

CAYMAN ISLANDS



**Matrimonial Causes Act
(2005 Revision)**

MATRIMONIAL CAUSES RULES

(2021 Revision)

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PUBLISHING DETAILS

Revised under the authority of the *Law Revision Act (2020 Revision)*.

The Matrimonial Causes Rules, 1986 (*sic*) made the 30th January, 1987 as amended by Laws 35 of 2020 and 56 of 2020.

Consolidated with the —

Matrimonial Causes (Amendment) Rules, 1988 made the 18th May, 1988.

Grand Court (Matrimonial Causes) Fees Rules, 1995 (part) made the 1st May, 1995.

Matrimonial Causes (Amendment) Rules, 2001 made the _ August, 2001.*(sic)*

Matrimonial Causes (Amendment) Rules, 2009 made the 14th September, 2009.

Originally enacted —

Law 35 of 2020-8th September, 2020

Law 56 of 2020-7th December, 2020.

Consolidated and revised this 31st day of December, 2020.

Note (not forming part of these Rules): This revision replaces the 2003 Revision which should now be discarded.



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CAYMAN ISLANDS**Matrimonial Causes Act
(2005 Revision)****MATRIMONIAL CAUSES RULES
(2021 Revision)****Citation**

1. These rules may be cited as the *Matrimonial Causes Rules (2021 Revision)*.

Definitions

2. In these rules —

“**ancillary relief**” means an order made under section 21;

“**Clerk**” means the Clerk of the Court;

“**family proceeding**” has the meaning ascribed to it by GCR Order 1, rule 7;

“**Registry**” means the Family Division Registry of the Court; and

“**undefended petition**” means a petition for dissolution of marriage or civil partnership or judicial separation in respect of which —

- (a) no notice of intention to defend has been given; or
- (b) no answer has been filed; or
- (c) a notice of intention to defend or an answer disputing the petitioner’s right to a decree has been withdrawn or struck out; and
- (d) all claims for ancillary relief have either been settled or are to be adjourned to Chambers.

Registry

3. (1) The Registry is established under the supervision of the Court and the management of the Clerk and shall constitute the repository of all Court files and records relating to family proceedings, through which all family proceedings shall be processed.
- (2) The Matrimonial Causes Registry (established in 1977 and continued pursuant to the *Matrimonial Causes Rules, 1986* is deemed to have been merged into the Registry on the 2nd day of March 1987, the Commencement Date of the *Matrimonial Causes Rules, 1986*, and shall continue as part of the Registry.

Applications under two year rule

4. (1) An application under the proviso to section 10(4) for leave to present a petition for divorce before the expiration of two years from the date of the marriage or civil partnership shall be made by way of an originating application which shall be filed in the Registry together with —
 - (a) an affidavit by the applicant exhibiting a copy of the proposed petition and stating —
 - (i) the grounds of the application;
 - (ii) particulars of the exceptional hardship alleged;
 - (iii) whether there has been any previous application;
 - (iv) what, if any, attempts at reconciliation have been made; and
 - (v) the date of birth of each of the parties;
 - (b) a copy of the application and supporting affidavit for service upon the respondent; and
 - (c) unless otherwise directed, the certificate of marriage or civil partnership.
- (2) The Clerk shall cause the copy of the application to be served upon the respondent and shall set down the application for hearing by a Judge of the Court in Chambers upon a date not less than eight clear days after service upon the respondent.

Discontinuance before service

5. Before a petition is served on any person, the petitioner may file a notice of discontinuance and the cause shall thereupon stand dismissed.

The petition

6. Every cause, other than an application under rule 4, shall be begun by petition and shall, so far as is appropriate, contain the information required by Form 3 and, where the parties are not shown to be domiciled in the Islands, the circumstances under which it is claimed that the Court has jurisdiction and the following further information —



- (a) if nullity of marriage or civil partnership is sought —
 - (i) whether any proceedings relevant to the marriage or civil partnership, are, to the knowledge of the petitioner, pending in any other jurisdiction and the nature of such proceedings as known to the petitioner;
 - (ii) the various residences of the parties from the time of the celebration of the marriage or civil partnership until the time of presentation of the petition; and
 - (iii) whether the petitioner was at the time of the marriage or civil partnership ignorant of the facts alleged and whether marital intercourse has, with the consent of the petitioner, taken place since the discovery by the petitioner of the existence of the grounds for a decree; or
- (b) if presumption of death is sought —
 - (i) the last place at which the parties to the marriage or civil partnership cohabited, the circumstances in which the parties ceased to cohabit, the date when and the place where the respondent was last seen or heard of and the steps which have been taken to trace that respondent; and
 - (ii) the places where the petitioner has resided since last cohabiting with the respondent.

