



RULES OF THE HIGH COURT (CIVIL PARTNERSHIP) 2023

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Statutory Document No. 2023/0338



High Court Act 1991
Civil Partnership Act 2011

RULES OF THE HIGH COURT (CIVIL PARTNERSHIP)

2023¹

Laid before Tynwald: 20 February 2024
Coming into Operation: 15 December 2023

The Deemsters make the following Rules under section 25 of the High Court Act 1991¹ and section 36(2), 41(2), 42(4A), 59, 62, 64(5), 90 of, and paragraph 15 of Schedule 2, paragraphs 37, 54 and 57 of Schedule 5 and paragraphs 2, 4 and 12 of Schedule 7 to, the Civil Partnership Act 2011².

PART 1

GENERAL

1 Title

These Rules are the Rules of the High Court (Civil Partnership) 2023.

2 Commencement

These Rules come into operation on 15 December 2023³.

3 Interpretation

(1) In these Rules —

“**the Act**” means the *Civil Partnership Act 2011* (as amended, in particular by the *Divorce, Dissolution and Separation (Isle of Man) Act 2020*)⁴;

¹ AT 12 of 1991

² AT 2 of 2011

³ By virtue of section 25(4) of the High Court Act 1991 and section 106(4) of the Civil Partnership Act 2011, these Rules must be laid before Tynwald after they are made, and if Tynwald, at the sitting before which they are laid or the following sitting, resolves that they be annulled, they shall cease to have effect.

⁴ AT 10 of 2020

“avoidance of disposition order” means an order under paragraph 65(3) or (4) of Schedule 5 to the Act;

“consent order” means an order under paragraph 57 of Schedule 5 to the Act;

“the court” means the High Court;

“court officer” means an officer of the court (other than a judicial officer);

“disputed case” means –

- (a) termination proceedings (excluding proceedings for a nullity order or a presumption of death order) in which –
 - (i) an answer has been filed disputing the validity or subsistence of the civil partnership or the jurisdiction of the court to entertain the proceedings and has not been struck out; or
 - (ii) the respondent has filed an application for a termination order in accordance with rule 31(1) (applications by the respondent) and neither party’s application has been disposed of,and in which no termination order has been made; and
- (b) proceedings for a nullity order or a presumption of death order in which –
 - (i) an answer has been filed opposing the grant of an order on the application and has not been struck out;
 - (ii) a reply or answer to the respondent’s answer has been filed and has not been struck out;
 - (iii) the respondent has filed an application for a termination order in accordance with rule 52 (nullity orders: application by respondent) and neither party’s application has been disposed of; or
 - (iv) rule 51 (nullity orders: filing an answer) applies in light of paragraph (1) of that rule, notice has been given of intention to rebut and that notice has not been withdrawn,and in which no termination order has been made;

“file” means file in the General Registry;

“financial provision” means –

- (a) an avoidance of disposition order,
- (b) a financial provision order,
- (c) an interim maintenance order,
- (d) a property adjustment order,
- (e) a variation order, or
- (f) a pension sharing order;

“**financial relief**” has the same meaning as in paragraph 65(1) of Schedule 5 to the Act;

“**initial application**” means an application by which termination proceedings are begun;

“**interim maintenance order**” means an order under Part 7 of Schedule 5 to the Act;

“**MPA 2003**” means the *Matrimonial Proceedings Act 2003*⁵;

“**notice of intention to dispute**” means a notice given by a respondent (whether at the time of filing an acknowledgement of service or at such later time as is permitted by these Rules) that the respondent intends to dispute the proceedings;

“**presumption of death order**” means an order, under section 53 of the Act, of presumption of death and dissolution of civil partnership⁶;

“**the Rules of Court**” (without more) means the Rules of the High Court of Justice 2009⁷;

“**standard case**” means termination proceedings other than a disputed case;

“**the statutory rate**” means the rate prescribed under section 9 of the *Administration of Justice Act 1981*⁸;

“**termination order**” means a dissolution order, a nullity order, a presumption of death order or a separation order;

“**termination proceedings**” means proceedings for a termination order;

“**variation order**” means an order under paragraph 42 of Schedule 5 to the Act.

