

26.8 Conduct of examination

- (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 he 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 him, 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, and the validity of that ground shall be determined by the court.
- (6) The examiner shall send a copy of the deposition to –
 - (a) every party to the proceedings;
 - (b) the court office; and
 - (c) the deponent.
- (7) If the witness or any legal practitioner present at the hearing is of the opinion that the deposition does not accurately represent the evidence, he shall –
 - (a) endorse on the copy deposition the corrections which in his opinion should be made;
 - (b) file the copy deposition; and
 - (c) serve a copy of it on all other parties

26.9 Evidence without examiner being present

- (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 means of recording the evidence of the witness;
 - (b) a legal practitioner of any party may administer the oath to a witness;
 - (c) any person transcribing evidence given need not himself be sworn but shall certify in writing as correct the transcript of his notes of the evidence and deliver it to the legal practitioner for the party whose witness was examined;
 - (d) the legal practitioner 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 legal practitioner present at the hearing is of the opinion that the transcript does not accurately represent the evidence given he shall endorse on the copy transcript the corrections which in his opinion should be made and file the copy transcript and serve a copy of it on all other parties.

26.10 Enforcing attendance of witness

- (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 his 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**.

26.11 Time taken to be endorsed on deposition

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

26.12 Special report

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

26.13 Fees and expenses of examiner

- (1) On appointing an examiner the court shall fix the fee to be paid to the court or the legal practitioner, as the case may be, for the examination.
- (2) If an examination is carried out by a person other than a legal practitioner, the fee shall be paid into the court office.
- (3) The party who obtained the order shall also pay the fee and all reasonable travelling and other expenses including charges for a room (other than the examiner's own chambers or office) where the examination takes place.
- (4) Notwithstanding sub-rules (1) and (3), the court may ultimately order any party to bear the costs of the examination.

26.14 Order for payment of examiner's fees

The examiner may report to the court the fact that any fees or expenses due to him have not been paid and the court may make an order that the party who obtained the order for the examination should pay such fees and expenses

26.15 Use of deposition at hearing

- (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 his intention to do so on every other party and shall serve the notice at least 21 days before the day fixed for the hearing.
- (3) The court may require a deponent to attend the hearing and give evidence orally

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

- (1) Where the court orders a party to be examined about his 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, it 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.

26.17 Where a person to be examined is out of the jurisdiction

- (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:
 - (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;
 - (iv) if the documents are not in English, a translation of them;
 - (b) an undertaking to be responsible for the expenses of the Minister with responsibility for Foreign Affairs in relation to the request.
- (6) Where an order is made for the issue of a letter of request to a country whose official language is not English, the court shall direct the party seeking the letter

of request to file a certified translation of the documents referred to in sub-rule (5)(a) in the official language of that country.

26.18 Early appointment to produce documents

- (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 or place (a “production hearing”) specified in the summons the date of the trial for the purpose of producing one or more documents.
- (2) A summons under this rule shall only require a person to produce documents which that person could be compelled to produce at the trial.

PART 27 REQUEST FOR INFORMATION

Contents of this Part

Right of parties to obtain information	Rule 27.1
Orders compelling reply to request for information	Rule 27.2
Information obtained under Part 28 not to be used in other proceedings	Rule 27.3
Certificate of truth	Rule 27.4

27.1 Right of parties to obtain information

- (1) This Part enables a party to obtain from any other party information about any matter which is in dispute in the proceedings.
- (2) To obtain the information referred to in sub-rule (1), the party shall serve on the other party a request identifying the information sought.

27.2 Orders compelling reply to request for information

- (1) If a party does not, within a reasonable time, give information which another party has requested under **rule 27.1**, the party who served the request may apply for an order compelling the other party to do so.

- (2) An order may not be made under this rule unless it is necessary in order to dispose fairly of the originating application or to save costs.
- (3) When considering whether to make an order, the court shall have regard to –
 - (a) the likely benefit which will result if the information is given;
 - (b) the likely cost of giving it; and
 - (c) 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 the order.

27.3 Information obtained under Part 27 not to be used in other proceedings

A party may use information obtained –

- (a) in compliance with an order under **rule 27.2**; or
- (b) in response to a request under **rule 27.1**,

only in the proceedings in which the request or order was made.

27.4 Certificate of truth

Any information provided under this Part shall be verified by a certificate of truth in accordance with **rule 2.10**

PART 28

STAY OF PROCEEDINGS (FOREIGN PROCEEDINGS)

Contents of this Part

Scope of this Part	Rule 28.1
Application for stay	Rule 28.2
Reference by court	Rule 28.3
Change in particulars given in petition, etc.	Rule 28.4

28.1 Scope of this Part

- (1) This Part deals with proceedings under a petition where there are also proceedings in any country outside the jurisdiction which –
 - (a) relate to the marriage in question: and

(b) are capable of affecting the validity or subsistence of the marriage in question.

(2) Such proceedings are referred to in this Part as "proceedings in another jurisdiction".

28.2 Application for stay

Any application for a stay under any relevant enactment shall be made to a Judge or Magistrate.

28.3 Reference by court

A court may order the stay of proceedings where it appears to the court that there are proceedings in another jurisdiction.

28.4 Change in particulars given in petition, etc.

Where there is any change in the particulars given in any petition or counter-petition, the parties shall immediately notify the court of the new particulars by filing an amended or supplemental petition.

PART 29 THE HEARING

Contents of this Part

Scope of this Part	Rule 29.1
Documents for use at hearing	Rule 29.2
Failure of party to attend the hearing	Rule 29.3
Applications to set aside order given in party's absence	Rule 29.4
Adjournment of hearing	Rule 29.5
Inspection	Rule 29.6
Powers of court to summons witness	Rule 29.7

29.1 Scope of this Part

This Part deals with defended proceedings listed for hearing by the court office following a directions hearing.

29.2 Document for use at hearing

- (1) At least 21 days before the date fixed for the hearing, the respondents 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) 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 court office –
 - (a) a bundle comprising copies of –
 - (i) the originating application;
 - (ii) any relevant answer, response, counter-petition or reply;
 - (iii) any requests for information and the replies, and
 - (iv) any document which the parties were ordered by the court to file;
 - (b) a second bundle comprising copies of –
 - (i) all affidavits; and
 - (ii) all expert reports;
 - (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).

29.3 Failure of party to attend hearing

- (1) If no party appears at the hearing the court may strike out the petition, counter-petition or application that was to be heard.
- (2) If one or more party appears the court may proceed in the absence of the other party or parties.

29.4 Application to set aside order given in party's absence

- (1) A party who was not present at a hearing at which an order was given or the originating application was struck out in his absence may apply to set aside that order.

- (2) The application to set aside the order shall be made within 7 days after the date on which the order was served on the applicant.
- (3) The application to set aside the 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 order might have been given.

29.5 Adjournment of hearing

The court may adjourn a hearing on such terms as it thinks just to a fixed date and time or to a date and time to be fixed by the court office.

29.6 Inspection

The court hearing an originating application may inspect any place or thing that may be relevant to any issue in the matter before him.

29.7 Powers of court to summons witness

- (1) The court 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 court may examine a party or witness –
 - (a) orally; or
 - (b) by putting written questions and asking him to give written answers to the questions.
- (3) Any party may then cross-examine the witness.

PART 30 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
Declaration as to satisfaction with arrangements for the children	Rule 30.4
Time when divorce takes effect	Rule 30.5
Standard requirements	Rule 30.6
Formal preparation and filing of orders	Rule 30.7
Service on party personally	Rule 30.8
Consent orders	Rule 30.9
Time for complying with an order	Rule 30.10
Correction of errors in orders	Rule 30.11
Register of divorces and dissolutions of marriages	Rule 30.12

30.1 Scope of this Part

- (1) This Part sets out rules about orders made by a court.
- (2) The Rules set out in this Part do not apply where any other of these Rules makes a different provision in relation to the order in question.

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

Any party is bound by the terms of any order whether or not the order is served where –

- (a) he is present whether in person or by a legal practitioner when the order was made; or
- (b) the court is satisfied that he has been notified of the terms of the order by electronic transmission, or otherwise

30.3 Practice forms to be used where available

Where there is a practice form for an order of any description, an order of that description shall be in that form.

30.4 Declaration as to satisfaction with arrangements for the children

A declaration by the court that it is satisfied with arrangements for children in accordance with the relevant enactment is to be by order which shall be drawn up.

30.5 Time when divorce takes effect

- (1) The grant of a divorce takes effect as provided by the relevant enactment in force in Antigua Barbuda.
- (2) Subject to sub-rule (1), a grant of divorce takes effect as soon as it is given or made, unless the court specifies that it is to take effect on a different date or in accordance with the relevant enactment.

30.6 Standard requirements

- (1) Every –
 - (a) grant of divorce ;
 - (b) order, other than a consent order,shall state the name and judicial title of the person who made it.
- (2) Every order shall –
 - (a) be sealed by the court office;
 - (b) bear the date on which it is made; and
 - (c) in the case of an order made by –
 - (i) a Judge, be signed by the Registrar;
 - (ii) a Magistrate, be signed by the Magistrate

30.7 Formal preparation and filing of orders

- (1) Every 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;

- (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.
- (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.

30.8 Service on party personally

Where a party on whom any order is to be served is acting by a legal practitioner, the court may order that the order be served on the party as if that person were acting in person as well as on the legal practitioner.

30.9 Consent orders

- (1) This rule applies where all parties agree the terms in which an order is to be made.
- (2) This rule applies to any order except –
 - (a) where any of the parties is a litigant in person;
 - (b) where any of the parties 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) the decree or grant of divorce.

(Rule 12.12 deals with consent orders for financial relief.)

- (3) Where this rule applies, the order which is agreed by the parties shall –
 - (a) be drawn in the terms agreed; and
 - (b) be expressed as being 'By Consent'; and
 - (c) be signed by the parties;
 - (d) be signed by the legal practitioner acting for each of the parties;
 - (e) bear the date on which it takes effect; and
 - (f) be filed at the court office for entry and sealing,

and **rule 30.7** applies as it applies to all other orders

30.10 Time for complying with an order

A party shall comply with an order immediately, unless the court specifies the time for compliance.

30.11 Correction of errors in orders

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

30.12 Register of divorces and dissolutions of marriages

- (1) The court office shall keep a register of decrees or grants of divorce and dissolutions of marriages.
- (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 or grant of divorce or dissolution of marriage shall be issued to any person on payment of the prescribed fee.

PART 31

DISCONTINUANCE AND WITHDRAWAL

Contents of this Part

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

31.1 Scope of this Part

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

31.2 Right to discontinue or withdraw proceedings

- (1) Subject to sub-rule (2), a petitioner or applicant may discontinue the proceedings or any part of the proceedings, or a respondent may discontinue his answer or response, without the permission of the court.
- (2) In the case of a petition for divorce, the petitioner may withdraw the petition with the leave of the court.

31.3 Procedure for discontinuance or withdrawal

- (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) To withdraw a petition for divorce, the petitioner shall, after obtaining the leave of the court –
 - (a) file a notice of withdrawal; and
 - (b) serve a copy on every other party.
- (3) The party discontinuing or withdrawing shall file an affidavit of service stating that the notice of discontinuance or withdrawal, as the case may be, has been served on every other party and the particulars of service in accordance with **Part 6** or **Part 7**.

31.4 Effect of discontinuance or withdrawal

- (1) Discontinuance takes effect on the date when the notice of discontinuance is served under **rule 31.3** whereupon the proceeding are brought to an end.
- (2) Withdrawal takes effect on the date when the notice of withdrawal is served under **rule 31.3** whereupon the petition for divorce is brought to an end.
- (3) Discontinuance or withdrawal does not affect any proceedings relating to costs.

31.5 Liability for costs

Unless the court orders otherwise, a party who discontinues or withdraws is liable for the costs which any other party incurred on or before the date on which notice of discontinuance or withdrawal, as the case may be, was served. The court shall assess such costs, if not agreed, under **rule 37.7** when **Part 37** is in force.

PART 32
INTERVENTION TO SHOW CAUSE WHY DIVORCE SHOULD NOT BE GRANTED

Contents of this Part

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

32.1 Scope of this part

This Part deals with the procedure by which the Attorney General or any other person may –

- (a) under an enactment in force in the Member State or Territory; and
- (b) at the invitation of the court,

show cause against the granting of a divorce.

32.2 Procedure on intervention by the Attorney General

- (1) Where the Attorney General is by notice requested by the court to show cause against the granting of a divorce, he shall within 28 days after being given notice, file a statement setting out the grounds on which he will show cause.
- (2) The Attorney General shall serve a copy of the statement on all parties to the divorce proceedings.

32.3 How any other person intervenes

- (1) Any person other than the Attorney General who is requested by the court to show cause against the granting of a divorce shall file an affidavit stating the facts on which he relies.
- (2) The person showing cause shall serve a copy of the affidavit on all parties to the divorce proceedings.

32.4 Answer

- (1) Any party to the divorce proceedings may file an affidavit in answer.
- (2) The answer shall be filed within 28 days of service of the statement under **rule 33.2(2)**.
- (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 court may refuse to grant the divorce and dismiss the petition.

32.5 Directions hearing

- (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 divorce 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 grant of the divorce 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**APPLICATIONS FOR A REHEARING OR RECISSION OF GRANT OF DIVORCE****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

33.1 Scope of this Part

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) rescission of a divorce.

33.2 To whom application should be made

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

33.3 Time within which application shall be made

Unless otherwise directed, an application under **rule 33.1(a) or (b)** shall be made within 30 days of the date when the decree was pronounced.

33.4 Evidence in support

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

33.5 Directions hearing

The court office shall fix a directions hearing.

33.6 Service of application

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

33.7 Affidavit in answer

Any other party to the divorce or decree proceedings may file an affidavit in answer within 28 days of service of the application upon him.

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 fixed date claim	Rule 34.3
Respondents to the application	Rule 34.4
Directions hearing	Rule 34.5
Service of 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

34.1 Scope of this Part

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

34.2 How to make a minor a ward of court

- (1) An application to make a minor a ward of court shall be made in accordance with the appropriate practice form.
- (2) The application shall be filed in the court office.
- (3) The application shall be supported by evidence on affidavit.
- (4) The evidence shall state –
 - (a) the date of birth of the minor;
 - (b) the whereabouts of the minor if known 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 he is living;
 - (b) the person with whom he is living; and

- (c) any other information relevant to the question of where he may be found.
- (6) The applicant shall either –
 - (a) file with the appropriate application 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.

34.3 Effect of issuing claim

- (1) Upon the issuing of a claim in relation to an application referred to in **rule 34.2(1)**, 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 under **rule 34.2** as fixed by the directions hearing in **rule 34.2**.

34.4 Respondents to the application

- (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) who is in charge of a school or institution into whose care the minor has been received.
- (2) The general rule is that the minor is not to be named as a respondent to the claim.
- (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 claim without naming a respondent; or
 - (b) to name the minor as respondent.

(Part 5 deals with representation of minors.)

34.5 Directions hearing

- (1) Upon issuing the claim, the court office shall fix a directions hearing and endorse on the claim 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.

34.6 Service of application

- (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 claim in accordance with **Part 6** or **Part 7**.
- (2) The court may –
 - (a) dispense with service on any person; or
 - (b) order service on any person not originally served.

34.7 Action by respondent

- (1) Upon service of the application each respondent shall forthwith file at the court office a notice stating –
 - (a) his address; and
 - (b) either –
 - (i) the whereabouts of the minor; or
 - (ii) that he is unaware of the whereabouts of the minor.
- (2) The respondent shall forthwith serve a copy of the notice on the applicant unless the court otherwise directs.
- (3) The respondent may file evidence in response to the claim.
- (4) If the respondent files evidence in response to the claim, he shall serve a copy of such evidence on the applicant.

34.8 Notification of change of address

Where any party after the issue or service of the application –

- (a) changes his 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 unless the court other parties otherwise directs.

