



MONTSERRAT

CHAPTER 5.02

MATRIMONIAL PROCEEDINGS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

MATRIMONIAL PROCEEDINGS ACT

Act 16 of 2012 .. in force 13 November 2012

Page

3

MATRIMONIAL PROCEEDINGS RULES – Section 21

S.R.O. 84/2014 .. in force 19 November 2014

19

MATRIMONIAL PROCEEDINGS (FEES) ORDER – Section 22*

*The Matrimonial Proceedings Fees Order (S.R.O. 85/2014) was repealed by the Matrimonial Proceedings (Fees)(Repeal) Order (S.R.O. 7/2018). For fees in matrimonial proceedings in the High Court see Rule 3 of the Eastern Caribbean Supreme Court (Court Proceedings Fees) Rules, included under the Supreme Court Act (Cap. 2.01).



MONTSERRAT

CHAPTER 5.02

MATRIMONIAL PROCEEDINGS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

	Page
MATRIMONIAL PROCEEDINGS ACT	3
Act 16 of 2012 .. in force 13 November 2012	
MATRIMONIAL PROCEEDINGS RULES – Section 21	19
S.R.O. 84/2014 .. in force 19 November 2014	
MATRIMONIAL PROCEEDINGS (FEES) ORDER – Section 22*	

*The Matrimonial Proceedings Fees Order (S.R.O. 85/2014) was repealed by the Matrimonial Proceedings (Fees)(Repeal) Order (S.R.O. 7/2018). For fees in matrimonial proceedings in the High Court see Rule 3 of the Eastern Caribbean Supreme Court (Court Proceedings Fees) Rules, included under the Supreme Court Act (Cap. 2.01).

CHAPTER 5.02

MATRIMONIAL PROCEEDINGS ACT

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

SECTION

1. Short title
2. Interpretation

PART 2

JURISDICTION OF THE COURT

3. Jurisdiction of the Court in dissolution proceedings
4. Jurisdiction of the Court in corollary relief proceedings
5. Jurisdiction of the Court in variation proceedings
6. Exercise of jurisdiction by a judge

PART 3

DISSOLUTION PROCEEDINGS

7. Grounds for divorce
8. Annulment of marriage
9. Presumption of death of spouse

Division 1 – Reconciliation

10. Duty of attorney-at-law
11. Duty of Court to take into account the possibility of reconciliation
12. Matters over which Court must be satisfied before granting dissolution of marriage

Division 2 – Dissolution of marriage

13. Date on which dissolution of marriage takes effect
14. Dissolution of marriage

PART 4

COROLLARY RELIEF

15. Support order
16. Custody order
17. Variation order, etc.

PART 5

GENERAL PROVISIONS

18. Appeals
19. Powers of appellate Court
20. Proof of signature or office
21. Rules
22. Fees
23. Repeal
24. Saving
25. Transitional provision

CHAPTER 5.02

MATRIMONIAL CAUSES ACT

(Act 16 of 2012)

AN ACT TO PROVIDE FOR THE DISSOLUTION OF MARRIAGES AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Commencement

[13 November 2012]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Matrimonial Proceedings Act.

Interpretation

2. (1) In this Act—

“attorney-at-law” means an individual who has been admitted to practice as a solicitor or barrister in Montserrat under the provisions of the Supreme Court Act;

“child of the marriage” means a child of two spouses or former spouses who, at the material time—

(a) is under the age of eighteen years; or

(b) is eighteen years of age or over and under their charge but unable, by reason of infirmity of mind or body or other cause, to withdraw from their charge or to obtain the necessities of life;

“corollary relief proceedings” means a proceeding in a Court in which either or both former spouses seek a support order or a custody order or both orders;

“Court” means the High Court;

“custody” includes care, upbringing and any other incident of custody;

“custody order” means an order made under section 16(1);

“dissolution proceedings” means proceedings in which either or both spouses seek—

(a) a divorce;

(b) to dissolve a marriage on the presumption of the death of a spouse; or

(c) an annulment,

without or together with a support order, a custody order or both orders;

“spouse” means either a man or woman who are married to each other;

“support order” means an order made under section 15(1);

“variation order” means an order made under section 17(1);

“variation proceedings” means proceedings in a Court in which either or both spouses seek a variation order.

(2) For the purposes of the definition of **“child of the marriage”** in subsection (1), a **“child of two spouses or former spouses”** includes—

(a) any child for whom they both stand in the place of parents;
and

(b) any child of whom one is the parent and for whom the other stands in the place of a parent,

whether by operation of law or by order of a Court.

(3) The use of the term **“application”** to describe proceedings in a Court under this Act shall not be construed as limiting the name under which and the form and manner in which the proceedings may be taken in the Court, and the name, manner and form of the proceedings in the Court shall be such as is provided for by rules that the Chief Justice may make regulating the practice and procedure in the Court.

PART 2

JURISDICTION OF THE COURT

Jurisdiction of the Court in dissolution proceedings

3. The Court may hear and determine any dissolution proceedings if either spouse has been ordinarily resident in Montserrat for at least one year immediately preceding the commencement of the dissolution proceedings.

Jurisdiction of the Court in corollary relief proceedings

4. The Court may hear and determine corollary relief proceedings where—

(a) either a former spouse is ordinarily resident in Montserrat at the commencement of the corollary relief proceedings; or

(b) both spouses accept the jurisdiction of the Court.

Jurisdiction of the Court in variation proceedings

5. The Court may hear and determine any variation proceedings where—

- (a) either a former spouse is ordinarily resident in Montserrat at the commencement of the variation proceedings; or
- (b) both spouses accept the jurisdiction of the Court.

Exercise of jurisdiction by a judge

6. The jurisdiction conferred on the Court by this Act is exercisable by a judge of the Court without a jury.

PART 3

DISSOLUTION PROCEEDINGS

Grounds for divorce

7. (1) A Court may, on petition by either or both spouses, grant a divorce to the spouse or spouses on the ground that there has been a breakdown of their marriage.

(2) Breakdown of a marriage is established only if—

- (a) the spouses have lived separate and apart for at least one year immediately preceding the commencement of the divorce proceedings;
- (b) the spouse against whom the divorce proceedings are brought has since the celebration of the marriage—
 - (i) committed adultery; or
 - (ii) treated the other spouse with physical or mental cruelty or other behaviour of such a kind as to render intolerable the continued habitation of the spouses.

(3) Before the Court grants a divorce to a spouse, it shall first ensure that sections 10 and 11 are complied with.

(4) For the purposes of subsection (2)(a)—

- (a) spouses are deemed to have lived separate and apart for any period during which they lived apart and either of them had the intention to live separate and apart from the other; and
- (b) a period during which the spouses have lived apart shall not be considered to have been interrupted or terminated by reason only that—
 - (i) either spouse has become incapable of forming or having an intention to either continue to live separate and apart or of continuing to live separate and apart of the

spouse's own volition, if it appears to the Court that the separation would probably have continued if the spouse had not become so incapable, or

- (ii) the spouses have resumed cohabitation during a period of, or periods totalling, not more than ninety days with reconciliation as its primary purpose.

Annulment of marriage

8. (1) A Court may, on petition by either or both spouses, grant an annulment to the spouse or spouses on the ground that their marriage is void or voidable.

(2) In addition to any other grounds on which a marriage is by law void or voidable, a marriage is voidable on the ground that—

- (a) the marriage has not been consummated as a result of either—
 - (i) the wilful refusal of the respondent spouse to consummate the marriage;
 - (ii) the existing inability of the respondent spouse to have sexual intercourse at the time of the marriage, where the inability is apparent and manifest;
- (b) either spouse to the marriage was at the time of the marriage suffering from a sexual transmitted disease in a communicable form;
- (c) the respondent spouse was at the time of the marriage pregnant by some person other than the petitioner; or
- (d) the consent of either of the spouses to the marriage was not a valid consent because—
 - (i) it was obtained by duress or fraud;
 - (ii) one spouse was mistaken as to the identity of the other spouse or as to the nature of the ceremony performed; or
 - (iii) the spouses to the marriage were, at the time of the marriage, of the same sex.

(3) The Court shall not grant an annulment in a case falling within subsection (2)(b) and (c), unless it is satisfied that—

- (a) the petitioner was at the time of the marriage ignorant of the facts alleged;
- (b) proceedings were instituted within a year from the date of the marriage; and
- (c) that sexual intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree.

(4) Nothing in this section shall be construed as validating any marriage which is by law void, but with respect to which an annulment has not been granted.