- (2) Proceedings begun on an initial application are to be treated as pending for the purposes of these Rules even though a final order has been made on the application.
- (3) A reference to an approved form is a reference to the form prepared or approved under section 27B of the *High Court Act 1991*⁹.
- (4) A reference in these Rules to a provision of the Pension Schemes Act 1993 (of Parliament)¹⁰ or the Welfare Reform and Pensions Act 1999 (of

⁵ AT 7 of 2003

⁶ For the effect of such an order, see section 35(1)(c) of the Act.

⁷ SD 352/09

⁸ AT 8 of 1981

⁹ Section 27B was inserted by section 5 of the Administration of Justice Act 2008.

¹⁰ 1993 c.48

Parliament)¹¹, or to an instrument made under an Act of Parliament, is to that provision or instrument as it has effect in the Island¹².

- (5) A reference in these Rules —
- (a) to a provisional order is a reference to a termination order (other than a separation order) which has not been made final; and
 - (b) to a final order is a reference to a provisional order that has been made final.

4 Application of Rules of Court

- (1) Subject to the provisions of these Rules and of any enactment, the Rules of Court apply with any necessary modifications to the commencement of, and to the practice and procedure in, any proceedings to which these Rules apply.
- (2) Without limiting paragraph (1) —
- (a) the Rules of Court apply to an application under these Rules (other than an application made in the course of pending proceedings) as they apply to a claim or claim form;
 - (b) in relation to proceedings to which these Rules apply, references in the Rules of Court to a claimant or defendant are to be construed as references to an applicant (including a joint applicant) or respondent respectively.

5 Revocations and transitional provisions

- (1) The Rules of the High Court (Civil Partnership) 2011 are revoked¹³.
- (2) Despite paragraph (1), the Rules revoked by it continue to have effect in relation to proceedings commenced before 3 April 2023.
- (3) No application may be made to amend an existing application for a nullity order, a dissolution order or separation order made under the Rules of the High Court (Civil Partnership) 2011 before 3 April 2023.

¹¹ 1999 c.30

¹² For the application of UK enactments in the Island, see section 1 of the Social Security Act 2000 (AT 5 of 2000) and section 1 of the Pension Schemes Act 1995 (AT 11 of 1995).

¹³ SD 214/11

PART 2

FORMATION OF CIVIL PARTNERSHIP

6 **Consent to civil partnership of minor**

- (1) This rule applies to —
 - (a) an application under paragraph 3(3)(b), 4(2) or 10(5) of Schedule 2 to the Act for the consent of the court to the civil partnership of a minor; and
 - (b) application under paragraph 10(2) of Schedule 2 to the Act for an order dispensing with the consent of any person to the civil partnership of a minor.
- (2) An application to which this rule applies must be dealt with in private unless the court otherwise directs.
- (3) The application may be brought without the intervention of the applicant's litigation friend, unless the court otherwise directs.
- (4) Where the application follows a refusal to give consent to a civil partnership, every person who has refused consent must be made a respondent to the application.
- (5) The application must, unless the court orders otherwise, be served not less than 7 days before the date upon which the application is to be heard.

7 **Appeal against refusal to issue civil partnership schedule**

- (1) An appeal under section 16 of the Act against a refusal by a registrar to issue a civil partnership schedule must be made by filing a notice of appeal, to which must be annexed a copy of any notice of objection under section 14 of the Act.
- (2) Any person who has objected to the issue of the schedule must be made a respondent to the appeal.
- (3) A copy of the notice of appeal must, unless the court orders otherwise, be served not less than 7 days before the date upon which the appeal is to be heard on —
 - (a) any respondent to the appeal;
 - (b) the other proposed civil partner; and
 - (c) any person whose consent is required to the proposed civil partnership.
- (4) Any person specified in paragraph (3), in addition to the appellant, may appear and be heard at the hearing of the appeal.