34.9 When a minor ceases to be a ward of court

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.

34.10 Proceedings to be in private (*in camera*)

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	Rule 35.2
Procedure where order is made	Rule 35.3

35.1 Scope of this Part

This Part deals with applications under an enactment in force in the Member State or Territory to remove an application from a Magistrates' Court into the High Court.

35.2 How an application is made

- (1) An application under this Part shall be made in accordance with **Part 8**.
- (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.

35.3 Procedure where order is made

- (1) Upon the making of an order, the applicant shall send a copy of the order to the Magistrates' Court office from which the proceedings are ordered to be removed.
- (2) On receipt of the copy of the order the Magistrates' Court office shall send to the High Court office –
 - (a) certified copies of all entries in the books of the Magistrates' Court office relating to the proceedings; and
 - (b) all documents filed in the proceedings.

- (3) The court 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 appeal	Rule 36.4
Entitlement to costs - general principles	Rule 36.5
Court's discretion to order 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 legal practitioner	Rule 36.10
Court fees	Rule 36.11
Court to fix costs of family proceedings	Rule 36.12

36.1 Scope of this Part

This Part contains general rules about costs and entitlement to costs.

36.2 Definitions and applications

In this Part and in **Part 37**, unless the context requires otherwise –

“assessed costs” and “assessment” have the meanings placed on them by **rules 37.4 to 37.7**;

“budgeted costs” has the meaning placed on it by **rule 37.8**; and

“costs” include fixed costs, prescribed costs, budgeted costs or assessed costs

36.3 Orders about costs

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.

36.4 Costs where there is appeal

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

36.5 Entitlement to costs – general principles

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

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

36.6 Court's discretion to order costs

- (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) 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.
- (4) In deciding who, if anyone, should be liable to pay costs, the court shall have regard to all the circumstances.
- (5) The court shall, in particular, have regard to –
 - (a) the conduct of the parties, both before and during the proceedings;
 - (b) whether a party has succeeded on particular issues, even if he has not been successful in the whole of the proceedings;
 - (c) whether it was reasonable for a party –

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

36.7 Two or more parties having the same interest

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.

36.8 Wasted costs orders

- (1) **“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 legal practitioner or any employee of such legal practitioner; 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.
- (2) In any proceedings the court may by order –
 - (a) disallow as against the legal practitioner's client; or
 - (b) direct the legal practitioner to pay,the whole or part of any wasted costs.

36.9 Wasted costs orders – procedure

- (1) This rule applies where the court is considering whether to make an order disallowing wasted costs or for ordering that a legal practitioner pay wasted costs to another party.
- (2) The court shall give a legal practitioner notice of the fact that it is minded to make a wasted costs order.

- (3) The notice to the legal practitioner shall state the grounds on which the court is minded to make the order and state a date, time and place at which the legal practitioner may attend to show cause why the order should not be made.
- (4) The court shall give the legal practitioner at least 7 days' notice of the hearing.
- (5) The court shall also give notice directly to the legal practitioner's client of –
 - (a) any proceedings under this rule; and
 - (b) any order made under it against his legal practitioner.
- (6) The notice to the legal practitioner shall be in writing unless made at the trial or hearing of the proceedings.

36.10 Duty to send copy of order to client when costs orders made against client or legal practitioner

The court office shall send to a party personally a copy of any costs order made against him or his legal practitioner other than at the trial or hearing of any proceedings at which he is present.

36.11 Court fees

- (1) The fees specified in **Schedule 4** to these Rules shall be taken in all family proceedings.
- (2) The same fees as in actions and other proceedings under the Rules of the Supreme Court for the time being in force shall be taken for any other act or matter not provided for in Schedule 4.

36.12 Court to fix costs of family proceedings

- (1) Notwithstanding **Part 37** and any practice direction, the costs of family proceedings may be fixed at the court's discretion.
- (2) The court may, if it thinks fit, allow costs to be budgeted or assessed in accordance with **Part 37**.

PART 37

COSTS – QUANTIFICATION

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37.1 Scope of this Part

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

37.2 Basis of quantification

- (1) Where the court has exercised its discretion as to the amount of costs to be allowed to a party, the sum to be allowed is the amount that the court deems to be reasonable were the work to be carried out by a legal practitioner of reasonable competence and which appears to the court to be fair both to the person paying and the person receiving such costs.
- (2) 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 legal practitioner;
 - (f) the care, speed and economy with which the case was prepared;
 - (g) the novelty, weight and complexity of the case

37.3 Ways in which costs are quantified

If, having regard to **rule 37.6**, the court orders a party to pay all or any part of the costs of another party, such costs shall be quantified by the court in one of the following ways:

- (a) costs assessed by the court under **rules 37.4 to 37.7**; or
- (b) costs in accordance with a budget approved by the court under **rule 37.8**

37.4 Assessed costs

- (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 sub-rules (2) and (3).
- (2) In assessing such costs where it has 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(4), (5) and (6)**;
 - (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 case it shall specify the percentage of the assessed costs which is to be paid by the party liable to pay such costs.

37.5 What is included in assessed costs

Assessed costs include all work that is required to prepare the particular stage of the proceedings for hearing and in particular the costs involved –

- (a) in instructing an expert and the preparation of a report by him;
- (b) in considering and disclosing any report made by an expert or arranging his attendance at the hearing; and
- (c) for attendance and advocacy at any hearing (including attendance at any directions hearing).

37.6 Assessed costs of procedural applications

- (1) On determining any application, 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) The court shall however take account of all the circumstances including the factors set out in **rule 36.6(5)** 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 17.6**,the court shall order the applicant to pay the costs of the respondent unless there are special circumstances.

37.7 Assessment of costs – General

- (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.
- (2) The assessment shall be carried out by the Magistrate, Judge or Master hearing the proceedings.
- (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 Magistrate or Master 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 Magistrate, Judge or Master shall either –
 - (a) assess the costs if there is sufficient material available for him to do so; or
 - (b) fix a date, time and place for the assessment to take place.

37.8 Budgeted costs

- (1) A party may 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 legal practitioner (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 legal practitioner other than the legal practitioner 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 legal practitioner 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.

37.9 Client's consent to application for budgeted costs

- (1) The court may not make an order for budgeted costs unless –
 - (a) the party seeking the order is present, unless for exceptional reasons this is impracticable, when the application is made; 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 his own legal practitioner whether he obtains an order for costs against any other party or not;
 - (ii) his liability to pay costs in the budgeted sum to the other party if that party obtains an order for costs against him;
 - (iii) what his 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) consent shall be in a separate document which –
 - (i) is signed by the party personally;
 - (ii) deals only with the question of budgeted costs;
 - (iii) states the legal practitioner'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 legal practitioner 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.

37.10 What is included in budgeted costs

Unless the costs budget approved by the court specifies otherwise, **rule 36.6** applies to budgeted costs as it does to fixed costs.

37.11 Costs Value Added Tax

In considering an award of costs, the court may add any statutory tax.

PART 38

ENFORCEMENT OF ORDERS

Contents of this Part

Scope of this Part

Rule 38.1

Application for enforcement of orders

Rule 38.2

38.1 Scope of this Part

This Part deals with the enforcement of orders in family matters. It has effect subject to any enactment as to enforcement of orders in force for the time being in any Member State or Territory.

38.2 Application for enforcement of orders

- (1) An application for the enforcement of an order shall be made in the appropriate practice form specifying the order to be enforced and the relevant enactment pursuant to which the enforcement of the order is sought.
- (2) An application under sub-rule (1) shall be accompanied by a copy of the order to be enforced and an affidavit in support of the application detailing the nature of the breach of the order.
- (3) Where applicable, the affidavit in support of the application shall be accompanied by a statement of account showing how the sum claimed to be due is calculated and verifying the sum due.

PART 39
SPECIAL RULES FOR PROCEEDINGS UNDER CERTAIN FAMILY LAW
ENACTMENTS

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CHAPTER 1

CARE AND ADOPTION OF CHILDREN

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39.1 Overview of this Part

- (1) This Part contains special rules for proceedings under certain family law enactments.
- (2) This Part should be read with, and contains rules that modify, all other Parts of these Rules.
- (3) It contains rules relating to proceedings under family law enactments dealing with –
 - (a) the care or adoption of children (hereinafter referred to as “the Children Act”);
 - (b) the maintenance of, or access to, children (hereinafter referred to as “the Maintenance Act”); and
 - (c) domestic violence (hereinafter referred to as “the Domestic Violence Act”)

39.2 Interpretation

In this Part, unless the context requires otherwise, “**applicants**”, in relation to an application for an adoption order, includes a sole applicant.

39.3 Forms

Practice forms may be used for the purposes of proceedings under the Children Act, the Maintenance Act or the Domestic Violence Act.

CHAPTER 1 CARE AND ADOPTION OF CHILDREN

(A) ADOPTION OF CHILDREN

39.4 Application for Adoption of child

An application to adopt a child shall be made to the Adoption committee in a manner acceptable to the Adoption Committee.

39.5 Application for Adoption Order

- (1) Prospective adoptive parent(s) shall make an application for an adoption order in the appropriate practice form to the High Court.
- (2) The application shall, unless this requirement is dispensed with by the court, be accompanied by:
 - (a) the statements of consent required for the adoption as provided in the relevant legislation including the consent of:
 - (i) the natural parents for the child;
 - (ii) where applicable, the legal guardians of the child who has custody rights of the child;
 - (iii) the applicant(s); and
 - (iv) the child, if the child is twelve years or older;
 - (b) information as to whether, to the knowledge of the prospective adoptive parent(s), the consent of any persons indicated in (a) has been withdrawn.
 - (c) the birth certificate of the child, or if the birth certificate cannot be obtained, satisfactory evidence of the facts relating to the birth of the child.
 - (d) a copy of the approval of the home study assessment conducted;
 - (e) statement of character of the potential adoptive parent(s); and
 - (f) any other documents as may be required.

39.6 Affidavit evidence to be filed with or before the hearing of the Application for an Adoption Order

The Applicant(s) for an adoption order shall at the time of filing the application and the supporting documents required by **rule 39.5** or before the hearing of the application, file an affidavit that —

- (a) states the age of the applicant(s);
- (b) gives information about their state of health;
- (c) gives particulars of their financial circumstances;
- (d) state the sex, age, and state of health of any child of the applicants or of either applicant;
- (e) gives their reasons for wanting to adopt the child;
- (f) states the period (if any) during which the child has been living in the home of the applicants or of either applicant;
- (g) states that no payment or reward in consideration of the adoption or of the making of arrangements for the adoption has been or will be made to or by the applicants or to or by either of them, or (to their knowledge) to or by any other person, other than—
 - (i) a payment or reward for which the court's permission has been given; or
 - (ii) a payment or reward for which the court's permission is being asked; or
 - (iii) a payment permitted by an enactment;
- (h) if either applicant is a parent of the child, states that fact;
- (i) states whether the applicants or either of them has ever before applied for, but been refused, an adoption order.

39.7 Form of Consent to adoption

Every statement of consent to the adoption of a child given by a parent or guardian of the child shall be in the relevant practice form.

39.8 Consent to adoption if identity of applicants is not disclosed

If the identity of the applicants is not disclosed and a person consents to an adoption order in respect of a child, but does not provide the file number of the applicants for the order, evidence shall be furnished to enable the identification of the applicant(s) as the person(s) to whom consent to adopt the child was granted, and such evidence shall be furnished at or before the hearing of the application.

39.9 Applicants to identify child to be adopted but not named in application for adoption

If an application for an adoption order in respect of a child does not include the name of the child (for example, because the child has not yet been named), the applicants shall, at or before the hearing of the application, provide evidence of the child's birth and background to establish his identity (for example, evidence that the child is the one of a particular sex born to a certain woman on a certain date).

39.10 Application for an Adoption Order and service on the Adoption Committee

- (1) The application for an adoption order and all supporting documents required to be filed with or before the hearing of the application are to be served on the Adoption Committee.
- (2) The Adoption Committee shall, upon receipt of the application for the adoption order, send all documents in its possession regarding the application to adopt the child to the court.
- (3) The Applicant(s) for an adoption order shall, as soon as possible, give notice to the Adoption Committee of the date and time of the hearing of the application for the adoption order.

39.11 Matters to be considered by the court

On the hearing of an application for an adoption order the court shall consider –

- (a) the contents of the application for an adoption order and the supporting documents;
- (b) the contents of the documents submitted by the Adoption Committee; and
- (c) any other relevant documents.

39.12 Orders of the court

On the hearing of an application for an adoption order the court may, among other things:

- (a) grant an adoption order;
- (b) postpone the determination of the application and grant an interim adoption order;
- (c) in the circumstances of an inter-country adoption, grant a provisional order and make an order requiring quarterly reports;
- (d) adjourn the application and give directions requiring the applicant, and the representative of the Adoption Committee, a social worker, a case

officer, or any other person, to take such actions which the court deems necessary in the interest of justice for the efficient disposition of the application;

- (e) make any order that the court deems appropriate in keeping with the relevant enactment and the overriding objective.

39.13 Social worker to ask police if prospective adoptive parent(s) has a criminal record

A social worker or case officer assigned to the Adoption case shall –

- (a) before furnishing the report, ask the police whether there is any record of any offence being committed by the applicants; and
- (b) shall make known to the court the results of that inquiry.

39.14 Attendance of parties at hearing

The applicants and the child proposed to be adopted shall attend personally at any hearing of an application for an adoption order or for the issue of an adoption order unless the court directs otherwise on its own initiative or on an interlocutory application for the purpose.

39.15 Registrar to give notice of making of interim order

If, on an application for an adoption order, the court makes an interim order in favour of the applicants, then, promptly after the making of the order, the Registrar shall —

- (a) send the applicants a notice of the making of the order; and
- (b) give the social worker a written notice setting out the particulars of the order.

39.16 Adoption order

- (1) If an adoption order is issued or made, then, promptly after the issue or making of the order, the Registrar shall send notice of the issue or making of the order to —
 - (a) the applicants or the legal practitioner acting for the applicants;
 - (b) the social worker; and
 - (c) the Registrar of the Civil Registry
- (2) An adoption order shall be drawn up and be filed in the court, but no copy of an adoption order may be issued out of the court except —

- (a) by order of the court made on special grounds; or
- (b) by order of the High Court made on special grounds.

(B) CARE AND PROTECTION OF CHILDREN

39.17 Applications without notice

- (1) An application for the issue of a summons under a relevant enactment may be made without notice.
- (2) Nothing in sub-rule (1) prevents other applications being made without notice, if that is authorised by a relevant enactment or another of these rules.

39.18 Procedure if restraining order made without notice

- (1) If a restraining order is made on an application without notice, the court shall fix a date (which shall be as soon as reasonably practicable after the making of the order) for a hearing on whether or not the order should be confirmed.
- (2) The copy of the order served on the person whose conduct is restrained by it shall notify that person that, unless he or she attends on the date fixed to show cause why the order should not be confirmed, the court may confirm the order.
- (3) The order ceases to have effect on the close of the date fixed unless —
 - (a) it is sooner discharged; or
 - (b) the court, on that date, confirms the order (whether with or without variation).
- (4) At the hearing on whether or not the restraining order should be confirmed, the court may —
 - (a) discharge the order;
 - (b) confirm the order;
 - (c) confirm the order but vary the conduct restrained by it;
 - (d) adjourn the hearing to another time and place; or
 - (e) enlarge the date and time for the hearing if, despite reasonable efforts to do so, the order has not been served on the person whose conduct is restrained by it.
- (5) If the court adjourns a hearing to another day under sub-rule (4)(d), the court shall, at the adjourned hearing, exercise only of the powers stated in sub-rule (4)(a) to (c).