(5) A child born of a marriage voided under subsection (2)(b) or subsection (2)(d)(i) or (ii) is a child of the parties, despite that the marriage is avoided, unless a Court declares otherwise.

Presumption of death of spouse

9. (1) A spouse who alleges that reasonable grounds exist for supposing that the other spouse to the marriage is dead may present a petition to the Court to have it presumed that the other spouse is dead and to have the marriage dissolved, and the Court, if satisfied that the reasonable grounds exist, may grant a dissolution of marriage.

(2) In any proceeding under subsection (1) and until the contrary is proved, the fact that—

- (a) for a period of at least five years the other spouse to the marriage has been continually absent from the petitioner, and
- (b) the petitioner has no reason to believe that the other spouse has been alive within that time,

is evidence that the other spouse is dead.

Division 1 – Reconciliation

Duty of attorney-at-law

10. (1) An attorney-at-law who undertakes to act on behalf of a spouse in any divorce proceedings shall—

- (a) draw to the attention of the spouse the provisions of this Act that have as their object the reconciliation of the spouses; and
- (b) discuss with the spouse the possibility of the reconciliation of the spouses and inform the spouse of the marriage counselling or guidance facilities known to him that might be able to assist the spouses to achieve a reconciliation, unless the circumstances of the case are of such nature that it would clearly not be appropriate to do so.

(2) An attorney-at-law who undertakes to act on behalf of a spouse in any divorce proceedings shall discuss with the spouse the advisability of negotiating the matters that may be the subject of a support order or a custody order and inform the spouse of the mediation facilities known to him that might be able to assist the spouses in negotiating those matters.

(3) A document presented to a Court by an attorney-at-law that formally commences any divorce proceedings shall contain a statement by him certifying that he has complied with this section.

Duty of Court to take into account the possibility of reconciliation

11. (1) The Court shall, before considering any evidence in divorce proceedings, satisfy itself that there is no possibility of the reconciliation of the spouses, unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so.

(2) Where it appears to the Court from the nature of the case, the evidence or attitude of either or both spouses, at any stage in the divorce proceedings, that there is a possibility of the reconciliation of the spouses, the Court shall adjourn the proceedings to afford the spouses an opportunity to achieve reconciliation.

(3) The Court shall, where divorce proceedings are adjourned by virtue of subsection (2), with the consent of the spouses or in the discretion of the Court, nominate—

- (a)* a person with experience or training in marriage counselling or guidance; or
- (b)* in special circumstances, some suitable person,

to assist the spouses to achieve a reconciliation.

(4) Where fourteen days have elapsed from the date of any adjournment under subsection (2), the Court shall resume the proceeding on the application of either or both spouses.

(5) No person nominated by the Court under this section to assist spouses to achieve reconciliation is competent or compellable in any legal proceedings to disclose any admission or communication made to that person in his or her capacity as a nominee of the Court for that purpose.

(6) Evidence of anything said or of any admission or communication made in the course of assisting spouses to achieve reconciliation is not admissible in any legal proceedings.

Matters over which Court must be satisfied before granting dissolution of marriage

12. (1) The Court shall, in any dissolution proceedings,—

- (a)* satisfy itself that there has been no collusion in relation to the petition for dissolution of marriage, and dismiss the petition if it finds that there was collusion in presenting it;
- (b)* satisfy itself that reasonable arrangements have been made for the support of any children of the marriage and, if arrangements have not been made, stay the granting of the dissolution until arrangements are made; and
- (c)* where a divorce is sought in circumstances described in section 7(2)*(b)* satisfy itself that there has been no condonation or connivance on the part of the spouse bringing the proceedings, and dismiss the petition for divorce if that

spouse has condoned or connived in the act or conduct complained of unless, in the opinion of the Court, the public interest would be better served by the divorce.

(2) Any act or conduct that has been condoned is not capable of being revived so as to constitute a circumstance described in section 7(2)(b).

(3) For the purposes of this section, a continuation or resumption of cohabitation during a period of, or periods totalling, not more than ninety days with reconciliation as its primary purpose shall not be considered to constitute condonation.

(4) Subject to subsection (5), in this section, “**collusion**” means—

- (a) an agreement or conspiracy to which petitioner for dissolution of marriage is either directly or indirectly a party for the purpose of subverting the administration of justice; and
- (b) any agreement, understanding or arrangement to fabricate or suppress evidence to deceive the Court.

(5) The agreement referred to in subsection (4) does not include an agreement which provides for separation between the spouses, financial support, division of property or the custody of any child of the marriage.

Division 2 – Dissolution of marriage

Date on which dissolution of marriage takes effect

13. (1) Subject to this section, a dissolution of marriage granted by the Court becomes effective on the thirty-first day after the day on which the judgment granting the dissolution is delivered.

(2) Where, on or after delivering the judgment granting the dissolution of marriage,—

- (a) the Court is of the opinion that by reason of special circumstances the dissolution should take effect earlier than the date specified in subsection (1); and
- (b) the spouses agree and undertake that no appeal from the judgment will be made, or any appeal that was made has been abandoned,

the Court may order that the dissolution becomes effective at an earlier time, as it considers appropriate.

(3) A dissolution in respect of which an appeal is pending at the end of the period referred to in subsection (1), unless made void on appeal, becomes effective on the expiration of the time fixed by law for instituting an appeal from the decision on that appeal or any subsequent appeal, if no appeal has been instituted within that time.

(4) For the purposes of subsection (3), the time fixed by law for instituting an appeal from a decision on an appeal includes any extension fixed by law before the expiration of that time or fixed thereafter on an application instituted before the expiration of that time.

(5) Despite any other law, the time fixed by law for instituting an appeal from a decision referred to in subsection (3) may not be extended after the expiration of that time except on an application instituted before the expiration of that time.

(6) A dissolution of marriage in respect of which an appeal is made to the appellate Court, becomes effective on the day on which the judgment on appeal is delivered unless the decision of the appellate Court is to the contrary.

(7) Where a dissolution of marriage becomes effective under this section, the judge or officer of the Court that delivered the judgment granting the dissolution or, where that judgment was appealed, of the appellate Court that delivered the judgment on final appeal, shall, on request, issue to a person a certificate in the prescribed form that a dissolution granted under this Act dissolved the marriage of the spouses effective as of a specified date.

(8) A certificate referred to in subsection (7), or a certified copy of that certificate is conclusive proof of the facts so certified without proof of the signature or authority of the person appearing to have signed the certificate.

Dissolution of marriage

14. When a dissolution of marriage becomes effective under section 13, the marriage of the spouses is dissolved.

PART 4

COROLLARY RELIEF

Support order

15. (1) A Court may, upon an application by either or both spouses, make an order requiring one spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums as the Court thinks reasonable for the support of—

- (a) the other spouse;
- (b) any or all children of the marriage; or
- (c) the other spouse and any or all children of the marriage.

(2) Where an application is made under subsection (1), the court may, upon an application by either or both spouses, make an interim order requiring one spouse to secure or pay, or to secure and pay, such lump sum

or periodic sums, or such lump sum and periodic sums as the court thinks reasonable for the support of—

- (a) the other spouse;
- (b) any or all children of the marriage; or
- (c) the other spouse and any or all children of the marriage

pending determination of the application under subsection (1).

(3) The Court may make an order under this section for a definite or indefinite period or until the happening of a specified event, and may impose such other terms, conditions or restrictions in connection with the order as the Court deems fit and just.

(4) The Court shall, in making an order under this section, take into consideration the condition, means, needs and other circumstances of each spouse and of any child of the marriage for whom support is sought, including—

- (a) the length of time the spouses cohabited;
- (b) the functions performed by the spouses during cohabitation; and
- (c) any order, agreement or arrangement relating to support of the spouse or child.

(5) In making an order under this section, the Court shall not take into consideration any misconduct of a spouse in relation to the marriage.

(6) An order made under this section that provides for the support of a spouse shall—

- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
- (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above the obligation apportioned between the spouses under subsection (7);
- (c) relieve any economic hardship of the spouses arising from the breakdown of marriage; and
- (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable time.

(7) An order made under this section that provides for the support of a child of the marriage should—

- (a) recognise that the spouses have a joint financial obligation to maintain the child; and
- (b) apportion that obligation between the spouses according to their relative abilities to contribute to the performance of the obligation.

(8) Where a Court is considering an application for the support of a child of the marriage and an application for the support of a spouse, the Court shall give priority to the support of the child of the marriage in determining the applications.

(9) Where, under this section, a person is ordered by the Court to make a payment to another party or on that party's behalf, the Court may order the person's employer to garnish the wages of the person against whom the order is made.