PART 3

TERMINATION OF CIVIL PARTNERSHIP ETC.

DIVISION 1 - SCOPE OF THIS PART

8 Application of Part 3

- (1) This Part applies –
 - (a) to termination proceedings; and
 - (b) for specifying the procedure for complying with the requirements of section 61 of the Act (restrictions on orders affecting children).
- (2) Rules 2.9(2) (time not to run in long vacation) and 2.62 (striking out of dormant claims) of the Rules of Court do not apply to proceedings to which this Part applies.

DIVISION 2 – STARTING PROCEEDINGS

9 Parties

The parties to termination proceedings are –

- (a) the parties to the civil partnership concerned; and
- (b) any other person who is to be a party in accordance with a provision of the Rules in this Part.

10 Termination proceedings to be begun by application

- (1) All termination proceedings must be begun by application (an “initial application”) in the approved form.
- (2) Unless otherwise directed, every initial application must contain the information required by Schedule 1.
- (3) An initial application which is for a dissolution order must include a statement by the applicant (or, where the application is made by both civil partners, both applicants) stating that the civil partnership has broken down irretrievably.
- (4) An initial application which is for a separation order must include a statement by the applicant (or, where the application is made by both civil partners, both applicants) as required by section 54(1A)(a) or (b) of the Act, as the case may be.
- (5) Where an application for a dissolution order, nullity order or separation order discloses that there is a minor child of the family who is –
 - (a) under 16 or

- (b) over that age and receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation,

the initial application must be accompanied by a statement containing the information required by the approved form (statement of arrangements for children) and a copy of any medical report mentioned in the application must be attached to it.

- (6) The statement referred to in paragraph (5) –
 - (a) in the case of an initial application made by both civil partners, must be signed by both applicants personally;
 - (b) in the case of an initial application made by one civil partner only, must be signed by the applicant personally and if possible agreed with the respondent.

11 **Signing of initial application**

Every initial application must be signed –

- (a) where an applicant is represented by an advocate in respect of the application, by the applicant's advocate in his or her own name or the name of his or her firm; or
- (b) where an applicant makes the application in person, by the applicant.

12 **Making of initial application**

- (1) The initial application must be made by filing it, together with –
 - (a) a certified copy of the register entry of the civil partnership to which the proceedings relate;
 - (b) any statement (of arrangements for children) and medical report required by rule 10(5); and
 - (c) any other document required to be filed with the application under these Rules.
- (2) A filing made under paragraph (1) must include as many copies of the application and the documents required under paragraph (1)(b) and (c) as there are persons to be served in accordance with these Rules.
- (3) In the case of an initial application made by one party to the civil partnership only, the filing must include a copy of the statement of the arrangements for children of the family and any medical report required by rule 10(5) for service on the respondent.
- (4) In the case of an initial application made by both parties to the civil partnership, the filing must include, for service on each of the joint

applicants, two copies of the application and two copies of the documents required by paragraph (1)(b) and (c).

- (5) Every copy of the application for service must have attached to it —
 - (a) a notice of proceedings in the approved form; and
 - (b) an acknowledgement of service in the approved form.
- (6) The initial application must be accompanied by the prescribed fee.

13 **Statement of reconciliation**

- (1) Where the applicant is, or in the case of joint applications either or both of the applicants are, represented by an advocate, the advocate must, unless the court directs otherwise, complete and file with the application a certificate as set out in the approved form, certifying whether the advocate has discussed with the applicant the possibility of a reconciliation and given the applicant the names and addresses of persons qualified to help effect a reconciliation.
- (2) This rule applies to an application for —
 - (a) a dissolution order made under section 42 of the Act; or
 - (b) a separation order made under section 54 of the Act.