- (6) In this rule, date fixed means whichever is the latest of the following dates:
- (a) the date fixed by the court under sub-rule (1);
 - (b) a date to which the hearing is adjourned under sub-rule (4)(d);
 - (c) a date to which the date for the hearing is enlarged under sub-rule (4)(e).

39.19 Affidavit to be filed with, or before hearing of, application for protection order

- (1) For every application for the protection of a child, the documents required to be filed to make the application include —
- (a) a duly completed certificate in the relevant practice form as to the holding of a family group conference, certifying that a family group conference has been held; and
 - (b) if a family group conference has been held in relation to the matter that forms the ground on which the application is made, a copy of the written record made in relation to that conference.
- (2) However, sub-rule (1) does not apply if, under the relevant enactment, the application may be made without a family group conference having been held.

39.20 Service on social worker or police officer

- (1) If a person to be served with a document in proceedings under the relevant enactment is a party to the proceedings in his or her capacity as a social worker, it is sufficient service to deliver the document to be served on the Head of the relevant Government Department or relevant public body.
- (2) If a person to be served with a document in proceedings under the relevant enactment is a party to the proceedings in his or her capacity as a police officer, it is sufficient service to deliver the document to be served on the office of the Commissioner of Police.

39.21 Documents filed on family group conference

If a family group conference was held in respect of a child or young person who is the subject of proceedings in a court under the relevant enactment, the following documents shall be filed in the court —

- (a) A duly completed certificate in the relevant practice form, certifying that he family group conference has been held; and
- (b) A copy of the written record made in relation to the conference.

39.22 Notice of intention to appear

A party to proceedings under the relevant enactment may file in court and serve a notice of intention to appear and be heard in relation to the application, but, if the party does so, the party shall also serve the notice on the legal practitioner representing the child or young person to whom the application relates.

39.23 Mediation conference

- (1) A request to a court for a mediation conference may be made —
 - (a) by the court, at any stage of the proceedings; or
 - (b) by the applicant, the child to whom the application relates or any legal practitioner who represents that child, at any time before the hearing of the proceedings has commenced.
- (2) The request may be made orally or in writing but, if made orally, shall be confirmed in writing as soon as possible.

39.24 Mediator to refer matter to case management conference if agreement cannot be reached

- (1) If the Mediator presiding over a mediation conference is satisfied that no agreement can be reached on a solution for the problem in respect of which the exercise of the court's jurisdiction is sought, the Mediator shall, as soon as practicable, indicate to the persons attending the conference that he or she has formed that view.
- (2) When an indication has been given under sub-rule (1), the matter shall be returned to case management for resolution and the court may make any orders and directions that may be made under the relevant enactment and these Rules.

39.25 Fixing time and date for hearing

- (1) Unless the court in a particular case orders otherwise, no date and time may be fixed for the hearing of an application under the relevant enactment —
 - (a) before a request for the convening of a mediation conference in respect of the application has been disposed of; or
 - (b) before the time for filing a notice of intention to appear has expired.
- (2) The Registrar shall fix a date and time for the hearing of an application under the Children Act if sub-rule (1) does not prevent that and there is filed in the court an application for a fixture for the hearing signed by, or on behalf of —

- (a) the applicant; and
 - (b) the legal practitioner representing the child or young person in respect of whom the application is made.
- (3) The Registrar may fix a date and time for the hearing even though the application for a fixture is not signed by all of the persons specified in sub-rule (2) if the Registrar is satisfied—
 - (a) that the persons who have not signed the application have refused to do so; and
 - (b) that none of those persons has, in the circumstances, a reasonable reason for refusing to sign the application.
- (4) A Registrar who fixes a date and time under sub-rule (3) shall note on the application that the Registrar has done so.
- (5) The Registrar shall give notice of the date and time of the hearing to the parties and to the legal practitioner representing the child or young person in respect of whom the application is made.
- (6) All parties shall give the Registrar, without delay, all available information affecting any estimated length of the hearing.

39.26 Pre-hearing disclosure of evidence

- (1) Before a hearing of an application under the Children Act, the court may order a party to the proceedings to file in the court a statement outlining, in reasonable detail, all or part of the evidence proposed to be tendered at the hearing by the party.
- (2) An order under sub-rule (1) may be made on any other conditions the court thinks fit, but shall always require the party against whom it is made to serve the statement on —
 - (a) the other parties; and
 - (b) the legal practitioner representing the child or young person who is the subject of the proceedings; and
 - (c) any legal practitioner appointed to appear in support of that child or young person in the proceedings.
- (3) If a party fails to comply with an order under sub-rule (1) —
 - (a) if the party is the applicant, the court may order that the proceedings be dismissed or stayed until the order is complied with;

- (b) if the party is not the applicant, the court may order that the party be allowed to appear at the hearing only on terms specified by the court.

39.27 Proof of service of application

An application under the Children Act (not being an interlocutory application) may not be heard unless, in respect of each party on whom service is not altogether dispensed with, either —

- (a) the court is satisfied that the party has taken some steps in the proceedings; or
- (b) an affidavit has been filed showing that the party has been personally served with the documents issued for service in relation to the application or an affidavit has been filed showing that the party has been otherwise duly served in accordance with the directions of the court or a Judge.

39.28 Evidence at hearing of certain proceedings generally to be orally given

- (1) At the hearing of proceedings (other than interlocutory proceedings) on an application for a care or protection order, evidence shall be given orally.
- (2) The court may, at any stage of the proceedings, order that certain evidence be given by affidavit or in another form that it directs.
- (3) Nothing in this rule affects an order made under —
 - (a) **rule 26.7.**
 - (b) **rule 26.17; or**
 - (c) **rule 39.26**

39.29 Consent to order of court

- (1) Sub-rule (2) applies when the making of an order, or the imposing of a condition, under the Children Act requires the consent of any person or organisation.
- (2) When this sub-rule applies, a statement of consent in the relevant practice form, duly completed and filed in the court is sufficient evidence that the person by whom, or the organisation by which, that statement is signed or executed consents to the making of the order or, as the case requires, the imposing of the condition.
- (3) Sub-rule (4) applies when—

- (a) the court proposes to make an order under the Children Act;
 - (b) either or both of the following apply:
 - (i) the making of that order requires the consent of any person or organisation;
 - (ii) that order may not be made unless a particular person or organisation has been informed of the proposal or intention to make the order and has been given an opportunity to make representations to the court or to appear and be heard by the court; and
 - (c) that person or organisation has not consented to the making of the order.
- (4) When this sub-rule applies, the Registrar shall give notice to the person or organisation specifying the order that the court proposes to make and the time and place at which the person or organisation may make representations to the court.

39.30 Proceedings not to terminate

- (1) This rule applies to proceedings under the Children Act if a social worker or a police officer, acting in that capacity, is a party (the original party) to the proceedings and —
- (a) dies;
 - (b) ceases to hold office as a social worker or, as the case requires, a police officer; or
 - (c) is for any other reason unavailable to participate in the proceedings as a party.
- (2) Proceedings that have already commenced under the Children Act do not terminate solely because of the circumstances referred to in sub-rule (1)(a), (b), or (c).
- (3) On the occurrence of any of the circumstances referred to in sub-rule (1), a different social worker or, as the case requires, a different police officer may, without further authority than this rule, participate in the proceedings in the place of the original party, and the proceedings shall continue in all respects as if the social worker or police officer who replaces the original party were a party to the proceedings in the place of the original party.

CHAPTER 2

MAINTENANCE OF AND ACCESS TO CHILDREN

39.31 Applications without notice

- (1) The following applications may be made without notice:
 - (a) An application for substituted service;
 - (b) An application to prevent a party from removing a child from the jurisdiction.
- (2) Nothing in sub-rule (1) prevents other applications from being made without notice, if it is authorised by an enactment or a provision in these rules.
- (3) If an order is made against a person on an application without notice under sub-rule (1), the person may apply to vary or rescind the order.

39.32 Without Notice Application to be supported by Affidavit

An application under **rule 39.31** shall be supported by evidence on Affidavit deposing to the matters in the application.

39.33 Affidavit of financial means and their sources to be filed

An application for an urgent maintenance order shall be accompanied by:

- (a) an affidavit of financial means;
- (b) sources of income laid out in the appropriate practice form; and
- (c) any other document required to be filed.

39.34 Notice of defence

- (1) A person served with documents relating to an application under the relevant enactment may, within the time specified, file in court and serve on the applicant, a notice of defence to the application.
- (2) If a respondent intends to claim relief under the relevant enactment the notice of defence shall conclude with a request for that relief.
- (3) Where a respondent resides outside the jurisdiction, or where there is substituted service, the time after service within which he or she may file a notice of

defence to the application shall, on application by the applicant, be fixed by the court.

39.35 Affidavit to accompany notice of defence

- (1) A notice of defence shall be accompanied by an affidavit made by the person filing and serving the notice of defence or by some other person.
- (2) An affidavit of the kind referred to in sub-rule (1) shall —
 - (a) dispose of the matters raised in the affidavit filed with the application;
 - (b) refer to matters on which the defence is based; and
 - (c) be served with the notice of defence.

39.36 Further information to be filed and served before hearing

All parties to proceedings under the relevant enactment shall, at least 14 working days before the hearing of the application —

- (a) file in the court an affidavit of financial means and their sources; and
- (b) serve a copy of the affidavit on all other parties.

39.37 Respondent added as party

- (1) If a party is added as a respondent to proceedings under the relevant enactment the court may adjourn the hearing for a period and on any terms that the court considers appropriate to enable the party added to be served with —
 - (a) a notice of application to the respondent in the practice form; and
 - (b) a copy of the documents issued for service in relation to the application concerned.
- (2) However, service of the documents referred to in sub-rule (1) may be dispensed with if —
 - (a) the adding of the party takes place at a hearing and the party being added as a respondent is present at the hearing; and
 - (b) the court is satisfied that the party added will not be prejudiced.

39.38 Procedure on intervention

A person who wishes, to intervene in, and contest and argue any question arising in, proceedings under the relevant enactment to which he or she is not otherwise a party shall —

- (a) file a notice of intervention in the practice form; and
- (b) serve a copy of the notice on every party to the proceedings.

CHAPTER 3

DOMESTIC VIOLENCE

39.39 Application without notice

An application under the Domestic Violence Act for a protection order may be made without notice.

39.40 Certain applications by respondent to be on notice

An application, if made by the respondent under the Domestic Violence Act, for an order varying or revoking the original Interim Protection Order or Final Protection Order shall be made on notice.

39.41 Certificate of legal practitioner to be included in certain applications without notice

- (1) This rule applies to an application made without notice for a protection order if it is not intended that the application be made –
 - (a) by the party applying in person; or
 - (b) by a representative applying in person.
- (2) If this rule applies to an application, the documents required to be filed to make the application shall include an affidavit by the applicant deposing —
 - (a) that a legal practitioner has advised the applicant that every affidavit filed with an application shall fully and frankly disclose all relevant circumstances, whether or not they are advantageous to the applicant or another person for whose benefit the order is sought; and
 - (b) that, to the best of the applicant's knowledge, the applicant has disclosed all the relevant circumstances.

39.42 Documents to be filed with application for protection order

- (1) The documents required to be filed with an application for a protection order under the Domestic Violence Act include –

- (a) an affidavit in support in the relevant practice form deposing to the matters on which the application is based; and
 - (b) a notice in the relevant practice form providing information for the Police including information about firearms licences and weapons.
- (2) If a protection order is to be used in support of an application, then, unless the Magistrate directs otherwise, the documents to be filed to make the application shall include a copy of the order.

39.43 Residential address not required

- (1) This rule applies to a person who is —
 - (a) a party to proceedings relating wholly or partly to an application under the Domestic Violence Act irrespective of whether the application was made by or on behalf of that party;
 - (b) a party to an appeal from the determination of a Magistrate in proceedings to which paragraph (a) applies; or
 - (c) a party to proceedings relating to, or arising out of, an order of the kind referred to in paragraph (a) if the decision was made in that party's favour.
- (2) Subject to **rule 39.44**, the person to whom sub-rule (1) refers need not provide a residential address on any document presented for filing in a Magistrates' Court in proceedings under the Domestic Violence Act.
- (3) The person to whom sub-rule (1) refers shall provide the court and any other party with an address for service.

39.44 Applicant for protection order may request that residential address be kept confidential

- (1) An applicant for a protection order who wants his or her residential address not to be disclosed to a respondent or associated respondent shall include, in the documents required to be filed with the application, a notice of residential address and request for confidentiality in the appropriate practice form —
 - (a) stating the applicant's residential address; and
 - (b) requesting that the address be kept confidential.
- (2) If an applicant files a notice under sub-rule (1) but later changes his or her residential address, the applicant may notify the Magistrate of the change by filing a further notice of residential address and request for confidentiality.

39.45 Earliest practicable date for the hearing of application on notice

If an application under the Domestic Violence Act is made on notice, the date and time to be assigned or fixed for the hearing of the application is the date and time that is as soon as practicable after the application is made.

39.46 Notice of defence to application made on notice

- (1) A person served with documents relating to an application under the Domestic Violence Act and who intends to defend the application may file in the Magistrates' Court and serve on the applicant —
 - (a) a notice of defence in the relevant practice form; and
 - (b) if the application is for or includes a request for a protection order, an affidavit—
 - (i) setting out sufficient particulars to indicate the grounds on which the defence is based; and
 - (ii) containing sufficient information to inform the Magistrate of the facts relied on in support of the defence.
- (2) The person shall file and serve the notice of defence and, if applicable, an affidavit no later than the sixth day before the date of the hearing.

39.47 Notice of intention to appear in relation to an interim protection order

- (1) This rule applies to the following persons if is made and relates to them:
 - (a) the respondent in proceedings under the relevant enactment; or
 - (b) a person affected by the order.
- (2) A person to whom this rule applies may file in the Magistrates' Court and serve on the other party to the proceedings, a notice of intention to appear.
- (3) The notice of intention to appear shall be filed and served before the day on which the interim protection order relating to that person becomes final.
- (4) An affidavit shall be filed with the notice of intention to appear, and shall set out —
 - (a) sufficient particulars to indicate the reasons for giving notice; and
 - (b) sufficient information to inform the Magistrate of the facts being relied on.
- (5) If a notice of intention to appear is filed, the Magistrate shall —
 - (a) assign a hearing date; and
 - (b) notify the parties to the proceedings accordingly.

39.48 Magistrate to issue order when an interim protection order becomes final

If an interim protection order becomes final (in whole or in part) the Magistrate shall immediately issue a final order in the appropriate practice form confirming that the interim protection order has become final (in whole or in part) and setting out the terms and conditions of the final order.

PART 40**RECIPROCAL ENFORCEMENT OF JUDGMENTS IN RELATION TO THE CUSTODY OR MAINTENANCE OF, OR ACCESS TO, A CHILD****Contents of this Part**

Scope of this Part	Rule 40.1
Application for registration	Rule 40.2
Order for registration	Rule 40.3
Register of judgments	Rule 40.4
Notice of registration	Rule 40.5
Application to set aside registration	Rule 40.6
Issue of execution	Rule 40.7
Certified copy of High Court judgment for enforcement in country	Rule 40.8

40.1 Scope of this Part

- (1) This Part deals with the procedure whereby under the provisions of any relevant enactment a judgment of a foreign court or tribunal in relation to the custody or maintenance of, or access to, a child may be registered in the High Court for enforcement within a Member State or Territory.
- (2) In this Part, unless the context requires otherwise –
 - “custodial parent” means the person who has actual custody of a child by virtue of any judgment;
 - “judgment” means a judgment, order or other decision of a foreign court or tribunal;
 - “non-custodial parent” means the person who does not have actual custody of a child by virtue of any judgment;

“payee”, in relation to a judgment, means the person to whom payments for which the judgment provides, are liable to be made;

“payer”, in relation to a judgment, means the person liable to make the payments for which the judgment provides;

“relevant enactment” means any enactment in force in a Member State or Territory which relates to the reciprocal enforcement of judgments in relation to the custody or maintenance of, or access to, a child.