(10) The employer must pay the amount deducted into the office of the Court unless the Court orders otherwise.

Custody order

16. (1) A Court may, on application by either or both spouses or by any person having an interest, make an order respecting the custody of or access to, any or all children of the marriage.

(2) The Court may, upon application by a party to an application made under subsection (1), make an interim order respecting the custody of or the access to, any or all the children of the marriage pending determination of the application under subsection (1).

(3) A person, other than a spouse, shall not make an application under subsection (1) or (2) without leave of the Court.

(4) The Court may make an order under this section granting custody of, or access to any or all children of the marriage to any person.

(5) Unless the Court otherwise orders, a spouse who is granted access to a child of the marriage has the right to make inquiries, and to be given information, as to the health, education and welfare of the child.

(6) The Court may make an order under this section for a definite or indefinite period or until the happening of a specified event, and may impose such other terms, conditions or restrictions in connection with the order as the Court thinks fit and just.

(7) Without limiting the generality of subsection (6), the Court may include in an order made under this section a term or condition requiring any person who has custody of the child of the marriage and who intends to change the place of residence of the child to notify, at least thirty days before the change or within such other period before the change as the Court may specify, any person who is granted access to the child of the change, the time at which the change will be made and the new place of residence of the child.

(8) The Court shall, in making an order under this section, take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child.

(9) The Court shall not, in making an order under this section, take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.

(10) In making an order under this section, the Court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate the contact.

Variation order, etc.

17. (1) The Court may make an order varying, rescinding or suspending, prospectively or retroactively—

- (a) a support order or any provision of the order on application by either or both former spouses; or
- (b) a custody order or any provision of the order on application by either or both former spouses or by any person having an interest.

(2) A person, other than a former spouse, shall not make an application under subsection (1)(b) without leave of the Court.

(3) The Court may include in a variation order any provision that could, under this Act, have been included in the order in respect of which the variation order is sought.

(4) The Court shall, before it makes a variation order in respect of a support order, satisfy itself that there has been a change in the condition, means, needs or other circumstances of either former spouse or of any child of the marriage for whom support is or was sought, occurring since the making of the support order or the last variation order made in respect of that order, as the case may be, and, in making the variation order, the Court shall take into consideration that change.

(5) The Court shall, before it makes a variation order in respect of a custody order, satisfy itself that there has been a change in the condition, means, needs or other circumstances of the child of the marriage occurring since the making of the custody order or the last variation order made in respect of that order, as the case may be, and, in making the variation order, the Court shall take into consideration only the best interests of the child as determined by reference to the change.

(6) For the purposes of subsection (5), a former spouse's terminal illness or critical condition is considered a change of circumstances of the child of the marriage, and the court shall make a variation order in respect of access that is in the best interests of the child.

(7) In making a variation order under this section, the Court shall not take into consideration any conduct that could not, under this Act, have been considered in making the order in respect of which the variation order is sought.

(8) A variation order varying a support order that provides for the support of a former spouse shall—

- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
- (b) apportion between the former spouses any financial consequences arising from the care of any child of the marriage over and above the obligation apportioned between the spouses under subsection (9);
- (c) relieve any economic hardship of the former spouses arising from the breakdown of marriage; and
- (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable time.

(9) A variation order varying a support order that provides for the support of a child of the marriage shall—

- (a) recognize that the former spouses have a joint financial obligation to maintain the child;
- (b) apportion that obligation between the former spouses according to their relative abilities to contribute to the performance of the obligation.

(10) In making a variation order varying a custody order, the Court shall give effect to the principle that a child of the marriage should have as much contact with each former spouse as is consistent with the best interests of the child and, for that purpose, where the variation order would grant custody of the child to a person who does not currently have custody, the Court shall take into consideration the willingness of that person to facilitate the contact.

(11) Despite subsection (1), where a support order provides for support for a definite period or until the happening of a specified event, the Court may not, on an application instituted after the expiration of that period or happening of the event, grant a variation order for the purpose of resuming that support unless the Court is satisfied that—

- (a) a variation order is necessary to relieve economic hardship arising from a change described in subsection (4) that is related to the marriage; and
- (b) the changed circumstances, had they existed at the time of making the support order or the last variation order made in respect of that order, as the case may be, would likely have resulted in a different order.

(12) In making a variation order, the Court may take into consideration any fresh evidence not considered in making the order in respect of which the variation order is sought.

(13) Where the Court makes a variation order in respect of a support order or a custody order made by another Court, it shall send a copy of the

variation order, certified by a judge or officer of the Court, to that other Court.

PART 5

GENERAL PROVISIONS

Appeals

18. (1) Subject to subsections (2) and (3), an appeal lies to the appellate Court from any judgment or order, whether final or interim, rendered or made by the Court under this Act.

(2) No appeal lies from the judgment of the Court granting a dissolution of marriage on or after the day on which the dissolution takes effect.

(3) No appeal lies from an order made under this Act if the appeal is made after thirty days from the day on which the order was made, except that the appellate Court or a judge of that Court may, on special grounds, either before or after the expiration of that time, by order, extend that time.

(4) Except as otherwise provided by this Act or the rules or regulations, an appeal under this section shall be asserted, heard and decided according to the ordinary procedure governing appeals to the appellate Court from the Court that delivered the judgment or making the order being appealed from.

Powers of appellate Court

19. The appellate Court may—

- (a)* dismiss the appeal; or
- (b)* allow the appeal and—
 - (i)* deliver the judgment or make the order that ought to have been made; or
 - (ii)* order a new hearing where it deems it necessary to do so in order to correct a substantial wrong or miscarriage of justice.

Proof of signature or office

20. A document offered in any proceedings under this Act that purports to be certified or sworn by a judge or an officer of the Court is, unless the contrary is proved, proof of the appointment, signature or authority of the judge or officer and, in case of a document purporting to be sworn, of the appointment, signature or authority of the person before whom the document purports to be sworn.

Rules

21. The Chief Justice may generally make rules relating to any proceedings that may be brought under this Act in the Court or appellate Court, and without prejudice to the generality of the foregoing may make rules—

- (a) regulating the practice of and procedure in the Court, including the addition of persons as parties to the proceedings;
- (b) respecting the conduct and disposition of any proceedings under this Act without oral hearing;
- (c) regulating the sittings of the Court;
- (d) respecting the fixing and awarding of costs;
- (e) prescribing forms to be used;
- (f) prescribing and regulating the duties of officers of the Court; and
- (g) prescribing and regulating any other matter to carry into effect the provisions of this Act.

Fees

22. The Governor acting on the advice of Cabinet may, by Order, prescribe fees to be paid by any person to whom services are provided under this Act.

Repeal

23. The Matrimonial Causes Act, is repealed.

Saving

24. Despite the repeal of the Matrimonial Causes Act, proceedings that were commenced under that Act before the commencement of this Act continue under that Act.

Transitional provision

25. Proceedings may be commenced under this Act despite that the material facts giving rising to the proceedings or to jurisdiction over the proceedings occurred wholly or partly before the commencement of this Act.

MATRIMONIAL PROCEEDINGS RULES
ARRANGEMENT OF RULES

RULES

1. Short title
2. Interpretation
3. Application of Civil Procedure Rules
4. Forms
5. Commencement of dissolution proceedings by petition
6. Pleadings
7. Contents of petition
8. Signing and presentation of petition
9. Discontinuance of cause before service of petition
10. Allegations of adultery
11. Service
12. Substituted service
13. Service out of the jurisdiction
14. Time for service of petition
15. Acknowledgment of service
16. Consent to the grant of a divorce or annulment of marriage
17. Supplemental petition and amendment of petition
18. Answer to petition
19. Entry of cause in the special procedure list
20. Filing of reply
21. Service of pleadings
22. Contents of answer and subsequent pleadings
23. Allegation against third party in pleading
24. Supplemental answer and amendment of pleadings
25. Particulars
26. Directions for trial
27. Mode of trial
28. Disposal of causes in the special procedure list
29. Interim relief summons
30. Failure to comply with interim order
31. Application for ancillary relief
32. Right to be heard on ancillary questions
33. Notice to Attorney General
34. General provisions relating to dissolution of marriage
35. Service of order
36. Rescission of dissolution of marriage
37. Certificate of dissolution of marriage

38. Variation of order for ancillary relief

39. Contents of affidavit in support

40. Costs

SCHEDULE: Forms for use in dissolution proceedings

MATRIMONIAL PROCEEDINGS RULES – SECTION 21

(S.R.O. 84/2014)

Commencement

[19 November 2014]

Short title

1. These Rules may be cited as the Matrimonial Proceedings Rules.

Interpretation

2. In these Rules—

“**Act**” means the Matrimonial Proceedings Act;

“**Civil Procedure Rules**” means the Eastern Caribbean Supreme Court Civil Procedure Rules 2000;

“**co-respondent**” means a person cited in divorce proceedings as allegedly committing adultery with the respondent to the proceedings;

“**party**” means a petitioner, a respondent, an intervener or an attorney-at-law on record for a party unless any rule specifies or it is clear from the context that it relates to the client or to the attorney-at-law only;

“**petition**” means a document by which dissolution proceedings are commenced;

“**petitioner**” means the party to a marriage who applies to the Court for a divorce, an annulment of marriage or a presumption of death of a spouse;

“**respondent**” means the party to a marriage who defends or otherwise responds to the petitioner’s application for a divorce, an annulment of marriage or a presumption of death of a spouse, including a party who cross-petitions.