14 **Limitation on applications in respect of same civil partnership**

- (1) Subject to paragraph (2), a person who has made an initial application may not make another application for a termination order in respect of the same civil partnership unless —
 - (a) the initial application has been dismissed or finally determined; or
 - (b) the court gives permission.
- (2) Where a person —
 - (a) has, within one year of the date of the civil partnership, made an application for a separation order; and
 - (b) then, after that one-year period has passed, wishes to apply for a dissolution order,

that person does not need the court's permission to make the application referred to in sub-paragraph (b).

15 **Discontinuance of proceedings before service of application**

- (1) An initial application, made by one party to the civil partnership, may be withdrawn at any time before it has been served on any person by the applicant filing a notice of discontinuance.
- (2) On the filing of a notice of discontinuance under paragraph (1), the proceedings are dismissed.

DIVISION 3 – SERVICE OF INITIAL APPLICATION

16 Service of initial application

- (1) Subject to the provisions of this rule and rules 97 (service on advocate), 99 (service out of the Island) and 101 (service on person under disability), a copy of every initial application must be served personally or by post on the other party to the civil partnership.
- (2) Service may be effected —
 - (a) where the party to be served is a person under disability within the meaning of rule 100, through the applicant, and
 - (b) in any other case, through the court or, if the applicant so requests, through the applicant.
- (3) An applicant must not himself or herself effect personal service.

17 Deemed service and proof of service of initial application

- (1) Subject to paragraph (2), a copy of an initial application is deemed to be duly served for the purposes of rule 16 if an acknowledgement of service in the approved form is signed by the party to be served or by an advocate on that party's behalf and is returned to the General Registry.
- (2) Where the signature on the acknowledgement of service purports to be that of the other party to the civil partnership, the applicant must prove that it is the signature of that party by —
 - (a) giving oral evidence to that effect at the hearing; or
 - (b) if the application is not disputed, confirming it to be so in the statement filed by the applicant under rule 25(5) (application for provisional order or a separation order).
- (3) Where a copy of an initial application has been sent to a party and no acknowledgement of service has been returned to the General Registry, a judge, if satisfied by affidavit or otherwise that the party has nevertheless received the document, may direct that the document is to be deemed to have been duly served on that party.
- (4) Where a copy of an initial application has been served on a party personally and no acknowledgement of service has been returned to the General Registry, service is proved by filing a certificate of service showing the server's means of knowledge of the identity of the party served.
- (5) Where an acknowledgement of service is returned to the General Registry, a court officer must send a copy of it to the applicant.

18 Service by an alternative method

- (1) Where it appears to the court that there is a good reason to authorise service by a method not permitted by these Rules, the court may make an order permitting service by an alternative method.
- (2) An application for an order permitting service by an alternative method —
 - (a) must be supported by evidence stating —
 - (i) the reason why an order for an alternative method of service is sought, and
 - (ii) what steps have been taken to serve by other permitted means;
 - (b) must specify the alternative method proposed and the grounds for proposing it; and
 - (c) may be made without notice.
- (3) An order permitting service by an alternative method must specify —
 - (a) the method of service; and
 - (b) the date when the document will be deemed to be served; and
 - (c) the period for filing an acknowledgement of service or answer.

19 Power of the court to dispense with service of the initial application

- (1) The court may make an order dispensing with service of the initial application where in the opinion of the court —
 - (a) it is impracticable to serve a party in accordance with any of the methods provided for by these Rules; or
 - (b) it is otherwise necessary or expedient to dispense with service of a copy of an initial application on the other party to the civil partnership.
- (2) An application for an order dispensing with service under paragraph (1) may be made without notice by filing an affidavit setting out the grounds of the application, but the court may, if it thinks fit, require the attendance of the applicant on the application.

20 Time for serving an initial application by the applicant

Where the initial application is served through the applicant on a person within the Island in accordance with this Division, the applicant must complete the step required by the following table in relation to the method of service chosen before 12.00 midnight on the calendar day 28 days after the date of issue of the application.