Signing petition

7. The petition shall be signed by the petitioner or the petitioner’s attorney.

Presenting petition

- 8.** (1) Subject to paragraph (3), every petition shall be presented by —
- (a) issuing it in accordance with GCR Order 5, Rule 1; and
 - (b) filing the relevant certificate of marriage or civil partnership.
- (2) Every petition for dissolution of marriage or civil partnership or judicial separation shall be verified by an affidavit in Form 7 which shall be sworn by the petitioner personally.
- (3) Every verifying affidavit sworn in accordance with paragraph (2) shall be filed when the petition is filed and a copy of it shall be served with the petition and references to “petition” in Rule 10 shall include the verifying affidavit.

Parties

- 9.** (1) Unless otherwise directed —
- (a) where a petition alleges adultery, the alleged adulterer shall be made a co-respondent in the cause; and



- (b) where a petition alleges that the other party to the marriage or civil partnership has been guilty of an improper association other than adultery with a person named, the person shall be made a respondent in the cause.
- (2) An application for directions may be made *ex parte* if no notice of intention to defend has been given.

Service of petition

- 10.** (1) Subject to this Rule, a copy of every petition, together with a form in Form 2, shall be served personally on every respondent and co-respondent in accordance with GCR Order 65, rule 2 or an order made under rule 4.
- (2) Personal service shall not be effected by the petitioner themselves.
 - (3) Any document other than a petition which is required to be served by these Rules shall be served in accordance with GCR Order 65, rule 5.

Acknowledgement of service

- 11.** (1) An acknowledgement of service shall be in Form 2 and shall be signed by the respondent and if the respondent is acting by an attorney, by the attorney specified in the acknowledgement.
- (2) An acknowledgement of service shall specify —
 - (a) in the case of a respondent acknowledging service in person, the address of that respondent's place of residence and, if that respondent's place of residence is not within the jurisdiction or if that respondent has no place of residence, the address of a place within the jurisdiction at or to which documents for that respondent may be delivered or sent; and
 - (b) in the case of a respondent acknowledging service by an attorney, a business address of that respondent's attorney within the jurisdiction.
 - (3) An acknowledgement of service must state an answer to each of the questions contained in it.
 - (4) Every acknowledgement of service shall be filed —
 - (a) within fourteen days after service of the petition in the case of a petition served within the jurisdiction; or
 - (b) within twenty-eight days after service of the petition in the case of a petition served out of the jurisdiction.
 - (5) On receiving an acknowledgement of service the Clerk shall —
 - (a) affix to the acknowledgement an official stamp showing the date on which that Clerk received it;
 - (b) file the acknowledgement of service on the court file; and
 - (c) make a copy of the acknowledgement, having affixed to it an official stamp showing the date on which that Clerk received the acknowledgement and



send it to the petitioner or, as the case may be, that petitioner's attorney at the petitioner's address for service.

Pleadings subsequent to petition

12. (1) A respondent or co-respondent who has filed and served an acknowledgement of service containing a statement of that person's intention to defend shall serve an answer (and any cross petition) within the time limited for acknowledging service of the petition.
- (2) No further pleadings may be served by any party without the leave of the Court.

Contents of answer, etc.

13. Pleadings subsequent to a petition which do more than deny allegations made shall set out with sufficient particularity the facts relied on, but not the evidence thereof and, where relief is asked for, shall, so far as is appropriate, be drawn in the same manner as the petition.

Amendments, etc.

14. Supplements to petitions and amendments to pleadings generally may be made at any time by leave of the Court, and applications therefor shall be supported by affidavit unless the Court otherwise orders.