Application of Civil Procedure Rules

3. If these Rules are silent on a matter under the Act the Civil Procedure Rules apply with the necessary modifications.

Forms

4. The forms prescribed in the Schedule are the Forms to be used for purposes of dissolution proceedings under these Rules.

Commencement of dissolution proceedings by petition

5. Proceedings for divorce, for annulment of marriage and for presumption of death of a spouse shall be commenced by petition in Forms 1, 2 and 3, respectively.

Pleadings

6. (1) In dissolution proceedings, pleadings shall consist of the petition (Form 1, 2 or 3), the affidavit accompanying the petition (Form 4), the acknowledgement of service (Form 5), the answer (or) answer and cross-petition (Form 7) and the reply (Form 8), if any.

(2) In a cross-petition, pleadings shall consist of the cross-petition (Form 7), the answer to cross-petition (Form 9) and the reply to answer to cross-petition (Form 10), if any.

Contents of petition

7. (1) A petition for divorce shall—

- (a) be in Form 1; and
- (b) include—
 - (i) the names of the parties to the marriage, the place of the marriage and the marriage officer who performed the marriage;
 - (ii) the date and place of birth of each of the parties;
 - (iii) if the parties have lived as man and wife in the jurisdiction, the principal permanent address within the jurisdiction at which they lived;
 - (iv) if it is alleged that the Court has jurisdiction based on domicile, the country in which the petitioner and the respondent respectively are domiciled;
 - (v) if it is alleged that the Court has jurisdiction based on residence, the places of residence and the date on which the same commenced, of the petitioner and respondent respectively throughout the previous period of one year ending with the date of presentation of the petition;
 - (vi) the occupation and residence of the petitioner and of the respondent at the time of the presentation of the petition;
 - (vii) details as to whether there is any relevant child of the marriage and, if there is, the name and date of birth of each relevant child;
 - (viii) details as to whether to the knowledge of the petitioner, there is any child living at the date of the presentation of the petition, being the child of the petitioner or the child of the respondent born during the marriage as a result of the union by that party with a person outside of the marriage and, if so, the name, date of birth and address of the child, or so much of this information as is known;
 - (ix) if it be the case, that there is a dispute whether a child is a child of the marriage;

- (x) whether there are or have been any proceedings in any court in Montserrat or elsewhere with reference to the marriage or to any relevant child or between the petitioner and the respondent with reference to any property of either or both of them and, if so—
 - (A) the nature of the proceedings;
 - (B) the date and effect of any ruling order; and
 - (C) in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the ruling or order;
 - (xi) if it be the case, that the marriage has broken down irretrievably;
 - (xii) the circumstances in which the marriage is alleged to have broken down irretrievably, including the date of separation; and
 - (xiii) whether there is a reasonable likelihood of cohabitation being resumed.
- (2)** A petition for annulment of marriage shall—
- (a) be in Form 2; and
 - (b) state—
 - (i) the matters set out in rule 7(1)(b)(i) to (x); and
 - (ii) the facts on which it is alleged that the marriage should be annulled.
- (3)** A petition for presumption of death of a spouse shall—
- (a) be in Form 3; and
 - (b) state—
 - (i) the last place at which the parties to the marriage cohabited;
 - (ii) the circumstances in which the parties ceased to cohabit;
 - (iii) the date when and place where the respondent was last seen or heard of;
 - (iv) the steps which have been taken to ascertain the location of the respondent;
 - (v) the reason for suspecting that the respondent is deceased;
 - (vi) whether there are any surviving children of the respondent and whether it is likely that they or any of them are entitled to succeed to any part of or the whole of the respondent's estate, whether by reason of a will or on intestacy; and
 - (vii) the full details including the names, ages and addresses of all persons who have or are likely to have an interest in the respondent's estate.

(4) A petition for divorce, for annulment of marriage or for presumption of death of a spouse may include a claim for maintenance, custody, education of or access to children, division of property and any other relief relating to matters concerning the marriage, the union between the parties or any relevant children.

(5) In any case where the claim is for maintenance, custody, education of or access to children, the petition shall contain a statement in general terms of the financial resources of both parties.

(6) If a petition for divorce, for annulment of marriage or for presumption of death of a spouse discloses that there are relevant children who are minors (or are under the age of twenty-one and are being educated in an institution of tertiary education), the petition shall be accompanied by an affidavit signed by the petitioner.

(7) The affidavit accompanying a petition shall—

- (a) be in Form 4;
- (b) set out particulars of the arrangements for the care, maintenance, education and upbringing of a relevant child; and
- (c) state whether a relevant child is suffering from a disability and the nature of the disability.

(8) A petition shall conclude with—

- (a) a summary of the relief being claimed; and
- (b) the names and addresses of the persons to be served, indicating if any of them is a person under disability.

Signing and presentation of petition

8. (1) A petition shall be signed by the petitioner and his or her attorney-at-law in the attorney-at-law's own name, or the name of his or her firm, if the petitioner has an attorney.

(2) A petition is presented when it is filed in the Registry.

(3) The petitioner shall file the original and at least two copies of the petition to facilitate service.

(4) A certificate of the marriage or of the registration of the marriage shall be filed with the petition, unless the petition states that it is impossible to obtain the certificate.

(5) A petition must contain a certificate of truth.

Discontinuance of cause before service of petition

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

Allegations of adultery

10. If a petition or amended petition alleges that the defendant has committed adultery, it is not necessary to set out the name of the person with whom it is alleged that the defendant committed adultery.

Service

11. (1) Unless otherwise authorised by these rules, service of—

- (a) a petition for divorce; or
- (b) a petition for annulment of marriage,

shall be effected personally upon the respondent.

(2) A petition for presumption of death of a spouse shall be served on any person who has or is likely to have an interest in the respondent's estate and by two publications in consecutive weeks in a newspaper that is published in the place where the respondent is last known to reside.

(3) If it is intended to pursue the application under subrule (1) in default, an application for the Court's order or directions in relation to the application shall be filed by the petitioner and served in the manner set out in subrule (2).

(4) A petitioner may accompany the process server for the purpose of identifying the person to be served.

(5) Service by a petitioner is not to be regarded as proper service.

(6) Service is proved by an affidavit made by the person who served the document setting out—

- (a) if service is on an individual, the name of the individual, the date, time and place of service;
- (b) if service is on an individual, the means by which the person served was identified;
- (c) if service is by advertisement, the date or dates of the advertisement and the newspaper in which it was published and exhibiting same;
- (d) if service is by fax or by any other means, full particulars of the service or the manner in which it is believed that notice of the proceedings or application is likely to have come to the party intended to be served and confirmation of service; and
- (e) any other information as is necessary to satisfy the Court that the document served is likely to have come to the attention of the party intended to be served or that there has been compliance with an order giving permission to effect service by the method adopted.

(7) If a petition or amended petition sets out the name of a person alleged to have committed adultery with the respondent, it shall be served on the person—

- (a) in the manner specified in subrule (1); or
- (b) by mailing a copy to the person at his or her last known address.

Substituted service

12. (1) An application for permission to substitute for personal service some other method of service within the jurisdiction may be made without notice.

(2) An application for permission to substitute another form of service for personal service shall be accompanied by an affidavit setting out—

- (a) the reason for seeking to adopt a form of service other than personal service;
- (b) the attempts, if any, which have been made to effect personal service;
- (c) if no attempts have been made to effect personal service, the reasons for declining to do so; and
- (d) the reasons for believing that the proposed method of service is likely to cause the document to come to the attention of the person to be served.

(3) On an application for permission to substitute another form of service for personal service within the jurisdiction, the Court may permit the applicant to effect service by—

- (a) delivering the document to be served to a relative or other person connected to the party to be served, if satisfied that the document is reasonably likely to come to the attention of the party to be served;
- (b) advertisement in Form 6; or
- (c) any other method which is likely to bring the existence and nature of the proceedings to the attention of the party to be served.