Method of service	Step required
-------------------	---------------

Personal service under rule 16 by someone other than the applicant personally	Leaving it with the person to be served
Service by post	Posting; or leaving with, delivering to or collection by the relevant service provider

21 **Extension of time for serving initial application**

- (1) The applicant may apply for an order extending the time for compliance with rule 20.
- (2) The general rule is that an application under paragraph (1) must be made —
 - (a) within the period specified by rule 20; or
 - (b) where an order has been made under this rule, within the period for service specified by that order.
- (3) Where an applicant has a good reason for not making an application under paragraph (1) within the periods specified in paragraph (2) an application may be made —
 - (a) after the period specified by rule 20; or
 - (b) where an order has been made under this rule, after the period for service specified by that order.
- (4) On an application under paragraph (1), the court must consider all the circumstances including whether —
 - (a) the court has failed to serve the application;
 - (b) the applicant has taken reasonable steps to comply with rule 20; and
 - (c) the applicant has acted promptly.
- (5) An application for an order extending the time for compliance with rule 20, —
 - (a) must be supported by evidence; and
 - (b) may be made without notice.

22 **Joint applications for dissolution orders and separation orders: notice of proceedings**

- (1) Where both civil partners have made a joint initial application for a dissolution order or a separation order, the court must, in addition to the documents required to be served in accordance with rule 16, send a copy of the notice of proceedings to both parties.

- (2) Where a notice of proceedings is sent to joint applicants under paragraph (1), both joint applicants must acknowledge receipt of the notice of proceedings within 14 days of receipt of such notice.

DIVISION 4 – RESPONDING TO AN INITIAL APPLICATION

23 **Respondent's actions on receiving an initial application: filing an acknowledgement of service and answer**

- (1) The respondent must file an acknowledgment of service as set out in the approved form within 14 days beginning with the date on which the initial application for a termination order was served on the respondent.
- (2) Paragraph (1) is subject to rule 99(2) (which concerns the filing of an acknowledgment of service under this Part where the application is served out of the jurisdiction).
- (3) The acknowledgment of service —
 - (a) must be signed by the respondent or the respondent's advocate;
 - (b) must include the respondent's address for service; and
 - (c) should indicate whether or not the respondent intends to dispute the proceedings.
- (4) A respondent who wishes to dispute proceedings must file an answer to the initial application within 21 days beginning with the date by which the acknowledgment of service is required to be filed.
- (5) An answer is not required where the respondent does not dispute the case but objects to paying the costs of the application.
- (6) A respondent may file an answer even if the intention to do so was not indicated in the acknowledgment of service.
- (7) A respondent who files an answer must at the same time file a copy of it for service on every other party.

24 **Respondent's statement as to arrangements for children**

- (1) A respondent on whom there is served a statement in accordance with rule 10(5) may, whether or not the respondent agreed that statement, file a written statement of the respondent's views on the present and proposed arrangements for the children, and on receipt of such a statement from the respondent a court officer must send a copy to the applicant.
- (2) Any such statement of the respondent's views must, if practicable, be filed within the time allowed for filing an acknowledgment of service under rule 23(1), and in any event before the court considers the arrangements or proposed arrangements for the upbringing and welfare of the children of the family under section 61(1) of the Act.