Adjudication of undefended petitions

15. (1) The petitioner may apply for the adjudication of an undefended petition by submitting an application in Form 8 or 10 together with a draft order in Form 9 or 5 as the case may be.
- (2) If the Judge is satisfied that —
 - (a) the petition has been duly served;
 - (b) the petition is an undefended petition;
 - (c) the verifying affidavit is sufficient to prove the petition in accordance with the requirements of the Law; and
 - (d) ancillary matters (if any) are to be adjourned to Chambers,that Judge shall make an order in Form 9 that the petition has been proved and that the ancillary matters be so adjourned.
- (3) If the Judge is satisfied that the requirements of sub-paragraphs (2)(a), (b) and (c) are met and that there are no applications for ancillary relief or that all ancillary matters have been agreed, that Judge shall make an order in Form 5.
- (4) If the Judge is not so satisfied, that Judge may —
 - (a) require the petitioner to file further evidence;
 - (b) direct that the petitioner attend and give oral evidence;
 - (c) make directions for the trial of the petition in accordance with Rule 16; or

- (d) dismiss the petition.

Directions for trial

- 16.** In the case of every petition other than an undefended petition, the petitioner shall take out a summons for directions upon which the Judge will make all such directions as may be appropriate for the expeditious adjudication of the cause, including —
- (a) an order for security of costs;
 - (b) directions as to manner in which the evidence shall be given; and
 - (c) orders for the attendance of witnesses.

Ancillary questions

- 17.** Whether or not that person has filed an answer to a petition, a spouse or civil partner may be heard —
- (a) on any question affecting the welfare of a child of the marriage or civil partnership; and
 - (b) on any question of ancillary relief,
- and a co-respondent or respondent may be heard on any question of damages, and any party may be heard on any question of costs.

Arrangements for children

- 18.** Where, in any proceedings, it appears that there is a child of the marriage or civil partnership under the age of sixteen years, the record shall show specifically that the question of provision for such child has been considered and dealt with by the Court.

Decrees and order

- 19.** (1) In any case where a judge has adjudicated a petition for a decree under section 3, either in accordance with Rule 15 or following a trial, but has deferred the pronouncement of such decree pending consideration of orders for ancillary relief under section 21, it shall be lawful for that Judge to pronounce such decree.
- (2) An application for a decree that a marriage or civil partnership be dissolved shall be made in Form 11.
- (3) Any such decree made shall be pronounced by signing and filing it in accordance with GCR Order 42 Rule 1 and be in Form 6.



Certificate of decree

- 20.** Upon the pronouncement of a decree for nullity of marriage or civil partnership, presumption of death of a spouse or civil partner or of dissolution of marriage or civil partnership, the Clerk shall cause to be sent to the petitioner and, if appropriate, the respondent spouse or civil partner, a certificate in the prescribed form and shall file a copy thereof in the Registry, and copies of such certificates shall be issued to any member of the public making application therefor and paying the prescribed fee.

Application by guardian, etc., in respect of child

- 21.** In considering the question of provision for any child of a marriage or civil partnership, the court shall hear, on application, an intervener who, under the **repealed** *Juveniles Law, 1975* [*Law 16 of 1975*], would have been entitled to make such application under that Law.

Application of GCRs

- 22.** GCR Orders 3 (Time), 4 (Assignment, Transfer and Consolidation of Proceedings), 5 (Mode of Beginning Proceedings), 38 Part II (Writs of Subpoena), 39 (Evidence by Deposition), 67 (Change of Attorney), 45-51 (Enforcement) and 52 (Committal) shall apply to all proceedings under the Law.

Mode of making applications

- 23.** (1) All proceedings governed by these rules shall be commenced in the Family Division of the Court and every proceeding pending on the Commencement Date shall be treated as having been transferred to the Family Division of the Court.
- (2) Unless these rules otherwise provide, applications in matrimonial proceedings shall be commenced by summons and made to a Judge of the Family Division of the Court sitting in chambers.

Forms

- 24.** Forms for use with these rules are prescribed in the Schedule.