40.2 Application for registration

An application to have a judgment registered in the High Court may be made without notice to the court but shall –

- (a) in respect of maintenance, be supported by evidence on affidavit –
 - (i) exhibiting the judgment or a verified, certified or otherwise duly authenticated copy of it and, if the judgment is not in the English language, an English translation of it certified by a notary public or authenticated by affidavit;
 - (ii) specifying the principal amount due under the judgment and the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of the application;
 - (iii) stating the name, trade or business and the usual or last known place of abode or business of the payee and the payer respectively, so far as is known to the deponent; and
 - (iv) stating to the best of the information or belief of the deponent –
 - (A) that the payee is entitled to enforce the judgment; and either
 - (I) that at the date of the application the judgment has not been satisfied; or
 - (II) the amount in respect of which it remains unsatisfied;
 - (B) that the judgment may be ordered to be registered for enforcement under any relevant enactment; and
 - (C) that the registration would not be or be liable to be, set aside under any relevant enactment; or
- (b) in respect of custody or access, be supported by evidence on affidavit –
 - (i) exhibiting the judgment or a verified, certified or otherwise duly authenticated copy of it and, if the judgment is not in the English

language, an English translation of it certified by a notary public or authenticated by affidavit;

- (ii) specifying the terms of the judgment which the applicant seeks to enforce;
- (iii) stating the name, trade or business and the usual or last known place of abode or business of the custodial or non-custodial parent, so far as is known to the deponent; and
- (iv) stating to the best of the information or belief of the deponent –
 - (A) that the applicant is entitled to enforce the judgment; and either –
 - (I) that, at the date of the application, the judgment has not been complied with; or
 - (II) that the judgment may be ordered to be registered for enforcement under any relevant enactment; and
 - (B) that the registration would not be, or be liable to be, set aside under any relevant enactment.

40.3 Order for registration

- (1) An order giving leave to register a judgment shall be drawn up by, or on behalf of, the payee.
- (2) Except where the order is made following an application on notice, it need not be served on the payer.
- (3) The order shall state the period within which an application may be made to set aside the registration and contain a notification that execution on the judgment will not issue until after the expiration of that period.
- (4) The court may, on an application made at any time while it remains competent for any party to apply to have the registration set aside, extend the period (either as originally fixed or as subsequently extended) within which an application to have the registration set aside may be made.
- (5) The court hearing the application may order that notice of the application be given to any person

40.4 Register of judgment

- (1) A register of the judgments ordered to be registered shall be kept in the court office.

- (2) There shall be included in each such register particulars of any execution issued on a judgment ordered to be so registered.

40.5 Notice of registration

- (1) Notice of the registration of a judgment shall be served on the payer by delivering it to the payer personally or in such other manner as the court may direct.
- (2) Service of such a notice out of the jurisdiction is permissible without leave, and **CPR 7.8, 7.9 and 7.10** apply to such a notice as they apply to a claim form.
- (3) The notice of registration shall state –
 - (a) full particulars of the judgment registered and the order for registration;
 - (b) the name and address of the payee or of the legal practitioner or agent on whom any summons issued by the payer may be served;
 - (c) the period within which an application to set aside the registration may be made; and
 - (d) the right of the payer to apply to have the registration set aside.

40.6 Application to set aside registration

- (1) An application to set aside the registration of a judgment shall be supported by evidence on affidavit.
- (2) If the court hearing an application to set aside the registration of a judgment is satisfied that –
 - (a) it is not just or convenient that the judgment should be enforced within the jurisdiction; or
 - (b) the judgment falls within any of the cases in which a judgment may not be registered under the provisions of any relevant enactment,it may order the registration of the judgment to be set aside on such terms as it directs.

40.7 Issue of execution

- (1) Execution may not issue on a judgment registered under the Act until after the expiration of the period which, in accordance with **rule 40.3(3)**, is specified in the order for registration as the period within which an application may be made

to set aside the registration or, if that period has been extended by the court, until after the expiration of the extended period.

- (2) If an application is made to set aside the registration of a judgment, execution on the judgment may not issue until after the application is finally determined.
- (3) Any party wishing to issue execution on a registered judgment shall produce to the court office an affidavit of service of the notice of registration of the judgment and any order made by the court in relation to the judgment.

40.8 Certified copy of High Court judgment for enforcement in another country

- (1) An application under any relevant enactment for a certified copy of a judgment entered in the High Court for the purpose of enforcement in some other country shall be made without notice supported by evidence on affidavit.
- (2) The certified copy of the judgment shall be an office copy sealed with the seal of the Supreme Court and indorsed with a certificate signed by a master or registrar that it is a true copy of a judgment obtained in the High Court and that it is issued in accordance with the relevant enactment.

SCHEDULE 1**FAMILY PROCEEDINGS PRACTICE FORMS**

Form	Description
1	Petition for Divorce
2	Joint Petition for Divorce
5	Answer to Petition
6	Notice of Intention to Defend
7	Financial Statement
8	Counter-petition (Against Party to Main Petition Only)
9	Counter-petition (Against Petitioner and Person Not Already Party to Main Petition)
10	Answer to Counter-petition
11	Reply to Answer to Counter-petition
12	Statement of Arrangement for Children
13	Notice of Proceedings (to be served with Petition)
14	Certificate of Reconciliation/Statement as to Reconciliation (to be served with Petition)
15	Acknowledgement of Service (for Respondent) (to be served with Petition)
16	Acknowledgment of Service (for Co-Respondent) (to be served with Petition)
19	General Application with Notice of Application
20	Notice of Respondent's Application
21	Application for Financial Relief (with Affidavit)
22	Application relating to Child(ren) (Other than Application for Financial Relief Only)
23	Response to Application relating to Child(ren)
24	Notice of Evidence containing Allegation of Adultery or Improper Association in Application relating to Child(ren)/Application for Financial Relief
26	Response to Application for Financial Relief

27	Statements of Capital, Income, Assets and Liabilities (of each party to be filed with application for a Consent Order re. financial relief)
28	Application for Adoption Order
29	Consent by Parent or Guardian to Adoption of Child (if identity of applicant(s) is/are known)
30	Consent by Parent or Guardian to Adoption of Child (if identity of applicant(s) is/are not known)
31	Application for Issue of Adoption Order
32	Certificate of the Holding of Family Group Conference
33	Statement of Consent (to the making of an order or the imposition of a of a condition under the Children (Care and Adoption) Act 2015
34	Affidavit of Financial Means and Sources (to be filed with application for an urgent maintenance order under the Maintenance of and Access to Children Act)
35	Notice of Application to Party added as a Respondent (to proceedings under the Maintenance of and Access to Children Act
36	Notice of Intervention (in proceedings under the Maintenance of and and Access to Children Act)
37	Affidavit in Support of Application for Protection Order/Property Order under the Domestic Violence Act
38	Notice of Firearms Licences and Weapons (to be filed with an application for a protection Order under the Domestic Violence Act)
39	Notice of Residential Address and Request for Confidentiality (by applicant for a Protection Order under the Domestic Violence Act
40	Notice of Defence to Application under the Domestic Violence Act
41	Final Protection Order

Form 1: Petition for Divorce
[Rule 9.2(1)]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

ANTIGUA AND BARBUDA

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

PETITION FOR DIVORCE

TO THE RESPONDENT _____

A LEGAL PROCEEDING FOR A DIVORCE HAS BEEN COMMENCED AGAINST YOU by the Petitioner. The claim made against you appears on the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an attorney acting for you must prepare an answer in **Form 5**, serve it on the Petitioner's Attorney or, where the Petitioner does not have an Attorney, serve it on the Petitioner, and file it, with proof of service, in the Registrar's office, **WITHIN TWENTY DAYS** after this petition is served on you, if you are served in (Member State / Territory).

If you are served in a CARICOM territory, the period for serving and filing your answer is forty days. If you are served outside a CARICOM territory, the period is sixty days.

Instead of serving and filing an answer, you may serve and file a notice of intention to defend in **Form 6**. This will entitle you to ten more days within which to serve and file your answer.

If this petition for divorce contains a claim for support or a division of property, you must serve and file a financial statement in **Form 7** within the time set out above for serving and filing your answer, whether or not you wish to defend this proceeding. If you serve and file an answer, your financial statement must accompany your answer.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DIVORCE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGEMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION.

NEITHER SPOUSE IS FREE TO REMARRY until a divorce has been granted and has taken effect. Once a divorce has taken effect, you may obtain a certificate of divorce from the Registrar's office.

Date:

Issued by

Registrar

[Address of the office of the
Registrar]

High Court of Justice

TO: (Name and address of each Respondent)

*(Separation)***CLAIM****1. The petitioner claims:**

(State precisely every-thing you want the Court to include in the judgment. If you claim support or a division of property, set out the nature and amount of relief claimed and the amount of support claimed for each dependant. If you want to include provisions of a separation agreement in the judgment, refer to the specific provisions to be included.)

- (a) divorce;
- (b) a under (state relevant enactment)
 - (i)
 - (ii)
 - (iii)

If relief is claimed under any other Act, refer to the Act in the Claim.

- (c) under (state law under which the claim is made)
 - (i)
 - (ii)
 - (iii)

GROUND FOR DIVORCE – SEPARATION**2. The spouses have lived separate and apart since**

The spouses have resumed cohabitation during the following periods in unsuccessful attempts at reconciliation

(If none, state “None”)

Date(s) of Cohabitation

*(Adultery)***CLAIM**

(State precisely everything you want the Court to include in the judgment. If you claim support or a division of property, set out the nature and amount of relief claimed and the amount of support claimed for each dependant. If you want to include provisions of a separation agreement in the judgment, refer to the specific provisions to be included.)

If relief is claimed under any other Act, refer to the Act in the Claim.

3. The petitioner claims:

- (a) a divorce;
- (b) under (state relevant enactment)
 - (i)
 - (ii)
 - (iii)
- (c) under (state law which the claim is made)
 - (i)
 - (ii)
 - (iii)

GROUND FOR DIVORCE – ADULTERY

- 4.** The respondent spouse has committed adultery.
Particulars are as follows: (State the particulars)

(Cruelty)

CLAIM

5. The petitioner claims:

- (a) a divorce;
- (b) under (state relevant enactment)
 - (i)
 - (ii)
 - (iii)
- (c) under (state law under which the claim is made)
 - (i)
 - (ii)
 - (iii)

GROUND FOR DIVORCE – CRUELTY

- 6.** The respondent has treated the petitioner with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses. Particulars are as follows: (see statement attached)

RECONCILIATION

- 7.** There is no possibility of reconciliation of the spouses.

(Give details. Where no efforts have been made, state “none.”)

8. The following efforts to reconcile have been made:

☐ The Parties received informal counselling from family members and friends.

☐ Other. (Give details)

.....

DETAILS OF MARRIAGE

(Where possible, copy the information from the marriage certificate.)

9. Date of marriage

10. Place of marriage (municipality and province, state, territory or country)

11. Wife's surname immediately before marriage

12. Wife's surname at birth

13. Husband's surname immediately before marriage

14. Husband's surname at birth

15. Marital status of husband at time of marriage,
(never married, divorced or widower)

16. Marital status of wife at time of marriage,
(never married, divorced or widow)

17. Wife's birthplace (province, state or country)

18. Wife's birth date

19. Husband's birthplace (province, state or country)

20. Husband's birth date

21. (a) ☐ A certificate of

(Check (a), (b) or
(c) and complete as
required.)

☐ the marriage

☐ the registration of the marriage

of the spouses has been filed with the court.

(b) ☐ It is impossible to obtain a certificate of
the marriage or its registration because

.....
.....

(c) ☐ A certificate of the marriage or its
registration will be filed before this action is
set down for trial or a motion is made for
judgment.

RESIDENCE

22. The petitioner has resided in (Member State / Territory,
municipality and province, state or country)

since (date)

23. The respondent has resided in (Member State /
Territory, municipality and province, state or country) ...

since (date)

24. The respondent's current address is

25. The ☐ Petitioner has habitually resided in Antigua and
Barbuda for at least one (1) year immediately preceding
the commencement of this proceeding.

The [] Respondent has habitually resided in Antigua and Barbuda for at least one (1) year immediately preceding the commencement of this proceeding.

CHILDREN

26. The following are all the living children of the marriage as defined by the (state relevant enactment):

Full name	Birth date	School and grade or year	Person with whom child lives and length of time child has lived there
-----------	------------	--------------------------	---

I certify that a statement of arrangements for children required by rule 9.6 of the Family Proceedings Rules 2022 is attached to this Petition.

.....
Signed by (Petitioner)

The children ordinarily reside in (state address including country)

.....

(Be sure that this para-graph agrees with the claim under petition and grounds for divorce.)

27. (a) The petitioner seeks an order for custody or joint custody of the following children on the following terms:

Name of child	Terms of the order
.....

The respondent

☐ agrees

☐ does not agree

with the above terms.

(Strike out if
not applicable)

(b) The petitioner is not seeking an order for custody

☐ is content that a previous court order for custody
continues in force

☐ is attempting to obtain an order for custody in
another proceeding full particulars of which are
as follows:

(Give the name of court, court file no. and particulars
of the order or proceeding.)

.....

.....

.....

(Strike out if not
applicable)

(c) The petitioner seeks an order for access (visiting
arrangements) and is content that the respondent has
an order for custody of the following children on the
following terms:

Name of child

Terms of order

.....

The respondent

☐ agrees

☐ does not agree

with the above terms.

(Give details such as
days of the week,
hours of visit and place
of access.)

- 28.** (a) The following are the existing visiting arrangements (access) for the spouse who does not have the children living with him or her.

--

.....

- (b) The existing visiting arrangements (access) are:

☐ satisfactory

☐ not satisfactory.

(If not satisfactory, give reasons and describe how the arrangements should be changed.)

- 29.** The order sought in paragraph 27 is in the best interest of the children for the following reasons:

.....

- 30.** The following material changes in the circumstances of the spouses are expected to affect the children, their custody and the visiting arrangements (access) in the future:

.....

- ☐ The existing arrangements between the spouses for support for the children are attached.

OTHER COURT PROCEEDINGS

- 31.** The following are all other court proceedings with reference to the marriage of any child of the said marriage; (Give the name of the court, the court file no.; the kind of order the court was asked to make and what

order, if any, the court made, if the proceeding is not yet completed, give its current status.)

.....

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

- 32.** The spouses have entered into the following domestic contracts and other written or oral financial agreements: (indicate whether the contract or arrangement is now in effect, and if support payments are not being paid in full, state the amount that has not been paid.)

Date	Nature of contract	Status of arrangement
------	--------------------	--------------------------

COLLUSION, CONDONATION AND CONNIVANCE

- 33.** There has been no collusion in relation to this divorce proceeding.

(Strike out the paragraphs if the divorce is sought on the ground of separation only.)

- 34.** There has been no condonation of or connivance at the grounds for divorce in this proceeding. (Where there has been condonation or connivance, strike out the previous sentence. Give details and set out the facts relied on to justify a divorce in the circumstances.)

MATTERS OTHER THAN DIVORCE AND CUSTODY

- 35.** The grounds for the relief sought in paragraph 1 (other than a divorce or custody), are as follows:
- (a) (State the grounds). Particulars are as follows:
(State the particulars)

- (b) (State the grounds). Particulars are as follows:
(State the particulars)
- (c) (State the grounds). Particulars are as follows:
(State the particulars)

TRIAL

- 36.** The petitioner proposes that if there is a trial in this action, it be held at

.....

Where a claim is made for custody of a child who ordinarily resides in (Member State / Territory), the place of trial must be in the country where he or she ordinarily resides.)

AFFIDAVIT/AFFIRMATION OF PETITIONER

- 37.** I (name) (occupation)..... swear/affirm that:
- 1. I have read and that I understand this petition for divorce.
 - 2. The statements contained in this petition are true and accurate.