Service out of the jurisdiction

13. (1) Subject to subrule (2), a petition may be served out of the jurisdiction without permission.

(2) Rules 11 and 12 apply with the necessary modifications.

Time for service of petition

14. A petition shall be served within six months after it is issued.

Acknowledgment of service

15. (1) A respondent served in Montserrat with a document commencing proceedings shall file an acknowledgment of service in Form 5 within fourteen days of being served.

(2) If a petition is served out of Montserrat, the respondent shall, after being served, file an acknowledgement of service within the following periods—

- (a) other OECS States and Territories and States in the Caribbean outside of the OECS States, the USA and Canada, within twenty eight days;

(b) elsewhere, within thirty five days.

(3) If an acknowledgement of service is returned to the Registry, the Registrar shall within fourteen days send a copy of it to the petitioner.

Consent to the grant of a divorce or annulment of marriage

16. (1) If, before the hearing of a petition the respondent wishes to indicate to the Court that he or she consents to the grant of a divorce or annulment of marriage, he or she shall do so by giving the Registrar written notice at least ten days before the hearing, to that effect signed by the respondent personally.

(2) For the purposes of subrule (1), an acknowledgment of service containing a statement that the respondent consents to the divorce or annulment of marriage shall be treated as such a notice if the acknowledgment is signed—

(a) in the case of a respondent acting in person, by the respondent; or

(b) in the case of a respondent represented by an attorney-at-law, by the respondent as well as by the attorney-at-law.

(3) If a notice under subrule (1) is given, the proceedings on the petition shall be stayed and the Registrar shall give notice of the stay to all parties.

Supplemental petition and amendment of petition

17. (1) A supplemental petition may be filed only with leave.

(2) A petition may be amended without leave before it is served but only with leave after it has been served.

(3) Subject to subrule (4), an application for leave under this rule—

(a) may, if every opposite party consents in writing to the supplemental petition being filed or the petition being amended, be made ex parte by lodging in the Registry the supplemental petition or a copy of the petition as proposed to be amended; and

(b) shall, in any other case, be made on notice, to be served, unless otherwise directed, on every opposite party.

(4) The Court may, if it thinks fit, require an application for leave to be supported by an affidavit.

(5) An order granting leave shall fix the time within which the party's answer shall be filed or amended.

(6) If the order granting leave is made after directions for trial have been given, it shall provide for a stay of the hearing until after the directions have been renewed.

(7) An amendment authorised under this rule shall be made by filing a copy of the amended petition.

(8) Rule 8 applies to a supplemental or amended petition as it applies to the original petition.

(9) Unless otherwise directed, a copy of a supplemental or amended petition, together with a copy of any order made under this rule shall be served on every respondent and co-respondent named in the original petition or in the supplemental or amended petition.

(10) The petitioner shall file the documents required by subrule (9) to be served on any person and unless otherwise directed, rules 11, 12, and 13 apply in relation to that person as they apply in relation to a person required to be served with an original petition.

Answer to petition

18. (1) The respondent in any dissolution proceeding may answer or defend the petition by filing and delivering to the petitioner an answer or an answer and cross-petition in Form 7, in response to a petition.

(2) The time for filing an answer or an answer and cross-petition in subrule (1)—

- (a) in Montserrat is twenty eight days;
- (b) in the other OECS States and territories and States in the Caribbean outside of the OECS States, the USA and Canada is forty two days;
- (c) elsewhere is fifty six days,

of being served with the petition.

Entry of cause in the special procedure list

19. If a respondent—

- (a) fails to file an acknowledgement of service;
- (b) fails to file an answer;
- (c) gives notice under rule 16(1); or
- (d) files an answer indicating that he or she does not intend to defend the petition,

the petitioner may apply to the Registrar to have the cause entered in the special procedure list to be dealt with under rule 28.

Filing of reply

20. (1) A petitioner may file a reply to an answer in Form 8 within fourteen days after he or she has received a copy of the answer.

(2) If the petitioner does not file a reply to an answer, he or she shall, unless the answer prays for divorce, annulment or presumption of death of a spouse, be deemed, on making a request for directions for trial, to have denied every material allegation of fact made in the answer.

Service of pleadings

21. A party who files an answer, reply or subsequent pleading shall at the same time file a copy for service on every opposite party.

Contents of answer and subsequent pleadings

22. If an answer, reply or subsequent pleading in Form 9 or 10 contains more than a simple denial of the facts stated in the petition, answer or reply, as the case may be, the pleading shall set out with sufficient particularity the facts relied on.

Allegation against third party in pleading

23. (1) Rules 10, 11, 12 and 13 shall apply with the necessary modifications to a pleading other than a petition as they apply to a petition, so that for a reference in those rules to a respondent there shall be substituted a reference to a party cited.

(2) Rule 18 shall apply with the necessary modifications to a party cited in a pleading as it applies to a respondent or co-respondent to a petition.

Supplemental answer and amendment of pleadings

24. Rule 17 shall apply with the necessary modifications to the filing of a supplemental answer and the amendment of a pleading or other document not being a petition, as they apply to the filing of a supplemental petition and the amendment of a petition.

Particulars

25. (1) A party on whom a pleading has been served may in writing request the party whose pleading it is to give particulars of any allegation or other matter pleaded and, if that party fails to give the particulars within a reasonable time, the party requiring them may apply for an order that the particulars be given.

(2) The request or order in pursuance of which particulars are given shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.

(3) A party giving particulars, whether in pursuance of an order or otherwise, shall at the same time file a copy of the particulars.

Directions for trial

26. (1) In any case where an answer is filed in response to a petition, the Registrar shall schedule a hearing in accordance with Rule 2.7 of the Civil Procedure Rules.

(2) Notice of the hearing at the scheduled place shall be given to all parties.

Mode of trial

27. Subject to rule 28, every cause and any issue arising in the cause shall be tried by a judge.

Disposal of causes in the special procedure list

28. (1) As soon as practicable after a cause has been entered in the special procedure list, the Registrar shall consider the evidence filed by the petitioner and—

- (a) if the Registrar is satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a divorce, annulment of marriage or presumption of death of a spouse and any costs for which he or she prays and that there are no children of the marriage, the Registrar shall make and file a certificate to that effect; and
- (b) if he or she is not so satisfied, he or she may give the petitioner an opportunity to file further evidence or remove the cause from the special procedure list.

(2) On the filing of a certificate by the Registrar under subrule (1), a day shall be fixed for the pronouncement of a divorce, annulment of marriage or presumption of death of a spouse, by a judge in open court and the Registrar shall send to each party notice of the day and place so fixed and a copy of the certificate but it shall not be necessary for either party to appear on that day.

(3) Within sixty days after the pronouncement of a divorce, annulment of marriage or presumption of death of a spouse in accordance with a certificate under subrule (1), a person may inspect the certificate and the evidence filed and may request copies on payment of the fee prescribed by the Attorney General under section 22 of the Act.

Interim relief summons

29. An application for interim relief shall set out the precise relief sought, including the amount of support claimed for each dependant.

Failure to comply with interim order

30. If a party **fails** to comply with an order for interim relief and the Court is satisfied that the party is able to comply with the order, the Court may postpone the trial of the action or strike out any pleading or affidavit of the party in default.

Application for ancillary relief

31. (1) A person who wishes to obtain an order for support, custody or access under section 15 or 16 of the Act shall file an application in accordance with Part 11 of the Civil Procedure Rules which shall apply with the necessary modifications.

(2) An affidavit in support of an application made under subrule (1) shall include—

- (a) the place or ordinary residence of the parties and the children of the marriage; and
- (b) the current marital status of the parties.

Right to be heard on ancillary questions

32. (1) A respondent may, without filing an answer, be heard on—

- (a) any question of custody of, or access to, any child of the marriage; and
- (b) any question of ancillary relief.

(2) A respondent, co-respondent or party cited may, without filing an answer, be heard on any question as to costs but an allegation shall be made against a party claiming costs only if the party making the allegation has filed an answer.

(3) A party shall be entitled to be heard on any question under subrule (1) or (2) whether or not he or she has returned to the Registry an acknowledgment of service stating his or her wish to be heard on that question.

Notice to Attorney General

33. (1) The judge trying dissolution proceedings may adjourn the trial for any reason to a time and place as are just and, in a proper case, may direct that the Registrar immediately give notice to the Attorney General of the proceeding, and state the reasons of the judge for direction that notice be given.