DIVISION 5 – APPLICATION FOR A PROVISIONAL ORDER OR SEPARATION ORDER

25 Application for a provisional order or separation order

- (1) Subject to paragraph (2), an application may be made to the court for it to consider the making of a provisional dissolution order in the proceedings at any time after the end of the period of 20 weeks (the “waiting period”) from the date on which the application for a dissolution order was issued, provided that the time for filing an answer to every application for a termination order made in the proceedings has expired.
- (2) Despite paragraph (1) —
 - (a) an application may be made to a judge for a provisional dissolution order in the proceedings at any time after the time for filing an answer to every application for a termination order made in the proceedings has expired but before the expiry of the waiting period; and
 - (b) the judge may grant a provisional order if satisfied that it is just to do so before the expiry of the waiting period.
- (3) An application may be made to the court for it to consider the making of a provisional nullity order, a provisional presumption of death order or a separation order in the proceedings at any time after the period for filing an answer to every application for a termination order made in the proceedings has expired.
- (4) An application under paragraph (1), (2) or (3) may be made —
 - (a) by the applicant;
 - (b) in a joint application, by both civil partners; or
 - (c) in a joint application that is to proceed as an application by one party only, by that party.
- (5) An application under this rule must be accompanied by a statement —
 - (a) stating whether there have been any changes in the information given in the application or in any statement filed by the applicant under rule 10(5);
 - (b) confirming that, subject to any changes stated, the contents of the application and any statement filed by the applicant under rule 10(5) are true; and
 - (c) where the acknowledgment of service has been signed by the other party to the civil partnership, confirming that party’s signature on the acknowledgment of service.
- (6) A statement under paragraph (5) must be verified by a statement of truth.

- (7) A copy of an application made under paragraph (4)(a) or (c) must be served on the other party to the civil partnership.

DIVISION 6 – STANDARD CASES

26 **Application of this Division**

This Division applies to standard cases.

27 **Amendment of application and supplemental applications**

- (1) An initial application for a termination order may be amended at any time before an application is made under rule 25(1), (2) or (3).
- (2) A supplemental application may be made at any time before an application is made under rule 25(1), (2) or (3).
- (3) Where an amendment is made to an initial application or a supplemental application is made under paragraph (1) or (2) —
 - (a) it must be served in accordance with Division 3 of this Part; and
 - (b) rules 12 (making of initial application) and 23 (respondent's actions on receiving initial application) apply with any necessary modifications.
- (4) Where an application has been made under rule 25(1), (2) or (3) an amendment may not be made to an initial application and a supplemental application may not be made except —
 - (a) with the written consent of all the other parties; or
 - (b) with the permission of the court.
- (5) Where paragraph (4) applies, the court may give directions as to —
 - (a) the service of the amended application or supplemental application and the service of any accompanying documents;
 - (b) the joining of any additional parties; and
 - (c) the extent to which rules 12 and 23 must be complied with in respect of any amended or supplemental application.
- (6) Rule 11 applies to an amended application or supplemental application as it applies to an initial application.

28 **Court action on an application for a provisional order or separation order**

- (1) This rule applies where an application is made under rule 25(1), (2) or (3).
- (2) If at the relevant time the case is a standard case, the court must, —
 - (a) if satisfied that the applicant is, or applicants are, entitled to a provisional order or a separation order (as the case may be), so

- certify and direct that the application be listed for the making of an order by a judge in open court at the next available date;
- (b) if not so satisfied, direct —
- (i) that any party to the proceedings provide such further information, or take such other steps, as the court may specify; or
- (ii) that the case be listed for a case management hearing.
- (3) If the applicant has applied for costs, the court may, on making a direction under paragraph (2)(a) —
- (a) if satisfied that the applicant is entitled to an order for costs, so certify; or
- (b) if not so satisfied, make no direction about costs.
- (4) The court may, when giving a direction under paragraph (2)(b), direct that the further information provided be verified by an affidavit or a statement of truth.
- (5) The court must not give directions under this rule unless at the relevant time it is satisfied —
- (a) that a copy of each application for a termination order has been properly served on each party on whom it is required to be served; and
- (b) that the application for a provisional order or a separation order was made at a time permitted by rule 25(1), (2) or (3).
- (6) In this rule, “the relevant time” means the time at which the court is considering an application made under rule 25(1), (2) or (3).
- (7) Where an order is made in accordance with a certificate under paragraph (2)(a), any person may, within 14 days after the making of the order, inspect the certificate and the evidence filed under rule 25(5) (except any evidence in relation to the statement of arrangements made under rule 10(5) (termination proceedings begun by application: statement of arrangements for children) and may obtain copies on payment of the prescribed fee.