Sworn/Affirmed at

Etc.

STATEMENT OF ATTORNEY-AT-LAW

(Omit this paragraph if you do not have an Attorney.)

1. I, attorney-at-law for the petitioner, certify to this court that I have complied with the requirements of (state relevant enactment).

(Where in the circumstances it would clearly not be appropriate to discuss the matters in (state relevant enactment) with the petitioner, set out the circumstances.)

Date

.....
Signature of Attorney-at-law

(Name, address and telephone number of petitioner’s attorney-at-law or petitioner)

Signature

Form 2: Joint Petition for Divorce

[Rule 9.2(1)]

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Husband

And

C.B.

Wife

JOINT PETITION FOR DIVORCE

Dated:

Issued by:
Registrar.

[Address of the office of
the Registrar, High Court
of Justice]

1. The Husband and Wife jointly seek:
 - (a) a divorce;
 - (b) under (state relevant enactment)
 - (i)
 - (ii)
 - (iii)
 - (c) under (state law under which claim is made)
 - (i)
 - (ii)
 - (iii)

GROUND FOR DIVORCE – SEPARATION

2. The Spouses have lived separate and apart since

The Spouses have resumed cohabitation during the following
periods in unsuccessful attempts at reconciliation:
Date(s) of resumed Cohabitation:
.....
.....

RECONCILIATION

3. There is no possibility of reconciliation of the spouses.
4. The following efforts to reconcile have been made:

DETAILS OF MARRIAGE

5. Date of marriage:
6. Place of marriage:
7. Wife's surname immediately before marriage:.....
8. Wife's surname at birth:
9. Husband's surname immediately before marriage:
10. Husband's surname at birth:
11. Marital status of husband at time of marriage:
12. Marital status of wife at time of marriage:
13. Wife's birthplace:
14. Husband's birthplace:
15. Husband's birthdate:
16. (a) ☐ A certificate of
☐ the marriage; or
☐ the registration of the marriage
of the Spouses has been filed with the Court.
- (b) ☐ It is impossible to obtain a certificate of the
marriage or its registration because:
.....
.....
- (c) ☐ A certificate of the marriage or its
registration will be filed before this action is set down for trial
or a motion is made for judgment.

RESIDENCE

17. The Wife resides and has resided at
since
18. The Husband resides and has resided at
since
19. The Husband's current address is:
20. The [] Husband/ [] Wife has habitually resided in (Member State /
Territory) for at least One (1) year immediately preceding the
commencement of this proceeding.

**A STATEMENT OF ARRANGEMENT FOR CHILDREN IS
ATTACHED**

21. The following are all the living children of the marriage as defined by
(state relevant enactment) and we certify that all arrangements for the
maintenance, custody and access to the children have been agreed
between us.

Full Names:

Birthdate:

School and grade or year:

Guardian of child:

The child(ren) ordinarily reside at:

OTHER COURT PARTICULARS

22. The following are all other Court proceedings with reference to the
marriage or of any child of the marriage:

**DOMESTIC CONTRACTS AND FINANCIAL
ARRANGEMENTS**

- 23.** The spouses have entered into the following domestic contracts and other written or oral financial agreements, together with the details of performance of the same:

Date of contract:

Description of contract:

Status:

COLLUSION

- 24.** There has been no collusion in relation to this Divorce proceeding.

DECLARATION OF SPOUSES

- 25.** (a) I have read and understand this Petition for Divorce. The statements in it are true to the best of my knowledge, information and belief.

(b) I understand that I have the right to seek independent legal advice concerning this proceeding and to retain my own separate Counsel.

Dated:

Signed:

Wife

Dated:

Signed:

Husband

STATEMENT OF WIFE'S ATTORNEY-AT-LAW

- 26.** I, _____, Attorney-at-law for the Wife, certify to this Honourable Court that I have complied with the requirements of (state relevant enactment).

I also certify that I have advised the Wife that she has the right to have independent legal advice and retain separate Counsel in this proceeding.

Dated:

Signed:

STATEMENT OF HUSBAND'S ATTORNEY-AT-LAW

- 27.** I, _____, Attorney-at-law for the Husband, certify to this Honourable Court that I have complied with the requirements of (state relevant enactment).

I also certify that I have advised the Husband that he has the right to have independent legal advice and retain separate Counsel in this proceeding.

Dated:

Signed:

Form 5: Answer to Petition*[Rule 20.2]***THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION****[Member State / Territory]****PETITION NO.:****BETWEEN:****A.B.**

Petitioner

And

C.B.

Respondent

ANSWER TO PETITION

1. The respondent admits the allegation contained in paragraph.....
of the petition.
2. The respondent denies the allegations contained in paragraphs.....
of the petition.
3. The respondent has no knowledge in respect of the allegation contained
in paragraphs of the petition.
4. (Set out in separate, consecutively numbered paragraphs each
allegation of material fact relied on by way of answer to the petition.)

(Date)

(Name, address and telephone
number of Respondent's Attorney-
at-Law or Respondent)TO (Name and address of Petitioner's
Attorney-at-Law or Petitioner)

Form 6: Notice of Intention to Defend

[Rule 10.2]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

NOTICE OF INTENTION TO DEFEND

The Respondent (or Respondent added by counter-petition) intends to defend this petition.

(Name, address and telephone number of attorney-at-law or of party serving notice)

TO (Name and address of attorney-at-law or party on whom notice is served)

Form 7: Financial Statement

[To be attached to a petition or counter-petition if it contains a claim for support]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

FINANCIAL STATEMENT

I,
(full name of deponent)

ofin
(Address)

..... MAKE OATH AND SAY
(or AFFIRM) as follows:

1. Particulars of my financial situation and of all my property are accurately set out below to the best of my knowledge, information and belief.

SWORN/AFFIRM etc.

Form 8: Counter-petition (Against Party to Main Petition Only)

[Rule 20.6]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent/Counter-petitioner

COUNTER-PETITION

(Where the counter-petition includes as a respondent to the counter-petition a person who is not already a party to the main petition, use **Form 9**.)

(Include the counter-petition in the same document as the answer, and entitle the document ANSWER AND COUNTER-PETITION. The counter-petition is to follow the last paragraph of the answer. Number the paragraphs in sequence commencing with the number following the number of the last paragraph of the answer.)

COUNTER-PETITION

The Respondent (name if more than one respondent)/Counter-Petitioner claims:

(State here the precise relief claimed. If the respondent wishes to include provisions of a separation agreement in the judgment, refer to the specific provisions to be included and attach the agreement to the counter-petition.)

(Then set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the counter-petition.)

AFFIDAVIT/AFFIRMATION OF RESPONDENT/COUNTER-PETITIONER

I, *[insert name and occupation]* do swear/affirm that:

1. I have read and that I understand this above document.
2. The statements contained in this counter-petition are true and accurate.

Sworn/Affirmed etc.

(Where the respondent acts in person, set out the respondent's address and telephone number and strike out the entire statement of Attorney-at-Law appearing below.)

Respondent's address and telephone number

.....

STATEMENT OF ATTORNEY-AT-LAW

I, (name), Attorney-at-Law for the respondent, certify to this court that I have complied with the requirements of section 8 of the Divorce Act. (Where in the circumstances it would clearly not be appropriate to discuss the matters in section 8 with the Respondent, set out the circumstances.)

Date

.....
Signature of Attorney-at-Law

(Name, address and telephone
number of Attorney-at-Law)

**Form 9: Counter-petition (Against Petitioner and Person Not Already
Party to Main Petition)**

[Rule 20.6]

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

ANTIGUA AND BARBUDA

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

(Add a second title of proceeding, as follows:)

And Between

(name)

Petitioner by Counter-petition

(Court seal)

and

(name)

Respondents to the Counter-petition

COUNTER-PETITION

(Where all the respondents to the counter-petition are already parties to the main
petition, use **Form 8**.)

(Include the counter-petition in the same document as the answer, and entitle the document ANSWER AND COUNTER-PETITION. The counter-petition is to follow the last paragraph of the answer. Number the paragraphs in sequence commencing with the number following the number of the last paragraph of the answer.)

TO THE RESPONDENTS TO THE COUNTER-PETITION

A LEGAL PROCEEDING has been commenced against you by way of a counter-petition in a divorce action in this court.

IF YOU WISH TO DEFEND THIS COUNTER-PETITION, you or attorney acting for you must prepare an Answer to Counter-petition in **Form 10**, serve it on the petitioner by counter-petitioner's attorney or, where the petitioner by counter-petition does not have an attorney, serve it on the petitioner by counter-petitioner, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this answer and counter-petition is served on you.

If you are not already a party of the main action, instead of serving and filing an answer, you may serve and file a notice of intention to defend in **Form 6**. This will entitle you to ten more days within which to serve and file your answer.

If this counter-petition contains a claim against you for support or division of property, you must, if you have not already done so, serve and file a financial statement in **Form 7** within the time set out above for serving and filing your answer to the counter-petition, whether or not you wish to defend this counter-petition. If you serve and file an answer to counter-petition, your financial statement must accompany it, unless you have already served and filed your financial statement.

IF YOU FAIL TO DEFEND THIS COUNTER-PETITION, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date.....

Issued by

Registrar

[Address of the office of the Registrar,
High Court of Justice]

TO (Name and address of respondent to the petitioner)

AND TO (Name and address of petitioner's Attorney-at-Law or Petitioner)

(The counter-petition is to follow the last paragraph of the answer. Number the paragraphs in sequence commencing with the number following the number of the last paragraph of the answer.)

COUNTER-PETITION

The respondent (name if more than one respondent) claims:

(State here the precise relief claimed. If the respondent wishes to include provisions of a separation agreement in the judgment, refer to the specific provisions to be included and attach the agreement to the counter-petition.)

(Then set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the counter-petition.)

AFFIDAVIT/AFFIRMATION OF RESPONDENT

I, *[insert name and occupation]* do swear/affirm that:

1. I have read and that I understand this above document.
2. The statements contained in this counter-petition are true and accurate.

Sworn/Affirmed etc.

(Where the respondent acts in person, set out the respondent's address and telephone number and strike out the statement of attorney-at-law appearing below.)

Respondent's address and telephone number:

.....
.....

STATEMENT OF ATTORNEY-AT-LAW

I, (name), attorney-at-law for the respondent, certify to this court that I have complied with the requirements of section 8 of the Divorce Act. (Where in the circumstances it would clearly not be appropriate to discuss the matters in section 8 with the respondent, set out the circumstances.)

Date

.....

Signature of Attorney-at-Law

(Name, address and telephone
number of Attorney-at-Law)

Form 10: Answer to Counter-petition

[Rule 20.8]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

(Add a second title of proceeding if required, as follows:)

And Between

(name)

Petitioner by Counter-petition

(Court seal)

and

(name)

Respondents to the Counter-petition

ANSWER TO COUNTER-PETITION

(A petitioner who delivers a reply in the main action must include the answer to counter-petition in the same document as the reply, and the document is to be

entitled REPLY AND ANSWER TO COUNTER-PETITION. The answer to counter-petition is to follow immediately after the last paragraph of the reply and the paragraphs are to be numbered in sequence commencing with the number following the last paragraph of the reply.)

1. The petitioner (or respondent to the counter-petition) admits the allegations contained in paragraphs of the counter-petition.
2. The petitioner (or respondent to the counter-petition) denies the allegations contained in paragraphs of the counter-petition.
3. The petitioner (or respondent to the counter-petition) has no knowledge in respect of the allegations contained in paragraphs of the counter-petition.
4. (Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of answer to the petition.)

[Date]

.....
Signature of Petitioner/Respondent to Counter-petition

(Name, address and telephone number of
Attorney-at-Law for Petitioner/
Respondent to the Counterpetition)

TO (Name and address of Counter-petitioner's
Attorney-at-Law/Counter-petitioner)

Form 11: Reply to Answer to Counter-petition

[Rule 20.10]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

(Add a second title of proceeding if required, as follows:)

And Between

(name)

Petitioner by Counter-petition

(Court seal)

and

(name)

Respondents to the Counter-petition

REPLY TO ANSWER TO COUNTER-PETITION

(Leave of the Court is required prior to filing a Reply to Answer)

1. The respondent (name if more than one respondent) admits the allegations contained in paragraphs of the answer to counter-petition.
2. The respondent denies the allegations contained in paragraphs of the answer to counter-petition.
3. The respondent has no knowledge in respect of the allegations contained in paragraphs of the answer to counter-petition.
4. (Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of answer to the counter-petition.)

[Date]

.....

Respondent/Counter-petitioner

(Name, address and telephone number of
respondent's Attorney-at-Law or
Respondent)

TO (Name and address of Attorney-at-Law or party to be served)

Form 12: Statement of Arrangements for Children

[Rule 9.6]

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.

Petitioner

And

C.B.

Respondent

STATEMENT OF ARRANGEMENTS FOR CHILDREN

SECTION 1A: FIRST CHILD

1. Name

Date of Birth

With whom does she/he live

Address

2. Is child at school or other place of education?

YES/NO

If so, give details.

3. Are you proposing any changes within the next two years? YES/NO

If so, give details.

4. Does the child suffer from any medical disability? YES/NO

If so, give details.

[The court may require a medical certificate]

5. Is the child under the care of any [local authority] [probation officer]? YES/NO

If so, give details

SECTION 1B: SECOND CHILD:

1. Names

Date of Birth

With whom does s/he live

Address

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

If so, give details.

3. Are you proposing any changes within the next two years? YES/NO

If so, give details.

4. Does the child suffer from any medical disability? YES/NO

If so, give details.

[The court may require a medical certificate]

5. Is the child under the care of any [local authority] [probation officer]? YES/NO

If so, give details

*[Insert similar consecutively numbered sections for each additional child, e.g.
SECTION 1C: THIRD CHILD, SECTION 1D: FOURTH CHILD]*

SECTION 2: ACCESS

1. What are the present arrangements for access by the parent who does not reside in the same household as the child(ren)?

Give details:

2. Are these arrangements working satisfactorily? YES/NO

3. Do you propose any changes? YES/NO

If so, give details.

SECTION 3: FINANCIAL NEEDS

1. Set out below your estimate of the cost of maintaining the child(ren): Give figures per week/month/ year

Item of Expenditure

Frequency

(State Per week/ month/ Year)

Food

General Clothing

School Uniform

School fees

Travel to school/extra-curricular activities

Extra-curricular tuition/lessons

Lunch money

School books
 General School supplies
 Medical/Dental/Optical costs
 Toys/Games/Sports
 Outings
 Holidays
 Hairdressing/hair grooming
 Presents/Gifts
 Pocket money
 Child Care

(NB: This list is not intended to be exhaustive and may be modified as necessary)

Total Cost \$ _____ (per week/month/year)

2. What contribution(s), if any, does other parent or anyone else make to this cost? \$ _____ (per week/month/year)

SECTION 4: EXISTING COURT ORDERS AND/OR AGREEMENTS

1. Are there any court orders relating to any of the children? YES/NO

If so, attach copies of each such order.

2. Have any agreements been made with regard to

(a) access to	YES/NO
(b) custody of	YES/NO
(c) maintenance the children	YES/NO

If so supply copies (if in writing)

SECTION 5: COURT ORDERS YOU ARE CONSIDERING SEEKING

1. 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 as a claim for ancillary relief.

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

Form 13: Notice of Proceedings (*to be served with Petition*)*[Rule 9.7(2)(c)]***THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION****[Member State / Territory]****PETITION NO.:****BETWEEN:****A.B.**

Petitioner

And

C.B.

Respondent

NOTICE OF PROCEEDINGS**TAKE NOTICE** there will be a Directions Hearing on the day of

at a.m./p.m. at

IT IS IMPORTANT THAT YOU ATTEND THIS HEARING.