(2) If notice is given, the Attorney General may appear by counsel at the adjourned trial and make submissions and otherwise participate in the proceeding to the extent that the judge allows.

General provisions relating to dissolution of marriage

34. (1) A dissolution of marriage granted by the Court takes effect, as provided by section 13 of the Act.

(2) The death of a party to a marriage after the grant of a divorce or annulment of marriage, but before the expiration of the relevant time provided under section 13 of the Act, operates to finalise the dissolution of the marriage and, upon receiving satisfactory affidavit evidence of the fact of the death of the party, the Registrar shall endorse the records to that effect.

Service of order

35. (1) If an order made in dissolution proceedings has been drawn up, the Registrar shall, unless otherwise directed, issue a copy of the order to each party affected by it.

(2) If a party against whom the order is made is acting by an attorney-at-law, a copy may, if the Registrar thinks fit, be sent to that party as if he or she were acting in person, as well as to his or her attorney-at-law.

Rescission of dissolution of marriage

36. (1) If, after a divorce or annulment of marriage has been granted but before the expiration of the relevant time provided under section 13 of the Act, a reconciliation has been effected between the petitioner and the respondent spouse, either party may apply for an order rescinding the divorce or annulment of marriage by consent.

(2) An application under this rule may be made by the parties to the marriage jointly, in which event service of notice of the application is not required.

(3) If the application is being made by one party to the marriage, the applicant shall give seven days' notice of the application to the respondent.

(4) An application made under this rule shall be served on any other person affected by the divorce or annulment of marriage.

(5) If, at the hearing of an application, it appears that the question for decision is likely to involve a substantial dispute of fact, the Court may make an order or give directions for the future conduct of the proceedings as may seem fit.

Certificate of dissolution of marriage

37. (1) A certificate of—

- (a) divorce is in Form 12;
- (b) annulment of marriage is in Form 13; and
- (c) dissolution of marriage on the presumption of the death of a spouse is in Form 14.

(2) If a marriage is dissolved, the Registrar shall complete a certificate in subrule (1), stating the date at which the dissolution of marriage became effective.

(3) On the dissolution of a marriage, the Registrar shall issue to the petitioner and the respondent, a certificate in subrule (1), authenticated by the seal of the Court from which it is issued.

(4) A register of certificates in subrule (1) shall be kept at the Registry and a person is entitled to—

- (a) require a search to be made in the register; and
 - (b) be furnished with a certificate of the result of the search,
- on payment of the fee prescribed by the Governor acting on the advice of Cabinet under section 22 of the Act.

(5) A certificate in subrule (1) shall be issued to a person requiring it on payment of the fee prescribed by the Governor acting on the advice of Cabinet under section 22 of the Act.

Variation of order for ancillary relief

38. A person who wishes to vary, suspend or rescind a final order for support, custody or access under section 17 of the Act or to obtain such an order after dissolution or annulment of a marriage shall do so by application made under Part 11 of the Civil Procedure Rules which shall apply with the necessary modifications.

Contents of affidavit in support

39. An affidavit in support of the application in rule 38 shall set out—

- (a) the place or ordinary residence of the parties and the children of the marriage;
- (b) the current marital status of the parties;

- (c) particulars of the change in circumstances relied on;
- (d) particulars of current custody and access arrangements and of any proposed change;
- (e) particulars of current support arrangements and any proposed change;
- (f) particulars of any arrears of support under an order or agreement; and
- (g) particulars of any efforts made to mediate the matters in issue or of any assessment made in relation to custody or access.

Costs

40. The costs of dissolution proceedings shall be assessed under Parts 64 and 65 of the Civil Procedure Rules, unless a judge orders otherwise.

SCHEDULE*(Rule 4)***FORMS FOR USE IN DISSOLUTION PROCEEDINGS**

- Form 1: *Petition for Divorce*
- Form 2: *Petition for Annulment of Marriage*
- Form 3: *Petition for Presumption of Death of a Spouse*
- Form 4: *Affidavit Accompanying Petition*
- Form 5: *Acknowledgement of Service in Dissolution Proceedings*
- Form 6: *Advertisement*
- Form 7: *Answer [or] Answer and Cross-Petition*
- Form 8: *Reply*
- Form 9: *Answer to Cross-Petition*
- Form 10: *Reply to Answer to Cross-Petition*
- Form 11: *Financial Statement*
- Form 12: *Certificate of Divorce*
- Form 13: *Certificate of Annulment of Marriage*
- Form 14: *Certificate of Dissolution of Marriage on the Presumption of Death of a Spouse*

Form 1

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

PETITION FOR DIVORCE

THE PETITION OF [name of the Petitioner] (hereafter called “**the Petitioner**”)
SHOWS THAT:

DETAILS OF THE MARRIAGE

1. On the day of (*month and year*) the Petitioner (*name of Petitioner*) was lawfully married to (*name of Respondent*) (hereafter called “**the Respondent**”) at (*place of marriage*) by (*name of the marriage officer*) a marriage officer of (*state place*).
2. (a) ☐ A certificate of 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.
(*Check (a), (b) or (c) and complete as required*)
3. The Petitioner was born on the day of (*month and year*) at [state place of birth] and the Respondent was born on the day of (*month and year*) at (*state place of birth*).

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat.

(or)

The Petitioner is ordinarily resident in *(state place)* and the Respondent is ordinarily resident in *(state place)*.

5. *(If applicable)* The Petitioner and the Respondent have lived as man and wife in Montserrat at *(principal place of residence)*.

(or)

The Petitioner and the Respondent lived at the following place(s) for the period of one year immediately preceding the commencement of divorce proceedings:

Place of residence

Date of commencement of residence

.....

.....

6. The Petitioner is a *(state occupation)* and lives at *(state address)* and the Respondent is a *(state occupation)* and lives at *(state address)*.

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child

Child's date of birth

.....

.....

.....

.....

(or)

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Full name of child

Child's date of birth

.....

.....

.....

.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, *(name and date of birth of child)* is a child of the marriage. The nature of the dispute is:

(Briefly state nature of dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the *(state which court)* with reference to *(state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them)* as follows:

(State the nature of the proceedings)

(State the date and effect of any decree or order)

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent 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 or arrangement	Status
.....		

GROUNDS FOR DIVORCE

14. The marriage between the Petitioner and the Respondent has broken down.

15. The following are the circumstances in which the Petitioner considers the marriage to have broken down:

(Set out the circumstances.)

RECONCILIATION

16. There is no possibility of reconciliation of the spouses.

17. The following efforts to reconcile have been made:

.....

(Give details. If no efforts have been made, state "None")

COLLUSION, CONDONATION AND CONNIVANCE

18. There has been no collusion in relation to this divorce proceeding.

19. There has been no condonation or connivance on the grounds for divorce in this proceeding.

(If 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.)

RELIEF SOUGHT

20. The Petitioner seeks the following relief:

(Set out the relief being claimed)

The following is the person to be served with this Petition and who is not under disability:

The Respondent

(Name of Respondent)

(Address of Respondent)

DECLARATION OF PETITIONER

I have read and understand this petition for divorce. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....

Signature of Petitioner

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

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

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for service is
..... Telephone no.....

NOTICE TO THE RESPONDENT

DIVORCE PROCEEDINGS HAVE BEEN COMMENCED AGAINST YOU by the petitioner. The claim made against you appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat,
- (b) twenty eight days if in the other OECS States and Territories and states in the Caribbean outside of the OECS States, USA and Canada,
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An acknowledgment of service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default against you.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you,
- (b) other OECS States and Territories and states in the Caribbean outside of the OECS , the USA or Canada, the period for serving and filing your answer is forty two days after this petition is served on you,
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

If this petition contains a claim for support or a division of property, you must serve and file a financial statement in Form 11 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 JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Mondays to Fridays, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Form 2

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

PETITION FOR ANNULMENT OF MARRIAGE

THE PETITION OF *(name of the Petitioner)* (hereafter called “**the Petitioner**”) SHOWS THAT:

DETAILS OF THE MARRIAGE

1. The Petitioner *(name of Petitioner)* went through a ceremony of marriage on the day of *(month and year)* to *(name of Respondent)* (hereafter called “**the Respondent**”) at *(place where ceremony was conducted)* by *(name of the marriage officer)* a marriage officer of *(state place)*.
2. (a) ☐ A certificate of 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.
(Check (a), (b) or (c) and complete as required)
3. The Petitioner was born on the day of *(month and year)* at *(state place of birth)* and the Respondent was born on the day of *(month and year)* at *(state place of birth)*.