SCHEDULE - FORMS*(Rule 24)***FORM 1****Matrimonial Causes Registry****NOTICE OF APPLICATION UNDER RULE 4
IN THE GRAND COURT**

In the matter of a proposed petition for dissolution of marriage or civil partnership

BETWEEN

Applicant

and

Respondent

TAKE NOTICE that an application has been made for leave to present the proposed petition before the expiration of the period of two years from the date of marriage or civil partnership. The application will be heard by a Judge in Chambers at _____ hours on the _____ day of _____, 20____ next and if you do not attend thereat the Judge will make such orders as may appear just.

A copy of the application and of the affidavit in support thereof is delivered with this notice.

You are required to complete the enclosed acknowledgement of service and, if you wish to oppose the application, to endorse the same accordingly and return it to the Registry on or before the _____ day of _____, 20____ next.

Dated this day of _____, 20____ .

Clerk of the Grand Court.

TO:

(Respondent)



Form 2

Acknowledgement of Service

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF DIVORCE PETITION

(Rule 11)

IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU, GIVE THAT ATTORNEY THIS FORM IMMEDIATELY

1. The accompanying form of Acknowledgement of Service should be completed by an attorney acting on behalf of the Respondent or by the Respondent if acting in person.
2. After completion it must be signed by the Respondent and that Respondent's attorney (if any) and must be delivered or sent by post to the Law Courts, P.O. Box 495 GT, George Town, Grand Cayman.
3. The Acknowledgement of Service must be filed at Court and served on the attorney for the Petitioner (or on the Petitioner, if acting in person) within fourteen days after service of the Petition.
4. A Respondent who states in that Respondent's Acknowledgement of Service that that Respondent intends to contest the proceedings must also serve an Answer on the attorney for the Petitioner (or on the Petitioner, if acting in person) within fourteen days after service of the Petition.
5. The Petition will be treated as an "undefended petition" in respect of which a decree of divorce may be pronounced without the need for any hearing in open court unless an acknowledgement of service form in which you have stated an intention to defend has been filed at the Court office within fourteen days of service of the Petition.
6. In the case of Petitions served outside the Cayman Islands, the periods within which the Respondent must file an Acknowledgement of Service and any Answer are extended by fourteen days.

Please complete overleaf



IN THE GRAND COURT OF THE CAYMAN ISLANDS
Matrimonial Causes Registry

CAUSE NO. OF 20

BETWEEN:

PETITIONER

AND:

RESPONDENT

ACKNOWLEDGMENT OF SERVICE

If you intend to instruct an Attorney to act for you, give that Attorney this form IMMEDIATELY

- 1) Have you received the Petition for divorce (and copy of supporting affidavit) Delivered with this form? Yes No
- 2) On what date did you receive it?
- 3) Are you the person named as the Respondent in the Petition?
 Yes No
- 4) Do you intend to defend the case?
 Yes No
- 5) *(In the case of a Petition alleging two years separation coupled with the Respondent's consent to a decree being granted) Do you consent to a decree being granted?*
 Yes No
- 6) *(In the event that the Petition being proved on the basis of two years separation coupled with Respondent's consent or five years separation). Do you intend to apply to the court for it to consider your financial position as it will be after the divorce?*
 Yes No
- 7) *(In any case in which there are children of the family) Even if you do not intend to defend the suit, do you object to the Petitioner's claim for custody and seek to make your own application for custody of the children?*
 Yes No Not applicable
 Even if you do not object to the Petitioner's claim for custody, do you intend to make an application for access to the children?
 Yes No Not applicable



Service of the petition is acknowledged accordingly

Dated: _____

Respondent

Respondent's Attorney

Notes on address for service

Attorney: *where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.*

Respondent in person: *where the Respondent is acting in person, that Respondent must give that Respondent's post office box number and the physical address of that person's residence or, if that Respondent does not reside in the Cayman Islands, that Respondent must give an address in Grand Cayman where communications for that Respondent should be sent.*

Indorsement by Petitioner's attorney (or by the Petitioner if suing in person) of that Petitioner's name and address in the box below.

Indorsement by Respondent's attorney (or by the Respondent if acting in person) of that Respondent's name and address in the box below



Form 3**Matrimonial Causes Registry**

CAUSE NO. OF 20 .