A petition for divorce has been presented to the court and a copy is served on you with this notice together with –

- a form of acknowledgment of service; and
- a statement of the petitioner's proposed arrangements for any children of the family.

1. If you propose to retain an attorney-at-law you should do so immediately.

2. The attached form of acknowledgment of service **MUST** be completed and returned to the court office within **FOURTEEN days** of the day on which you receive these documents. The address of the court office is given below and can also be found on the petition. **You should NOT delay returning the acknowledgment of service.**

3. 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.

4. If you wish -

- to defend the petition; and/or
- to petition the court for a divorce,

you **must** -

- give notice to defend by completing the answer to question 4 in the acknowledgment of service and return it to the court office whose address is given below and on the petition so that they receive it within **FOURTEEN days** of the day on which you receive these documents; **AND**
- file an answer and (if appropriate) a cross-petition at the court office so that the answer and cross-petition are received within **TWENTY-EIGHT days** after the day on which you receive these documents.

5. If you do not file an answer and/or cross-petition the petitioner may be granted a decree of divorce **without further input from you.**

6. Petitions based on separation.

- (a) This applies where you and the petitioner have lived separate and apart for at least one year immediately preceding the determination of the divorce proceedings.
- (b) If you consent to the divorce you may indicate your consent by stating so in your answer to question 7 on the Acknowledgment of Service.
- (c) The court will not grant a divorce until the court is satisfied that proper arrangements have been made for the children of the marriage. **If you wish to make such an application, YOU MUST -**
 - indicate this in the Acknowledgment of Service by your answer to question 6; AND
 - File your own statement of arrangement for the children in form 12; AND
 - make an application to the court in Form 7. **You should do this as soon as possible.**

7. 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 HE/SHE SEES FIT AGAINST YOU IN YOUR ABSENCE.**

8. Issues arising from the breakdown of the marriage.

- (a) At that hearing the judge will consider all issues that may arise from the breakdown of the marriage.
- (b) If there are children of the marriage, the judge **MUST** be satisfied that reasonable arrangements for the children (including questions of access, custody and maintenance) have

been made.

- (c) The judge may –
 - make an order for divorce;
 - give directions with regards to any likely applications for access to, or custody or maintenance of, children and/or make any other order he/she may think fit;
 - give directions with regards to any likely applications for any form of financial support and/or make any order he/she may think fit.
- (d) If you intend to make any application relating to the children or to financial matters you should make it **as quickly as possible**.
- (e) If the petition is defended the judge will give directions about the way in which each party should prepare his/her case for a court hearing.

The court office is at [xxx xxx xxx], telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and such other days on which the court office is closed.

Form 15: Acknowledgement of Service (for use by Respondent)

[Rule 9.7(2)(b)]

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

[Member State / Territory]

PETITION NO.:

BETWEEN:

A.B.
Petitioner

And

C.B.
Respondent

ACKNOWLEDGMENT OF SERVICE

If you intend to retain an attorney-at-law do so immediately and hand him/her this form.

- | | |
|--|-----------------|
| 1. Have you received the petition for divorce 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? YES / NO

If not, you can file your own statement of arrangement (Form 12).

7. Do you intend to defend the petition? YES / NO

If so you MUST -

(a) return this Acknowledgment of Service to the court office whose address is below so that it is received by them within FOURTEEN days of the date on which you received the petition; and

(b) file an Answer and/or Cross-Petition so that it is received by the court office within TWENTY-EIGHT days of the date on which you received the petition.

8. Do you wish the court to consider your financial position? YES / NO

If so, you MUST make an application in Form 7. You should do so as promptly as possible. YES / NO

9. Do you wish to be heard on any application for costs made in the petition? **If so, you must attend the directions hearing.** YES / NO

10. Do you want to make any application on your own behalf? YES / NO

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-at-Law for Respondent

Address for Service:

.....

.....

The court office is at [xxx xxx xxx], telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between [8.00 a.m. and 4.00 p.m. every day except public holidays and such other days on which the court office is:

Form 16: Acknowledgement of Service (for use by Co-Respondent)*[Rule 9.7(2)(b)]***THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION****[Member State / Territory]****PETITION NO.:****BETWEEN:****A.B.**

Petitioner

And

C.B.

Respondent

ACKNOWLEDGMENT OF SERVICE**If you intend to instruct an Attorney, do so immediately and hand him/her this form.**

1. Have you received the petition for divorce with this form? YES/NO
2. Are you the person named as a Co-Respondent/Second Respondent?
YES/NO
3. On what date did you receive it? -----/-----/20-----
4. At what address did you receive it?

.....

.....

5. Do you intend to defend the petition? YES/NO

If so you MUST –

- (a) Return this Acknowledgment of Service to the court office whose address is below so that it is received by them within EIGHT days of the date on which you receive the petition; and**
- (b) You must also file an Answer and/or Cross-Petition so that it is received by the court office within TWENTY-EIGHT days of the date on which you received the petition.**
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 must attend the directions hearing.

Signed: _____
Co-Respondent

Signed: _____
Attorney-at-Law for Co-Respondent

Address for Service:
.....
.....

The court office is at [xxx xxx xxx], telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and such other days on which the court office is:

Form 19: Application (other than Petition) with Notice of Application

[Rules 2.2, 12.13(4), 12.13(5), 13.2, 35.2(1), 38.2(1)]

**[THE EASTERN CARIBBEAN SUPREME COURT]
IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

BETWEEN:

A.B.

Applicant

And

C.B.

Respondent

APPLICATION

(This form may be used for multiple applications.)

The [applicant][respondent] applies to the court for the following order(s):

- (a) an order that _____;
- (b) an order that _____;
- (c) an order that _____;

A draft of the order(s) 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.

[An affidavit in support accompanies this application]

Signed [Attorney for][applicant][respondent]

Dated:

NOTICE OF APPLICATION:

This application will be heard by the [Judge] [Master] [Magistrate] on the day of , 20....., at a.m. / p.m. at

If you do not attend this hearing, an order may be made in your absence.

OR

The [Judge] [Master] [Magistrate] will deal with this application [as directed by the court].

NB. This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at xxx xxx xxx, telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and such other days on which the court office is closed.

Form 20: Notice of Respondent's Application

[THE EASTERN CARIBBEAN SUPREME COURT]

IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]

FAMILY DIVISION

[Member State / Territory]

APPLICATION NO.:

BETWEEN:

A.B.

Applicant

And

C.B.

Respondent

NOTICE OF RESPONDENT'S APPLICATION

TAKE NOTICE that the respondent has applied to the court under the [state relevant enactment] for the court to consider the financial position of the respondent after the divorce.

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 court office is at xxx xxx xxx, telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and on such other days as the court office is closed.

Form 21: Application for Financial Relief (with Affidavit)

[Rules 12.2]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

PETITION / APPLICATION NO.:

BETWEEN:

A.B.

Petitioner / Applicant

And

C.B.

Respondent

APPLICATION FOR FINANCIAL RELIEF

The applicant applies to the Court for an order for the following financial provision for [herself / himself] [herself / himself and the children named below], [the children named below] -

(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:

Tel. number:

Email:

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 court office is at xxx xxx xxx, telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and on such days as the court office is closed

AFFIDAVIT 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:
 - (a) Divorce
 - (b) Maintenance
 - (c) Children issues
 - (d) Domestic Violence
 - (e) Other _____

[exhibit court order made in other proceedings]
- (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.
 - (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] | \$ |

(NB: This list is not intended to be exhaustive and may be modified as necessary)

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 -

House - *(State \$ per week/month/year)*

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 *(State \$ per week/month/year)*

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 *(State \$ per week/month/year)*

Travel to work
Pension contributions
Union/Professional Body Subscriptions

Expenditure on Children *(State \$ per week/month/year)*

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

Car*(State \$ per week/month/year)*

Insurance
 Hire Purchase etc.
 Repairs/Servicing
 Gas/Oil

Capital and other assets

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)? 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. \$ _____

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

If so -

(a) in your sole name

(b) jointly with(name)

(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

[give full name and address]

(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

Bank Account

- (17) Do you have a Bank Account? YES/NO
- 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 \$2,500?
If so, give details
- (a) Jewellery
 - (b) Antiques
 - (c) Paintings
 - (d) Works of Art.
 - (e) Boat
 - (f) Other

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?
Do you owe
- (c) debts to financial institution/bank/credit company/credit cards?
- (d) Unit Trusts / Credit Unions / Other
(if so, give details of) –
amount of debt
when borrowed
for what
amount outstanding
repayments \$
per[week][month][year]
are any repayments in arrear?
- (e) 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 his/her take home income \$
per [week][month][year]?

Does he/she own/ have shares 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 provision)**

What orders do you seek and on what grounds?

- (23) Set out as clearly as possible what orders you seek and the grounds on which the application for each order is made
- A for maintenance of yourself
 - B for maintenance of the children
 - C about the matrimonial home
 - D about capital.

SWORN/AFFIRM etc

The court office is at xxx xxx xxx, telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 am and 4.00 p.m. every day except public holidays and such other days as the court office is closed.

Form 22: Application relating to Child(ren) (other than Application for Financial Relief only)

[Rules 11.1, 11.2(1), 11.3, 11.4, 11.13]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

PETITION / APPLICATION NO.:

BETWEEN:

A.B.

Petitioner / Applicant

And

C.B.

Respondent

APPLICATION RELATING TO CHILD(REN)

(This form may be used for any application relating to the welfare of a child, including a paternity order and an injunction or order to restrain a person from removing a child from the jurisdiction or out of the custody, care and control of a person.)

(For an application for financial relief only, use **Form 21.**)

**FULL NAMES OF EACH CHILD TO WHOM THIS APPLICATION
RELATES:**

1. THE APPLICANT

Give your name, address and telephone number

Date of birth

Your attorney's name

Address

Telephone number

FAX number & email

2. THE CHILDREN.

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

(b) State the order(s) that you seek.

3. OTHER CASES AFFECTING THE CHILDREN

(a) State with regard to each child whether there have been any previous proceedings in ANY court.

(b) Give name of court, date, type of proceedings and order made.

(c) Attach copy of 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:

- (a) current address
- (b) how long the child has lived there
- (c) whether it is his or her normal address
- (d) who cares for the child
- (e) 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 –

- (a) whether there is any adult other than a parent living with the child
- (b) whether that adult lives there permanently
- (c) whether s/he 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 court office is at xxx xxx xxx, telephone number xxx.xxxx, FAX number xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except public holidays and on such other days as the court office is closed.

Form 23: Response to Application relating to Child(ren)

[Rule 11.9]

**[THE EASTERN CARIBBEAN SUPREME COURT]
[IN THE HIGH COURT OF JUSTICE] / [IN THE MAGISTRATE'S
COURT]
FAMILY DIVISION**

[Member State / Territory]

PETITION / APPLICATION NO.:

BETWEEN:

A.B.

Petitioner / Applicant

And

C.B.

Respondent

RESPONSE TO APPLICATION RELATING TO CHILD(REN)

**FULL NAMES OF EACH CHILD TO WHOM THIS APPLICATION
RELATES:**

1. THE RESPONDENT

Give your name, address and telephone number

date of birth

Your attorney's name

address

telephone number

FAX number and email

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

5. 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

6. OTHER ADULTS

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

7. THE ORDERS YOU SEEK

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

8. 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 court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 a.m. and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 24: Notice of Evidence containing Allegation of Adultery or Improper Association in Application relating to Child(ren) / Application for Financial Relief

[Rules 11.10(2) and 12.11(2)]

**[THE EASTERN CARIBBEAN SUPREME COURT]
[IN THE HIGH COURT OF JUSTICE] / [IN THE MAGISTRATE'S
COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

BETWEEN:

A.B.

Applicant

And

C.B.

Respondent

**NOTICE OF EVIDENCE CONTAINING ALLEGATION OF
ADULTERY OR IMPROPER ASSOCIATION IN APPLICATION
RELATING TO CHILD(REN) / APPLICATION FOR FINANCIAL
RELIEF**

**TO [NAME OF PERSON NAMED IN ALLEGATION OF ADULTERY
OR IMPROPER ASSOCIATION]**

TAKE NOTICE that evidence containing an allegation of adultery and / or improper association with you has been filed in the court in relation to an application [relating to a child / children] [for financial relief]. A copy of the

evidence is served on you with this notice together with a form of acknowledgment of service.

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

**IF YOU WISH TO BE HEARD, IT IS IMPORTANT THAT YOU
ATTEND THIS HEARING. YOU SHOULD NOT OTHERWISE
ATTEND.**

**1. If you propose to retain an attorney-at-law you should do so
immediately.**

2. The attached form of acknowledgment of service **MUST be completed
and returned to the court office within **EIGHT days** of the day on which you
receive these documents. The address of the court office is given below. **You
should NOT delay returning the acknowledgment of service.****

The court office is at [xxx xxx xxx], telephone number xxx.xxxx, FAX number
xxx.xxxx. The office is open between 8.00 a.m. and 4.00 p.m. every day except
public holidays and such other days on which the court office is closed.

Form 26: Response to Application for Financial Relief (with Affidavit)

[Rules 12.8(1)]

**[THE EASTERN CARIBBEAN SUPREME COURT]
IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATE'S COURT]
FAMILY DIVISION**

[Member State / Territory]

PETITION / APPLICATION NO.:

BETWEEN:

A.B.

Petitioner / Applicant

And

C.B.

Respondent

RESPONSE TO APPLICATION FOR FINANCIAL RELIEF

1. THE RESPONDENT

Give your name, address and telephone number

date of birth

Your attorney's name

address

telephone number

FAX number and email

AFFIDAVIT OF RESPONDENT

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
 - (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 [name of document] _____

- (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? *\$ per week/month/year*
- (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 applicant and any children?
- (11) If so give details of any financial support you receive from that person.

Expenditure

- (12) What do you spend on -
House - *(State in \$ per week/month/year)*
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*(State in \$ per week/month/year)*

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

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?

(d) rented?

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)

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
- \$

(14). Do you own any other property?
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
 - Unit Trusts
 - Credit Unions
 - Other?
- (if so, give details)

Bank Account

- (17) Do you have a Bank Account? YES/NO
- If so -
- name of bank
 - account number
 - type of account present balance

Other assets

- (18) Do you own a car?
if so give details -
- Registration Number
 - Make and Model Value
 - Outstanding loan.

(19) Do you have any other assets worth more than \$2,500?

If so, give details

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

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 -
- amount of debt
- when borrowed
- for what
- amount outstanding
- repayments
- are any repayments in arrear?
- (State \$ per week/month/year)*

(d) Do you owe personal debts?

If so, 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 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 provision)

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

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

**Form 27: Statement of Capital, Income, Assets and Liabilities (to be filed by
Each Party applying for a Consent Order for Financial Relief)**

[Rules 12.12(3)(b)]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

PETITION / APPLICATION NO.:

BETWEEN:

A.B.

Petitioner / Applicant

And

C.B.

Respondent

STATEMENT OF CAPITAL, INCOME, ASSETS AND LIABILITIES

1. THE PETITIONER / APPLICANT / RESPONDENT

Give your name, address and telephone number

date of birth

Your attorney's name

address

telephone number

FAX number and email

AFFIDAVIT OF PETITIONER / APPLICANT / RESPONDENT

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:

Date of any court order made

- (a) Divorce
 - (b) Maintenance
 - (c) Children issues
 - (d) Domestic Violence
 - (e) Other
- (4) Full details of the children are set out in [name of document]
 - (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 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 applicant and any children?
- (11) If so give details of any financial support you receive from that person.

Expenditure

- (12) What do you spend on - *(State \$ 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*(State \$ per week/month/year)*

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

(State \$ per week/month/year)

- 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

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?
- (d) rented?

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) 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. \$

- (14) Do you own any other property?
 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

Unit Trusts

Credit Unions

Other?

(if so, give details)

Bank Account

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

If so -

name of bank

account number

type of account present balance

Other assets

- (18) Do you own a car?
if so give details -

Registration Number

Make and Model Value

Outstanding loan.