29 Case management hearing

- (1) Where a case management hearing has been directed under rule 28(2)(b)(ii) the court must —
- (a) consider what further evidence is required properly to dispose of the proceedings and give directions about the filing and service of such evidence;
- (b) give directions for the further conduct of the proceedings, including —

- (i) giving a direction that on compliance with any directions under sub-paragraph (a) a further application may be made under rule 25(1), (2) or (3) for the proceedings to be dealt with under rule 28(2)(a); or
 - (ii) giving a direction that the case is not suitable for determination under that rule.
- (2) Where the court gives a direction under paragraph (1)(b)(ii), it may also give directions under rule 39 (case management hearing in a disputed case) or direct that the case be listed for a further hearing at which such directions will be given.
- (3) Any party to proceedings which are not being dealt with under rule 28(2)(a) may apply to the court for further directions at any time.

DIVISION 7 – DISPUTED CASES

30 Application of this Division

Subject to rule 43(10) (application for re-hearing), this Division applies to disputed cases.

31 Applications by the respondent

- (1) Subject to rule 52 (nullity orders: applications by respondent)—
 - (a) a respondent may not make an application for a termination order for the same relief in respect of the same civil partnership unless –
 - (i) the initial application has been dismissed or finally determined; or
 - (ii) the court gives permission;
 - (b) a respondent who wishes to make an application for a termination order, other than an order for the same relief, must file and serve the application for that order with the respondent's answer to the initial application filed in accordance with rule 23 (respondent's actions on receiving initial application), unless the court gives permission to make the application after the answer is filed.
- (2) Where the respondent makes an application under this rule, the application is to be treated as an application in the same proceedings for the purposes of this Part.

32 References to respondents

Where a respondent makes an application for a termination order, unless the context otherwise requires, the Rules in this Part apply with necessary modifications as if any reference in them to a respondent were instead a reference to the applicant for the initial order .

33 Making supplemental application and amendment of initial application

- (1) Unless paragraph (2) applies —
 - (a) a supplemental application may be made at any time before an answer to the initial application has been filed;
 - (b) an initial application may be amended at any time before an answer is filed.
- (2) No amendment to an initial application may be made under paragraph (1) if an application under rule 25(1), (2) or (3) (application for provisional order or a separation order) has been made in relation to the civil partnership concerned.
- (3) Where an amendment is made to an initial application, or a supplemental application is made under paragraph (1) —
 - (a) it must be served in accordance with Division 3 of this Part; and
 - (b) rules 12 (making of initial application) and 23 (respondent's actions on receiving initial application) apply with any necessary modifications.
- (4) Where an answer has been filed, or an application has been made under rule 25(1), (2) or (3) (application for provisional order or a separation order), a supplemental application or an amendment to an initial application may not be made except —
 - (a) with the written consent of all the parties; or
 - (b) with the permission of the court.
- (5) Subject to paragraph (6), an application for court permission under paragraph (4)(b) must be served, unless otherwise directed, on every party in the proceedings.
- (6) The court may, if it thinks fit, require an application made under paragraph (4)(b) to be supported by an affidavit.
- (7) Where paragraph (4) applies, the court may give directions as to —
 - (a) the service of any court order made under this rule;
 - (b) the service of the amended application or supplemental application and the service of any accompanying documents;
 - (c) the extent to which rules 12 (making of initial application) and 23 (respondent's actions on receiving initial application) must be complied with in respect of any amended or supplemental application.
- (8) Rule 11 applies to an amended application or supplemental application as it applies to an initial application.

34 Amendment of answer

- (1) Unless paragraph (3) applies, a party who has filed an answer may amend the answer and any application made with the answer.
- (2) Any amendment to an answer or application accompanying an answer must be filed and served in accordance with rule 23(7).
- (3) No amendment to an answer or accompanying application may be made under paragraph (1) if an application under rule 25(1), (2) or (3) has been made in relation to the civil partnership concerned except in accordance with paragraph (4).
- (4) Where an answer or any accompanying application has been filed and an application has been made under rule 25(1), (2) or (3), an amendment may not be made to the answer or accompanying application except —
 - (a) with the written consent of all the other parties; or
 - (b) with the permission of the court.
- (5) Where paragraph (4) applies, the court may give directions as to the service of the amended answer or accompanying application (as the case may be) and the service of any accompanying documents.