PETITION

BETWEEN

and

THE PETITION of

SHOWS

1. That on the day of , 20 , at , the above petitioner was lawfully married to, or in a civil partnership with, the above respondent and at the time of the said marriage, or civil partnership, the marital status, or civil partnership status, of the parties was as follows —
2. That, following the celebration of the said marriage, or civil partnership, the parties have lived and cohabited at the following places —
3. That the court has jurisdiction in the above cause by reason that —
4. That since the celebration of the said marriage or civil partnership—
[Here give the grounds for the relief claimed with particulars thereof.]
5. That the petitioner desires the court to take into consideration the following arrangement made in connection with these proceedings —
[Here give details of any such matter (if any).]
6. That there are no children of the marriage, or civil partnership, except as follows —
7. That the petitioner's proposals for the upbringing of the children of the marriage, or civil partnership, are as follows —



[In the case of a Petition based on five years] I have lived separate and apart from the Respondent for at least five years preceding the commencement of this proceeding. We separated on [state date] and have not lived together since that time.

- 4. I have not attempted to willfully deceive the court in any matter or particular material to this Petition and there has been no collusion between the Respondent and me.
- 5. [There are no children of the marriage or civil partnership as defined in the Law.]

[The following are the children of the marriage or civil partnership as defined in the Law:

Name	Date of Birth
.....
.....
.....]

- 6. I propose the following arrangement for the custody, care and control, access, maintenance and education of the children. [Set out full particulars of the proposed arrangements.]

SWORN to at George Town, Grand Cayman this day of , 20
before me:

[Name of Petitioner]

Notary Public

This Affidavit is filed by [name of petitioner or that petitioner's attorney] whose address for service is [State address within the Jurisdiction].

Form 9

Order that the petition is proved

(Rule 15)

IN THE GRAND COURT OF THE CAYMAN ISLANDS MATRIMONIAL CAUSES REGISTRY

CAUSE NO. OF 20 .

[TITLE OF PROCEEDING]

ORDER THAT THE PETITION IS PROVED

UPON reading the Petitioner's application dated , 20 for an order that the petition is proved.

AND UPON reading the Acknowledgement of Service [or the Affidavit of Service of (*state the deponent's name*)] filed on [*state date*].

AND UPON reading the Petitioner's verifying affidavit filed on [*state date*].

AND no notice of intention to defend having been filed [or no answer having been filed] by the Respondent prior to the date of the Petitioner's said application.

IT IS HEREBY ORDERED that the facts and matters stated in the petition are proved and that the ancillary matters be adjourned to Chambers.

Dated the day of , 20 .

Filed the day of , 20 .

JUDGE OF THE GRAND COURT

This Order that the Petition is proved was filed by [*name of petitioner or that petitioner's attorney*] whose address for service is [*state address within the jurisdiction*].



**Publication in consolidated and revised form authorised by the Cabinet this 5th day
of January, 2021.**

Kim Bullings
Clerk of Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
29/2009		Matrimonial Causes (Amendment) Rules, 2009	1-Nov-2009	GE63/2009/s1
		Matrimonial Causes Rules (2003 Revision)	28-Jul-2003	G15/2003/s4
25/2001		Matrimonial Causes (Amendment) Rules, 2001	1-Sep-2001	G18/2001/s1
		Matrimonial Causes Rules (2001 Revision)	26-Feb-2001	G5/2001/s6
21/1995		Grand Court (Matrimonial Causes) Fees Rules, 1995 (part)	1-Jun-1995	GE9/1995/s3
7/1988		Matrimonial Causes (Amendment) Rules, 1988	20-Jun-1988	G13/1988/s1
9/1987		Matrimonial Causes Rules, 1986	2-Mar-1987	G5/1987/s2
14/1977		Matrimonial Causes Rules, 1977 ¹	13-Mar-1977	G6/1977/s3

¹ *The Matrimonial Causes Registry (established by the Matrimonial Causes Rules, 1977) has been continued pursuant to the Matrimonial Causes Rules, 1986 and is deemed to have been merged into the Registry on the 2nd day of March 1987, the Commencement Date of the Matrimonial Causes Rules, 1986, and shall continue as part of the Registry.*

(Price: \$6.40)