- (19) Do you have any other assets worth more than \$2,500?

If so, give details

(a) Jewellery

(b) Antiques

(c) Paintings

(d) Works of Art.

(e) Boat

(f) Computer

(g) Other

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?
Do you owe

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

if so, give details of -

amount of debt

when borrowed

for what

amount outstanding

repayments

\$ per[week][month][year]

are any repayments in arrear?

(d) personal debts

give details.

SWORN/AFFIRM etc

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 28: Application for Adoption Order

[Rule 39.5(1)]

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

AND

IN THE MATTER OF AN APPLICATION BY

A.B.
Applicant

[And

C.B.
Applicant]

TO ADOPT A CHILD

APPLICATION TO ADOPT A CHILD

THE APPLICANT(S)

Give your name, address and telephone number

Your attorney's name

address

telephone number

FAX number and email

We (or I)

.....
[full name]

Of
[address]

.....
[occupation]

[select and complete if applies]

And
.....

Will apply to the court at[place]

On at
[date to be filled in by the Registrar] [time to be filled in by the Registrar]

To adopt
[full name of child] [name of the child may be omitted if applicants so wish]

A [select the option that applies]

male child

female child

born at.....[place] on.....[date]

We desire that on the making of the adoption order the name(s) of the child will be

[full name]

The following information is submitted for the purposes of registration of the birth:

Age of male applicant at date of child's birth

Birthplace of male applicant

Age of female applicant at date of child's birth

Maiden surname of female applicant

We[select the option that applies]

do

do not

desire that the words 'adoptive parent(s)' appear on the face of any certified copy of the entry of birth of the child after the birth has been re-registered.

Dated at.....

[place]

[date]

Signature

Signature

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 29: Consent by Parent or Guardian to Adoption of Child (if identity of applicant(s) is known)

[Rule 39.7]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

AND

IN THE MATTER OF AN APPLICATION BY

A.B.

Applicant

[And

C.B.

Applicant]

TO ADOPT A CHILD

CONSENT BY PARENT OR GUARDIAN TO ADOPTION OF CHILD

We (or I).....
[full name]

of.....
[address]

.....
[occupation]
[select and complete if applies]

and.....
[full name]

of.....
[address]

.....
[occupation]

[select the option that applies]

the parents
the mother
the father
the guardian

of.....
[full name]

a..... child, born at..... on.....
[sex of child] [place] [date]

consent to an order being made for the adoption of that child by

.....
[full name]

of.....
[address]

.....
[occupation]

[select and complete if applies]

and.....
[full name]

of.....
[address]

[*occupation*]

His (or her) spouse.

[select if applies]

[If required a copy of the entry in the register of births relating to the said child is annexed]

We (or I) have read the explanation of the effect of an order set out below;

Signed

by.....on.
[full name] [date]

in the presence of *

.....
[signature]

[occupation]

.....
[address]

Signed by..... on.....
[full name] *[date]*

in the presence of *

[signature]

[occupation]

[address]

**Witness must not be the attorney at law acting for the applicants.*

Effect of adoption order

On the making of an adoption order -

- (a) the child is deemed for all purposes and as regards all relationships to become a child of the adopted parents.
- (b) rights of guardianship and existing relationships in respect of the child cease except for the very special purpose of determining forbidden relationships in connection with marriage or civil union and with the crime of incest.
- (c) rights in respect of property and succession to property are determined according to the relationships created by the adoption, but property rights acquired before the adoption are not affected.
- (d) any paternity order or maintenance order or agreement that provides for maintenance of the child, if made before the adoption order, ceases to have any effect as to arrears owing and except if the child is adopted by the mother or by the mother and her husband.
However, if the child is adopted by the mother or the mother and her husband, the adoption does not prevent the making of any paternity order or maintenance order that could previously have been made or prevent the mother from making an application for a paternity order or a maintenance order.
- (e) the domicile of the child is changed to that of the adoptive parents, but the child's race and nationality are not affected.
- (f) the child must be treated as a citizen of [Member State / Territory] by birth if at least 1 of the adoptive parents is a citizen of [Member State / Territory].

Certificate by witness

I certify that, before

[full name]

.....

[full name]

signed the consent set out above, I fully explained to him (or her or them) the effect of the making of an adoption order as set out in [the Children (Care and Adoption) Act], and that he (or she or they) appeared to fully understand that effect.

.....
Signature

.....
Signature

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 30: Consent by Parent or Guardian to Adoption of Child (if identity of applicant(s) is not known)

[Rule 39.8]

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

AND

IN THE MATTER OF AN APPLICATION BY

A.B.

Applicant

[And

C.B.

Applicant]

TO ADOPT A CHILD

**CONSENT BY PARENT OR GUARDIAN TO ADOPTION OF CHILD
(IF IDENTITY OF APPLICANT(S) IS NOT KNOWN)**

We (or I).....
[full name]

of.....
[address]

.....
[occupation]
[select and complete if applies]

and.....
[full name]

of.....
[address]

.....
[occupation]

[select the option that applies]

the parents

the mother

the father

the guardian

of.....
[full name]

a..... child, born at..... on.....
[sex of child] [place] [date]

consent to an order being made for the adoption of that child by the applicant(s)
named in Application No..... (or the person(s) who are (or is) entitled to
[specify number]

receive that child for adoption in accordance with an approval that was given on
..... by.....
[date] [full name]

a social worker).

[select and complete if applies]

Subject to the following conditions in relation to the religious Denominations and practice of the applicants or any applicant or as to the religious denominations in which the applicant or Applicants intend to bring up the child.

[set out conditions]

[select if applies]

We (or I) have read the explanation set out below of the effect of an order.

Signed by..... on.....
[full name] *[date]*

In the presence
of*.....
[signature]

[occupation]

[address]

Effect of adoption order

On the making of an adoption order -

- (a) the child is deemed for all purposes and as regards all relationships to become a child of the adopted parents.
- (b) rights of guardianship and existing relationships in respect of the child cease except for the very special purpose of determining forbidden relationships in connection with marriage or civil union and with the crime of incest.

- (c) rights in respect of property and succession to property are determined according to the relationships created by the adoption, but property rights acquired before the adoption are not affected.
- (d) any paternity order or maintenance order or agreement that provides for maintenance of the child, if made before the adoption order, ceases to have any effect as to arrears owing and except if the child is adopted by the mother or by the mother and her husband. However, if the child is adopted by the mother or the mother and her husband, the adoption does not prevent the making of any paternity order or maintenance order that could previously have been made or prevent the mother from making an application for a paternity order or a maintenance order.
- (e) the domicile of the child is changed to that of the adoptive parents, but the child's race and nationality are not affected.
- (f) the child must be treated as a citizen of [Member State / Territory] by birth if at least 1 of the adoptive parents is a citizen of [Member State / Territory].

Certificate by witness

I certify that, before.....
[full name]

.....
[full name]

signed the consent set out above, I fully explained to him (or her or them) the effect of the making of an adoption order as set out in [the Children (Care and Adoption) Act], and that he (or she or they) appeared to fully understand that effect.

.....
Signature

.....
Signature

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

**Form 31: Application for Issue of Adoption Order after Interim Order has
been made**
[Rule 39.12]

THE EASTERN CARIBBEAN SUPREME COURT

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

AND

IN THE MATTER OF AN APPLICATION BY

A.B.

Applicant

[And

C.B.

Applicant]

TO ADOPT A CHILD

**APPLICATION FOR ISSUE OF ADOPTION ORDER
AFTER INTERIM ORDER HAS BEEN MADE**

THE APPLICANT(S)**Give your name, address and telephone number****date of birth****Your attorney's name****address****telephone number****FAX number and email**

The applicant(s) apply for the issue of an adoption order and state as follows:

1. The interim order is in force and has continued in force for not less than

.....
.....

[set out the prescribed period fixed by, or in accordance with [section __ of the Children (Care and Adoption) Act]

Dated

at.....on.....
[place] [date]

.....
Signature(s)

.....
Date

The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 32: Certificate as to Holding of Family Group Conference

[Rule 39.19(1)(a) and 39.21(a)]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

**AND
IN THE MATTER OF AN APPLICATION BY**

A.B.
Applicant

[And

C.B.
Applicant]

**CERTIFICATE AS TO HOLDING OF A FAMILY GROUP
CONFERENCE**

IN RELATION TO

**[FULL NAME OF CHILD OR YOUNG PERSON], BORN ON [DATE OF
BIRTH]**

I certify that a family group conference has been held in relation to [*full name of child or young person*] and [* the members of the conference were unable to agree on what decisions, recommendations, or plans should be made or

formulated in relation to that child (*or* young person)] / [* agreement on the decisions, recommendations, and plans made or formulated by that conference has been secured under [section __ of the Children (Care and Adoption) Act] / [*the members of the conference agreed on what decisions, recommendations, and plans should be made or formulated in relation to the child (*or* young person), but [*full name*], acting in his (*or* her) capacity as [*state capacity*], did not agree to those decisions, recommendations, and plans].

[*I certify that reasonable enquiries have been made to ascertain the whereabouts of a member of the family or family group of [*full name of child or young person*], and that it has not been possible to ascertain the whereabouts of any such person.]

.....
Care and Protection Co-ordinator

.....
Date

*Delete if inapplicable

Form 33: Statement of Consent (to the Making of an Order or the Imposition of a Condition under [the Children (Care and Adoption) Act])

[Rules 39.29(2)]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [CHILDREN (CARE AND ADOPTION)
ACT]**

AND

IN THE MATTER OF [AN APPLICATION BY

A.B.

Applicant

And

C.B.

Applicant]

STATEMENT OF CONSENT

I, *[full name]*, of *[address]*, *[occupation]*, consent to the making of the following order (*or* the imposing of the following condition) under [the Children (Care and Adoption) Act]:

[*state order or condition consented to*].

This consent is given subject to the following conditions: [*state any conditions on which this consent is given*].

My relationship or status in relation to the child (*or* young person) that the application is about is

Dated

Signed by the above-named,
[*full name of person giving the consent*],
in the presence of –

Signature of witness:

Address:

Occupation:

Form 34: Affidavit of Financial Means and Sources

[Rules 39.33 and 39.36]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [MAINTENANCE OF AND
ACCESS TO CHILDREN ACT]**

AND

IN THE MATTER OF [AN APPLICATION BY

A.B.

Applicant

And

C.B.

Applicant]

AFFIDAVIT OF FINANCIAL MEANS AND SOURCES

I, *[full name]*, of *[address]*, *[occupation]*, **swear** (or **affirm**) that my financial means and their sources are as set out below.

1. My income for the 52 weeks immediately preceding the date of this affidavit was as follows: *[use Nil if applicable]*

Item	Particulars	Amount
(a)	Salary, wages, or other personal earnings from <i>[state employer]</i> :	
(b)	Gross income from business:	
(c)	Rents from property (including rooms let):	
(d)	Compensation or damages received:	
(e)	Superannuation, pension or benefit (including any from overseas):	
(f)	Dividends and interest:	
(g)	All other sources of income <i>[specify]</i> :	
	TOTAL INCOME IN 52 WEEKS	

2. My assets (both in *[Member State / Territory]* and elsewhere) are as follows:

Item	Particulars	Amount / Value
(a)	Land and buildings <i>[state address and capital value]</i> :	
(b)	Money in bank accounts <i>[specify banks]</i> :	
(c)	Money not in bank or invested:	
(d)	Money lent or in hands of any person <i>[name and address]</i> :	
(e)	Government stock, shares, debentures, or	

	bonds <i>[state details]</i> :	
(f)	Plant and machinery <i>[state details]</i> :	
(g)	Livestock <i>[state details]</i> :	
(h)	Interest in business, stock in trade; or venture of any kind <i>[state details]</i> :	
(i)	Motor vehicles <i>[state details]</i> :	
(j)	Any other property or assets not specified above, including interest in any property or assets <i>[state details]</i> :	

3. The property specified in items *[specify]* of clause 2 of this affidavit is mortgaged, or otherwise secured to *[full name]*, of *[address]*, for the sum of \$.....

4. My expenses for the 52 weeks specified in clause 1 of this affidavit were as follows:

Item	Particulars	Amount / Value
(a)	Income tax:	
(b)	Insurance and Superannuation:	
(c)	Medical and hospital benefits:	
(d)	Rent:	
(e)	Rates:	
(f)	Mortgage payments:	
(g)	Repairs on home:	

(h)	Food and household supplies:	
(i)	Electricity, gas and fuel:	
(j)	Telephone:	
(k)	Laundry and cleaning:	
(l)	Clothing:	
(m)	Child maintenance, care, and education:	
(n)	Maintenance for former spouse or partner:	
(o)	Entertainment:	
(p)	Fares:	
(q)	Car maintenance, running, and registration:	
(r)	Hire purchase payments:	
(s)	Other expenses <i>[specify]</i> :	
	TOTAL EXPENSES IN 52WEEKS	

5. Separate income for the 52 weeks of members of household whose expenses are included:

- (a) *[list full names, ages, and relationship of all members of household];*
- (b) *[list details of separate income of any member of household].*

.....

Signature of deponent

SWORN/AFFIRM

Form 35: Notice of Application to Party Added as Respondent*[Rule 39.37(1)(a)]*

**[THE EASTERN CARIBBEAN SUPREME COURT]
IN THE [HIGH COURT OF JUSTICE]/[[MAGISTRATE'S COURT]
FAMILY DIVISION**

[Member State / Territory]**APPLICATION NO.:**

**IN THE MATTER OF THE [MAINTENANCE OF AND
ACCESS TO CHILDREN ACT]
AND**

IN THE MATTER

BETWEEN**A.B.**

Applicant

And

C.B.

Respondent

NOTICE OF APPLICATION TO PARTY ADDED AS RESPONDENT**To**

.....
.....

Notice of Application for Order

[Full name], the applicant, has filed an application in this court. A copy of the application is attached.

The order (*or* orders) sought by the applicant are specified in the application.

Notice of defence

If you wish to defend the application, you must, within 21 days after the date on which you receive this notice —

- (a) file a notice of defence and an accompanying affidavit in this office of the court; and
- (b) serve a copy of the notice of defence and a copy of the accompanying affidavit on the other party (*or* parties) to the proceedings. Those copies may be delivered to the address for service given by the applicant (*or* by other parties).

You should note that if you do not file and serve a notice of defence and accompanying affidavit within that time you may not be able to defend the application. On the day of the hearing of the application, should you appear, the Judge may —

- (a) allow you to take part in the hearing of the application only on such terms as the Judge thinks fit; or
- (b) decline to allow you to take part.

You should also note that the Judge may make an order against you for costs properly incurred as a consequence of your failure to file and serve a notice of defence and accompanying affidavit within time.

If you do not file and serve a notice of defence and accompanying affidavit, the case may proceed without further notice to you.

Address for service

If you do not wish to defend the application but you do wish to know what is happening, you must—

- (a) file in this office of the court a notice giving the address of a place in [Member State / Territory] at which documents may be left for you; and

- (b) serve a copy of the notice on the other party (*or* parties) to the proceedings. That copy may be delivered to the address for service given by the applicant (*or* by other parties).

Assistance

An attorney at law will prepare a notice of defence for you. If you want an attorney at law but think you cannot afford one, contact the court office immediately. You may also see a specimen form of the notice of defence at the court office.

Liability as a witness

Even if you take no action, the court may summon you as a witness to help it deal with the application.

Copies of orders

You will get a copy of any orders made against you. However, any order will probably be in force from the time it is made. The fact that you have not got a copy of the order will not be an excuse for not obeying it.