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat

(or)

The Petitioner is ordinarily resident in (*state place*) and the Respondent is ordinarily resident in (*state place*).

5. [If applicable] The Petitioner and the Respondent have lived as man and wife in Montserrat at (*principal place of residence*)

(or)

The Petitioner and the Respondent lived at the following place(s) for the period of one year immediately prior to the date of presentation of the petition:

Place of residence	Date of commencement of residence
--------------------	-----------------------------------

.....

.....

6. The Petitioner is a (*state occupation*) and lives at (*state address*) and the Respondent is a (*state occupation*) and lives at (*state address*).

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child	Child's date of birth
--------------------	-----------------------

.....

.....

.....

.....

(or)

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Full name of child	Child's date of birth
--------------------	-----------------------

.....

.....

.....

.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, (*name and date of birth of child*) is a child of the marriage. The nature of the dispute is:

(Briefly state the nature of the dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the (*state which court*) with reference to [*state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them*] as follows:

(State the nature of the proceedings)

(State the date and effect of any decree or order)

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent 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 or arrangement	Status
.....		

GROUND FOR ANNULMENT OF MARRIAGE

14. The marriage is void because [set out the grounds for alleging that the marriage is void].

15. The following are the facts being relied upon by the Petitioner in support of the claim that the marriage should be annulled:

(Set out facts)

COLLUSION, CONDONATION AND CONNIVANCE

16. There has been no collusion in relation to this annulment proceeding.
17. There has been no condonation or connivance on the grounds for annulment in this proceeding.

(If there has been condonation or connivance, strike out the previous sentence. Give details and set out the facts relied on to justify an annulment in the circumstances.)

RELIEF SOUGHT

18. The Petitioner seeks the following relief:

(Set out the relief being claimed.)

The following is the person to be served with this Petition and who is not under disability:

The Respondent

(Name of Respondent)

(Address of Respondent)

DECLARATION OF PETITIONER

I have read and understand this petition for annulment of marriage. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....

Signature of Petitioner

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

(Strike out this paragraph if you do not have an attorney)

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the
Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for service is
..... Telephone no.....

NOTICE TO THE RESPONDENT

PROCEEDINGS FOR ANNULMENT OF MARRIAGE HAVE BEEN COMMENCED AGAINST YOU by the petitioner. The claim made against you appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat;
- (b) twenty eight days if in other OECS States and Territories and states in the Caribbean outside of the OECS States, the USA and Canada;
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An acknowledgment of service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default against you.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you;
- (b) other OECS States and Territories and states in the Caribbean outside of the OECS, the USA or Canada, the period for serving and filing your answer is forty two days after this petition is served on you;
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

If this petition contains a claim for support or a division of property, you must serve and file a financial statement in Form 11 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, AN ANNULMENT OF MARRIAGE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Monday to Friday, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Form 3**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****PETITIONER****AND****RESPONDENT****PETITION FOR PRESUMPTION OF DEATH OF A SPOUSE**

THE PETITION OF *(name of the Petitioner)* (hereafter called “the Petitioner”) SHOWS THAT:

DETAILS OF THE MARRIAGE

1. On the day of *(month and year)* the Petitioner *(name of Petitioner)* (hereafter called “**the Respondent**”) was lawfully married to *(name of Respondent)* at *(state place of marriage)* by *(name of the marriage officer)* a marriage officer of *(state place)*.
2. (a) ☐ A certificate of 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.
(Check (a), (b) or (c) and complete as required)
3. The Petitioner was born on the day of *(month and year)* at *(state place of birth)* and the Respondent was born on the day of *(month and year)* at *(state place of birth)*.

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat.

(or)

The Petitioner is ordinarily resident in *(state place)* and the Respondent is ordinarily resident in *(state place)*.

5. [If applicable] The Petitioner and the Respondent have lived as man and wife in Montserrat at *(principal place of residence)*:

Place of residence	Date of commencement of residence
--------------------	---

.....

.....

6. The Petitioner is a *(state occupation)* and resides at *(state address)* and the Respondent is a *(state occupation)* and was last known by your Petitioner to be residing at *(state address)*.

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child	Child's date of birth
--------------------	-----------------------

.....

.....

.....

.....

(or)

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Full name of child	Child's date of birth
--------------------	-----------------------

.....

.....

.....

.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, *(name and date of birth of child)* is a child of the marriage. The nature of the dispute is:

(Briefly state nature of dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the *(state which court)* with reference to *(state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them)* as follows:

(State the nature of the proceedings)

(State the date and effect of any decree or order)

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent 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 or arrangement	Status
.....		

GROUND FOR PRESUMPTION OF DEATH OF A SPOUSE

14. The Petitioner has reasonable grounds for believing that the Respondent is deceased.

15. The Respondent was last seen [or heard of] by the Petitioner on the *(state the date)* at *(state the place)* and, since that date, the Petitioner has taken the following steps to locate him:

(Set out steps taken to ascertain location of Respondent)

16. The Petitioner believes that the Respondent is deceased because: *(state the reasons).*

ENTITLEMENT TO RESPONDENT'S ESTATE

17. The Respondent has *(state number of surviving children)* all of whom are likely to be entitled to succeed to the whole of or a part of his or her estate by reason of his or her Will [or by reason of intestacy].

[or]

The Respondent has no surviving children.

18. The following are the details of all persons who are known by the Petitioner to have an interest in the Respondent's estate:

(Set out full details including names, ages and addresses of all the persons.)

COLLUSION, CONDONATION AND CONNIVANCE

19. There has been no collusion in relation to this proceeding for presumption of the death of a spouse.
20. There has been no condonation or connivance on the grounds for presumption of the death of a spouse 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 dissolution of marriage in the circumstances.)

RELIEF SOUGHT

21. The Petitioner seeks the following relief:

(Set out the relief being claimed.)

The following person(s) to be served with this Petition is/are not under disability [or is/are under disability]:

(Set out full details including names and addresses of all the persons.)

DECLARATION OF PETITIONER

I have read and understand this petition for presumption of death of a spouse. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....

Signature of Petitioner

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

(Strike out this paragraph if you do not have an attorney.)

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for service is
..... Telephone no.....

NOTICE TO PERSON(S) BEING SERVED

PROCEEDINGS FOR PRESUMPTION OF DEATH OF A SPOUSE HAVE BEEN COMMENCED by the petitioner. The claim made against the respondent appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat,
- (b) twenty eight days if in the other OECS States and Territories and states in the Caribbean outside of the OECS States, the USA and Canada,
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An Acknowledgment of Service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you;
- (b) Other OECS States and territories and states in the Caribbean outside of the OECS States, the period for serving and filing your answer is forty two days after this petition is served on you;
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DISSOLUTION OF MARRIAGE ON THE PRESUMPTION OF DEATH OF A SPOUSE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGMENT MAY BE GRANTED IN THE PETITIONER'S FAVOUR ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Monday to Friday, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Form 4

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

AND

PETITIONER

RESPONDENT

AFFIDAVIT ACCOMPANYING PETITION

I, (*full name of deponent*) being duly sworn, make oath and say as follows:

1. I reside and have my true place of abode and postal address at (*state full address*) and I am a (*occupation*) and I am the Petitioner.
2. The following are the particulars of the arrangements for the care, maintenance, education and upbringing of the relevant child of the marriage (*or children or for any child under 18 years of age who is being educated in an institution of tertiary education*):

A. Residence

The following are the particulars of current living circumstances

Full name of child	Residence	Person with whom child resides	Length of time child has lived at the residence
.....			
.....			

B. Education

The following are the current educational arrangements for the children of the marriage:

Full name of child	Date of Birth of Child	Age of Child	School and grade or year
.....			
.....			

(Set out details of future education prospects.)

The education needs of the children

☐ are being met.

☐ are not being met.

(If not being met, give particulars.)

.....

C. **Financial Provision**

The arrangements for maintenance of the children are as follows:

Amount paid	Time period (weekly, monthly, etc.)	Paid by (husband or wife)	Paid for (name of child)
.....			
.....			

(set out any additional details, as necessary)

D. **Custody and Access**

The following are the arrangements which are in place for custody of the children:

.....

The following are the arrangements which are in place for access of the children:

.....

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

E. **Health**

The following are the particulars of the children's general state of health

.....

The said children are not suffering from any disabilities.

(or)

(Name of child) suffers from *(state disability)* and is being treated by *(give full details of the treatment and general care relating to the disability)*.

SWORN to at the *(state place and address)*

this day of , 20

.....
(name of Petitioner)

Before me:

.....