Advice

If you need help, consult an attorney at law or contact the court office immediately. The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

.....
Registrar

.....
Date

Form 36: Notice of Intervention

[Rule 39.38(a)]

[THE EASTERN CARIBBEAN SUPREME COURT]

**IN THE [HIGH COURT OF JUSTICE] / [MAGISTRATES' COURT]
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

**IN THE MATTER OF THE [MAINTENANCE OF AND
ACCESS TO CHILDREN ACT]**

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

NOTICE OF INTERVENTION

I

[full name]

of.....

[address]

.....
[occupation]

intervene in the above proceedings.

[Select and complete the option that applies.]

I am—

*the Commissioner of Inland Revenue.

*the custodian of [full name(s) of child(ren)] who is (or are) the child(ren) in respect of whom child support is sought.

*a person by whom (or from whom) financial support is sought.

.....
Signature of person intervening

.....
Date

To the Registrar of the Court

at **and**
[place]

To the applicant **and**

To the respondent

This notice is filed by

.....
whose address for service is [full name]

.....[address]

Note

The person intervening is now a party to the proceedings.

Form 37: Affidavit in Support of Application for Protection Order or Property Order

[Rule 39.42(1)(a)]

**IN THE MAGISTRATES' COURT
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

IN THE MATTER OF THE [DOMESTIC VIOLENCE ACT]

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR
PROTECTION ORDER / PROPERTY ORDER**

I,
[full name]

of
[address]

.....
[occupation]

Do swear (or affirm)

1. I am the applicant in these proceedings.
2. I am (or have been) in a domestic relationship with

.....,

*[respondent's full
 name]*

the respondent.

3. The nature of my domestic relationship with the respondent is as follows:

[state sufficient facts to indicate the nature of the domestic relationship with the respondent (e.g. whether a present or former spouse or partner, family or household member, or a close personal relationship) and its duration (if applicable).]

[select if applies]

Facts in support of application for protection order

[Note: Complete paragraphs 4 to 15 (where applicable) if applying for protection order.]

Facts relating to respondent

4. The respondent has used domestic violence against the applicant (or a child of my family) as follows:

[state sufficient facts to indicate the nature and history of the domestic violence, including –

- (a) an outline of the current situation or most recent incident;*
- (b) an outline of any behaviour that forms part of a pattern of behaviour from which protection is needed;*

- (c) *details of any contact with police or visits to a doctor or hospital.]*

5. The respondent –

- (a) holds a firearm licence; YES / NO / UNKNOWN
- (b) possesses or has under his (or her) control, weapons. YES / NO / UNKNOWN

[select and complete if applies]

Facts relating to special conditions

[Note: Complete paragraph 6 (if applying for special conditions)]

6. The special conditions that I have requested be part of the protection order are necessary to protect me (or to protect)

[state the names of the persons who would be protected by the protection order sought]

from further domestic violence for the following reasons:

.....

[state sufficient facts to show why the special conditions are necessary for the protection of the applicant or others who will be covered by the protection order].

Facts relating to other person to be protected by protection order

[Note: Complete paragraphs 7 to 12 if seeking a direction that the order protect another person. The order will automatically protect children of the applicant's family].

7. I have a domestic relationship with

.....

[full name of other person for whom protection from domestic violence is sought]

8. The nature of my domestic relationship
with.....

[full name]

is as follows:

.....
.....
.....

[state sufficient facts to indicate the nature of the domestic relationship (i.e. whether a [spouse or partner], a family or household member, or a close personal relationship)]

9. The respondent is engaging (or has engaged) in behaviour against

.....

[full name]

that would amount to domestic violence against him (or her) if the
respondent and he (or she) were in a domestic relationship as
follows:

.....
.....
.....

[state sufficient facts to indicate the nature and history of the respondent's behaviour towards the person]

10. The respondent's behaviour is due, in whole or in part, to

.....

[state sufficient facts to indicate the reasons for the belief]

11. It is necessary for the protection of

.....

[full name]

that a direction be made that the protection order apply to him (or her)
for the following reasons:

.....

[state sufficient facts to indicate the reasons for the belief]

[select and complete the option that applies]

12. consents to the direction being made.

[full name]

.....
[attach written consent if available, or indicate reasons for believing that the person consents]

Or

12. It is not practicable for
[full name]
to consent to the direction being made for the following reasons:

.....
[state why consent has not been obtained]

[select and complete if applies]

Facts relating to associated respondent

[Note: Complete paragraphs 13 to 15 if seeking a direction that the order apply to the associated respondent.]

12. The respondent is encouraging (or has encouraged)

.....
[full name]

the associated respondent, to engage in behaviour against me (or a child of my family or the person referred to in paragraph 7) that would amount to domestic violence if it were engaged in by the respondent.

.....
[state sufficient facts to indicate the way in which the respondent is encouraging or has encouraged the associated respondent's behaviour]
.....

[state sufficient facts to indicate the nature and history of the associated respondent's behaviour, including –

- (a) an outline of the current situation or most recent incident;*
- (b) an outline of any behaviour that forms part of a pattern of behaviour from which protection is needed;*
- (c) details of any contact with police or visits to a doctor or hospital]*

[select and complete the option that applies]

14. The associated respondent –

- (a) holds a firearm licence; YES / NO / UNKNOWN
- (b) possesses or has under his (or her) control, weapons. YES / NO / UNKNOWN

[select if applies]

Facts in support of application for protection order without notice

[Note: Complete paragraph 16 (if applying for a protection order without notice to the respondent.)]

15. The application for a protection order is being made without notice to the respondent

[select if applies]

and associated respondent

because the delay that would be caused by proceeding on notice would or might entail —

[select if applies]

- (a) a risk of harm
- (b) undue hardship

to me (or a child of my family or both me and a child of my family) as follows:

.....
[state sufficient facts to indicate the reasons for these statements]

[select and complete if applies]

Facts in support of application for property order]

[Note: Complete paragraphs 16 to 18 if applying for the occupation of a dwelling house (“an occupation order”).]

16. I own [or have a legal interest in] (or The respondent owns [or has a legal interest in]
the dwelling house at

.....
[full address]

.....
[state nature of legal interest if the property is not owned by either party]

17. The making of an occupation order is necessary for my protection (or in the best interests of my child (or children) of my family) for the following reasons:

.....
[state reasons for belief, if seeking particular terms and conditions, indicate reasons for doing so].

18. The following people have an interest in the dwelling house that would be affected by the making of an occupation order:

.....
[list names of people and their addresses, and state the nature of their interests]

[select and complete if applies]

[Note: Complete paragraphs 19 to 2 if applying for the tenancy of a dwelling house (“a tenancy order”).

19. The respondent is a sole tenant (or a tenant holding jointly, or in common, with me) of the dwelling house at

.....
[full address]

20. The making of a tenancy order is necessary for my protection (or in the best interests of a child (or children) of my family) for the following reasons:

.....
[state reasons for belief]

21. The following people have an interest in the dwelling house that would be affected by the making of a tenancy order:

.....
[list names of people and their addresses, and state the nature of their interests]

[select and complete if applies]

[Note: Complete paragraph 22 (if applying for a property order without notice to the respondent.)

22. The application for an occupation order (or a tenancy order) is made without notice to the respondent because –

[select and complete the option that applies]

- (a) the respondent has physically abused (or sexually abused) me (or a child of my family);
- (b) the delay that would be caused by proceeding on notice would or might expose me (or child of my family) to physical or sexual abuse.

.....

[state sufficient facts to indicate the reasons for these statements]

[select and complete if applies]

Other facts in support of application

23.
*[Set out sufficient information to inform the Court of any other facts
relied on in support of each application]*

.....
Signature of deponent

Sworn (or Affirmed)

at this before me:

.....
Registrar (or Justice of the Peace)

Form 38: Notice of Firearms Licences and Weapons

[Rule 39.42(1)(b)]

**IN THE MAGISTRATES' COURT
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

IN THE MATTER OF THE [DOMESTIC VIOLENCE ACT]

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

NOTICE OF FIREARMS LICENCES AND WEAPONS

TO THE COMMISSIONER OF POLICE:

TAKE NOTICE that the applicant has applied under [the Domestic Violence Act] for a protection order against the respondent and has filed this notice setting out information about firearms licences and weapons.

Applicant

Full name.....

*Residential address.....

*Contact telephone number(s)

.....
[home] [work]

*These details must not be disclosed to the respondent or associated respondent.

Respondent

Full name

Residential address

Occupation

Name of employer and address of employer

.....
.....

Contact telephone number(s)

.....
[home] [work]

Date of birth..... Age in years.....

[select if applies]

Associated respondent

Full name.....

Residential address

Occupation.....

Name of employer and address of employer

.....

Contact telephone number(s)

.....
[home] *[work]*

Date of birth Age in years.....

INFORMATION ABOUT FIREARMS LICENCE AND WEAPONS

[Select the appropriate answer]

1. Does the respondent have a firearms licence?
- | | | |
|-----|----|---------|
| YES | NO | UNKNOWN |
|-----|----|---------|

[select if applies]

2. Does the associated respondent have a firearms licence?
- | | | |
|-----|----|---------|
| YES | NO | UNKNOWN |
|-----|----|---------|

3. Does the respondent

- | | | | |
|---|-----|----|---------|
| - have access to a weapon? | YES | NO | UNKNOWN |
| - at home? | YES | NO | UNKNOWN |
| - at work (e.g. sporting goods shop)? | YES | NO | UNKNOWN |
| - through part-time work? | YES | NO | UNKNOWN |
| - through sporting interests (e.g. gun club)? | | | |
| - | YES | NO | UNKNOWN |
| - through a relative or friend? | YES | NO | UNKNOWN |

[select if applies]

4. Does the associated respondent
- have access to a weapon?

YES NO UNKNOWN
- at home?

YES NO UNKNOWN
- at work (e.g, sporting goods shop)?

YES NO UNKNOWN
- through part-time work?

YES NO UNKNOWN
- through sporting interests (e.g. gun club)?

o YES NO UNKNOWN
- through a relative or friend?

YES NO UNKNOWN
- YES NO UNKNOWN
-

[Note: If you answered “YES” to any part of question 3 or question 4, please answer questions 5 to 8. State “UNKNOWN” if you do not know the answer.]

5. How many weapons does the respondent (or the associated respondent have access to?
-
6. What types of weapons does the respondent (or the associated respondent have access to?
-
7. Where are the weapons kept or stored? (Please be as precise as possible)
-
8. If the respondent (or the associated respondent) has access to a relative’s or friend’s weapons, please give the name and address of each of those people.
-
-

.....

Signature of applicant

.....

Date

Form 39: Notice of Residential Address and Request for Confidentiality

[Rule 39.44(1)]

**IN THE MAGISTRATES' COURT
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

IN THE MATTER OF THE [DOMESTIC VIOLENCE ACT]

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

**NOTICE OF RESIDENTIAL ADDRESS AND
REQUEST FOR CONFIDENTIALITY**

TO THE REGISTRAR:

I, am applying under [the
[full name of applicant]

Domestic Violence Act] for a protection order against
*[full name of
respondent]*

My residential address is
[address]

I request that my residential address and telephone numbers be kept confidential from the respondent

[select if applies]

And the associated respondent.

My address for service is
[address]

.....
Signature of applicant

.....
Date

Note

If you need help, consult an attorney at law or contact the court office immediately. The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 40: Notice of Defence to Application under [the Domestic Violence Act]

[Rule 39.46(1)(a)]

**IN THE MAGISTRATES' COURT
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

IN THE MATTER OF THE [DOMESTIC VIOLENCE ACT]

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

**NOTICE OF DEFENCE TO APPLICATION
UNDER [THE DOMESTIC VIOLENCE ACT]**

I,
[full name]
of
[address]

.....,
[occupation]

the respondent (or associated respondent), give notice that I intend to defend the application

for
[specify the order(s)]

Affidavit (or Statement) in support

[If this notice is filed in respect of an application for a protection order or a property order, you must file with the notice an affidavit setting out sufficient particulars to indicate the grounds on which the defence is based, and sufficient information to inform the Court of the facts relied on in support of the defence. The affidavit should cover the matters set out below in relation to a statement in support.]

If this notice relates to another kind of application, you must –

- (a) file an affidavit setting out sufficient particulars to indicate the grounds on which the defence is based and sufficient information to inform the Court of the facts relied on in support of the defence. The affidavit should cover the matters set out below in relation to a statement in support; or*
- (b) complete a statement of support as set out below.]*

Affidavit in support

I rely on the content of the affidavit dated filed in support of the defence.

[date]

or

Statement in support

I say:

In answer to the applicant –

1. *[set out sufficient particulars to indicate the grounds on which the defence is based, and sufficient information to inform the Court of the facts relied on in support of the defence]*
.....
2. *[set out any other facts relating to the application or the circumstances that have existed or are existing between the parties that the Court should be told about]*.....

.....
Respondent (or
Associated
Respondent)

.....
Date

Note

If you need help, consult an attorney at law or contact the court office immediately. The court office is at [xxx xxx xxx], telephone number [xxx.xxxx], FAX number [xxx.xxxx]. The office is open between 8.00 am and 4.00 p.m. every days except public holidays and such other days as the court office is closed.

Form 41: Final Protection Order under [the Domestic Violence Act]

[Rule 39.48]

**IN THE MAGISTRATES' COURT
FAMILY DIVISION**

[Member State / Territory]

APPLICATION NO.:

IN THE MATTER OF THE [DOMESTIC VIOLENCE ACT]

AND

IN THE MATTER

BETWEEN

A.B.

Applicant

And

C.B.

Respondent

FINAL PROTECTION ORDER

[This form should only be used if there is no other form that has been prescribed by legislation in Antigua and Barbuda.]

Whereas the Applicant has applied for a protection order; and

After considering the facts of the matter;

The Court orders that the Interim Protection Order be *confirmed / *set aside /
*amended as follows:

Dated this day of20.....

.....
Court

.....
Date

SCHEDULE 2

[Rule 2.3]

FAMILY ENACTMENTS

Legislation regulating:

1. Marriage;
2. Divorce;
3. Matrimonial property;
4. Guardianship of children;
5. Access to children;
6. Status of children;
7. Maintenance of children;
8. Adoption of children;
9. Age of majority;
10. Infants;
11. Wills;
12. Intestacy.

SCHEDULE 3*[Rule 2.3]***CHILD JUSTICE ACT 2015**

Act providing for:

1. a criminal justice process for children accused of committing offences;
2. the administration of justice for children and the protection of the rights of children who are in conflict with the law;
3. the diversion of cases involving children away from the formal court procedures;
4. sentencing options available in respect of children.

SCHEDULE 4*[Rule 38.11]***COURT FEES**

Family Proceedings	
Documents/Process	Fees
Acknowledgment of Service	\$20.00
Affidavit/Declarations	\$10.00
Answer	\$20.00
Applications/Summons	\$25.00
Application for Registrar's Certificate	\$10.00
Legal Practitioner's Certificate	\$10.00
Bill of costs	\$15.00
Bundle core hearing	
Certificate of Search	\$5.00
Consent to act as Guardian Ad Litem	\$5.00
Consent of parents if needed	\$5.00
Copy of document (per page)	\$1.00
Entry of Appearance	\$5.00
Exhibits/Certificate of Exhibits	\$10.00

Statements (including, financial, Consent, Arrangement for Children)	\$10.00
Notice	\$10.00
Order	\$20.00
Petition/Counter/Cross petition	\$20.00
Report of Guardian Ad Litem	\$5.00
Request for Directions/ Hearing/Particulars etc.	\$10.00
Undertaking	\$20.00
Search (per file)	\$5.00
For filing any other document or matter not specified herein or under the Magistrate's Code of Procedure Act	\$20.00

SCHEDULE 5*[Rule 36.11]***USER FEES FOR ELECTRONIC LITIGATION FILING**

Description	Fee
Facilitation	\$2.00

Made the 28th day of June 2022.

Dame Janice M Pereira DBE LLD
Chief Justice

Madam Gertel Thom
Justice of Appeal

Madam Kimberly Cenac-Phulgence
High Court Judge