Registrar

Form 5**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****PETITIONER****AND****RESPONDENT****ACKNOWLEDGEMENT OF SERVICE IN DISSOLUTION PROCEEDINGS**

WARNING: If this form is not fully completed and returned to the Registry at the address below within the time specified by the Matrimonial Proceedings Rules 2014 or a longer time as is permitted by an order or any other rule, the Petitioner will be entitled to apply to proceed in default against you. If the Petitioner does so, you will have no right to be heard by the Court unless you are applying to set aside any order it may have made.

1. I, am the Respondent named in this petition.

(or)

I, am the Attorney-at-Law for the Respondent named in this petition.

(Strike out the paragraph which does not apply)

2. Have you received the Petition with the above claim number? YES/NO

3. If so, give the date on which it was served ____/____/____

4. Are your names correctly stated on the Petition? YES/NO

If not, what are your full names?

5. Do you intend to answer the petition? YES/NO

If yes, you must file an Answer, within the time specified by the Matrimonial Proceedings Rules 2014 for filing an answer, unless a longer time is permitted by an order or any other rule.

6. Do you admit to the whole of the claim? YES/NO

7. Do you admit any part of the claim? YES/NO

If you do, please set out below the parts of the claim to which you admit:

(a)

(b)

(c)

(d)

(e)

8. What is your address?

.....
.....
.....
.....

9. What is your address for service?

(If you are acting in person you must give an address to which documents may be sent either from the other parties or from the Court. You should also give your telephone number and fax number, if any.)

.....
.....
.....
.....

Dated this day of , 20

Signed

[Respondent]

(or)

[Respondent's Attorney-at-Law]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Acknowledgment of Service].

Form 6

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

ADVERTISEMENT FOR DISSOLUTION OF MARRIAGE

(NOTICE TO (NAME OF RESPONDENT))

Legal proceedings for [divorce/annulment of marriage] have been commenced in this Court by (*name of petitioner*). (*Where applicable add: The petitioner also claims support, custody of the child (name) or as may be.*) You may obtain a copy of the petition by mail from the Registry at (*address*).

If you wish to defend these proceedings or seek other relief from the Court, you must do so in accordance with the Matrimonial Proceedings Rules 2014. If you fail to serve and file an answer, a [divorce/annulment of marriage] may be granted and judgment may be given against you in your absence and without further notice to you.

Dated

Signed

TO: (*Name and address of Petitioner's Attorney-at-Law or Petitioner*)

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Form 7**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****PETITIONER****AND****RESPONDENT****ANSWER [OR] ANSWER AND CROSS-PETITION**

The Respondent, (*name of the Respondent*), in answer to the Petition, says that:

1. He/she admits the allegation(s) made in paragraph(s) of the Petition.
2. He/she denies the allegation(s) set out in paragraph(s) of the Petition because (*state the reason for denying the allegations*).
3. He/she has no knowledge in respect of the allegation(s) made in paragraph(s) of the Petition.
4. He/she does not admit the allegations made in paragraph(s) of the Petition because: (*state the reasons for not admitting the allegations*).
5. With respect to the Petitioner's claim for (*state claim*), the Respondent says that the Petitioner is not entitled to same because:

(*Set out the grounds on which it is contended that the Petitioner is not entitled to any part of his/her claim*).
6. The Respondent relies upon the following further facts:

(*Set out the additional facts the Respondent is relying on.*)
7. For the reasons set out in paragraph(s) of this Answer, the Respondent says that the Petitioner is not entitled to the relief claimed.

(*where the Respondent wishes to Cross Petition*)

CROSS-PETITION

8. The Respondent relies upon the facts set out in paragraph(s) of the Answer in support of his/her claim.
9. In addition, the Respondent says that: *(set out any additional facts in support of the cross-petition)*.
10. [If separation is admitted, state whether or not there is a reasonable likelihood of cohabitation being resumed and why]

For the reasons set out in paragraphs 8 to 9 [or 10] of this Cross-Petition, the Respondent seeks the following relief:

- (1) the claim of the Petitioner be rejected and the Petition be dismissed; or
- (2) the marriage be dissolved [*or annulled*] on the ground(s) that: (*state ground(s)*); or
- (3) the Respondent may be granted (*set out any claim for additional relief*).

I certify that the facts set out in the Answer [*or Answer and Cross-Petition*] are true, to the best of my knowledge, information and belief.

Dated this _____ day of _____, 20____

Signed

[Respondent]

(or)

[Respondent's Attorney-at-Law]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Form 8**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****AND****PETITIONER****RESPONDENT****REPLY**

1. The Petitioner admits the allegation(s) contained in paragraph(s) of the Answer.
2. The Petitioner denies the allegation(s) contained in paragraph(s)of the Answer.
3. The Petitioner has no knowledge in respect of the allegation(s) contained in paragraph(s) of the Answer.
4. *(Set out in separate, consecutively numbered paragraph(s) each allegation of material fact relied on by way of Answer.)*

Dated this day of , 20

Signed

[Petitioner]

(or)

[Petitioner's Attorney-at-law]

TO: *(Name and address of Respondent's Attorney-at-Law or Respondent)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Form 9**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****PETITIONER****AND****RESPONDENT****ANSWER TO CROSS-PETITION**

(A Petitioner who delivers a reply in the main action must include the Answer to Cross-Petition in the same document as the Reply, and the document is to be entitled REPLY AND ANSWER TO CROSS-PETITION. The Answer to Cross-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 number of the last paragraph of the Reply.)

1. The Petitioner [*or Respondent to the Cross-Petition*] admits the allegation(s) contained in paragraph(s) of the Cross-Petition.
2. The Petitioner (*or Respondent to the Cross-Petition*) denies the allegation(s) contained in paragraph(s)of the Cross-Petition.
3. The Petitioner (*or Respondent to the Cross-Petition*) has no knowledge in respect of the allegation(s) contained in paragraph(s).....of the Cross-Petition.

4. *(Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of Answer to the Cross-Petition.)*

Dated this day of , 20

Signed

[Petitioner]

(or)

[Petitioner's Attorney-at-Law]

TO: *(Name and address of Respondent's Attorney-at-Law or Respondent)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Form 10**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****AND****PETITIONER****RESPONDENT****REPLY TO ANSWER TO CROSS-PETITION**

1. The Respondent (*name if more than one Respondent*) admits the allegation(s) contained in paragraph(s) of the Answer to Cross-Petition.
2. The Respondent denies the allegation(s) contained in paragraph(s).....of the Answer to Cross-Petition.
3. The Respondent has no knowledge in respect of the allegation(s) contained in paragraph(s)..... of the Answer to Cross-Petition.
4. (*Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of Answer to the Cross-Petition.*)

Dated this day of , 20

Signed

[Respondent]

(or)

[Respondent's Attorney-at-Law]

TO: (*Name and address of Petitioner's Attorney-at-Law or Petitioner*)

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Form 11**THE EASTERN CARIBBEAN SUPREME COURT****IN THE HIGH COURT****MONTSERRAT****CLAIM NO.****BETWEEN****AND****PETITIONER****RESPONDENT****FINANCIAL STATEMENT**

I, (*full name of deponent*), (*occupation*) of
 (*address*) MAKE OATH AND SAY [OR AFFIRM]:

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

Dated this day of , 20

Signed

[Respondent]

(*or*)

[Respondent's Attorney-at-law]

TO: (*Name and address of Petitioner's Attorney-at-Law or Petitioner*)

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Form 12

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

AND

PETITIONER

RESPONDENT

CERTIFICATE OF DIVORCE

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the Day of *(month and year)* at *(state place)* between *(Petitioner's full name)* and *(Respondent's full name)* was dissolved by divorce by a judgment of this Court dated the Day of *(month and year)*, which became effective on the Day of *(month and year)*.

DATED this day of , 20

.....

Registrar

Form 13

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

CERTIFICATE OF ANNULMENT OF MARRIAGE

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the Day of *(month and year)* at *(state place)* between *(Petitioner's full name)* and *(Respondent's full name)* was annulled by a judgment of this Court dated the Day of *(month and year)*, which became effective on the Day of *(month and year)*.

DATED this day of , 20

.....
Registrar

Form 14

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

**CERTIFICATE OF DISSOLUTION OF MARRIAGE ON THE
PRESUMPTION OF DEATH OF A SPOUSE**

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the day of *(month and year)* at *(state place)* between *(Petitioner's full name)* and *(Respondent's full name)* was dissolved by virtue of the presumption of the death of *(Respondent's full name)* by a judgment of this Court dated the day of *(month and year)*, which became effective on the day of *(month and year)*.

DATED this day of , 20

.....
Registrar