35 Filing of reply and subsequent applications

- (1) An applicant may file a reply to an answer within 14 days after receiving a copy of the answer under rule 23(7) (respondent's actions on receiving initial application).
- (2) If the applicant does not file a reply to an answer, the applicant is, unless the respondent applies for a dissolution order, nullity order or separation order with the answer, deemed to have denied every material allegation of fact made in the answer.
- (3) No application subsequent to a reply to an answer may be filed without the permission of the court.

36 Contents of answer and further applications

- (1) Where an answer, reply or supplemental application contains more than a simple denial of the facts stated in the initial application, answer or reply, as the case may be, it must set out with sufficient particularity the facts relied on but not the evidence by which they are to be proved.
- (2) Unless otherwise directed, an answer by a respondent who disputes any statement required to be included in the initial application by virtue of paragraph 1(f), (g) and (h) of Schedule 1 must contain full particulars of the facts relied on.
- (3) Paragraph 4(a) of Schedule 1 applies with any necessary modifications to a respondent's answer and any application filed with the answer as it

applies to an initial application, except that it is not necessary to include in the answer or application filed with it any claim for costs against the applicant.

- (4) Where an answer to an initial application is accompanied by an application for relief, it must contain the information required by paragraph 1(j) of Schedule 1 (information to be given in other proceedings) in the case of the initial application in so far as it has not been given by the applicant.
- (5) Paragraphs (3) and (4) of Rule 10 (termination proceedings begun by application) apply to a supplemental application as they apply to an initial application.
- (6) Rule 11 (signing of application) applies, with any necessary modifications, to an answer, reply or supplemental application as it applies to an initial application.

37 Further information about the contents of application and answer

- (1) The court may at any time order a party —
 - (a) to clarify any matter which is in dispute in the proceedings; or
 - (b) to give additional information in relation to any such matter,whether or not the matter is contained or referred to in the initial application, acknowledgement of service, answer or application made with the answer.
- (2) Paragraph (1) is subject to any rule of law to the contrary.
- (3) Where the court makes an order under paragraph (1), the party against whom it is made must —
 - (a) file a reply to the order; and
 - (b) serve a copy of it on each of the other parties,within a time specified by the court.
- (4) The court may direct that information provided by a party to another party, whether given voluntarily or following an order made under paragraph (1), must not be used for any purpose except for the proceedings in which it is given.

38 Service of reply and subsequent applications

A party who files a reply to an initial application or any supplemental application (other than an application filed with an answer) must at the same time file a copy for service on every other party.

39 Case management hearing in a disputed case

- (1) Where a respondent —
 - (a) files an answer under rule 23 (respondents actions on receiving initial application: filing an acknowledgement of service and answer);
 - (b) obtains permission to file an application under rule 31(1)(a)(ii) (applications by respondent); or
 - (c) files an application for a termination order under rule 31(1)(b) or rule 52 (nullity orders: applications by respondent),the case must be listed for a case management hearing.
- (2) At the case management hearing, the court must —
 - (a) set a timetable for the filing and service of evidence;
 - (b) make such order for the disclosure and inspection of documents as it considers appropriate; and
 - (c) give directions as to the conduct of the trial and the attendance of witnesses.
- (3) The court may give directions at the case management hearing in relation to such other matters as appear to be necessary or desirable for securing the just, expeditious and economical disposal of the proceedings, including —
 - (a) the future course of the proceedings;
 - (b) any application made for financial provision or for an order relating to a child;
 - (c) the provision of evidence relating to the arrangements or proposed arrangements for the children of the family.
- (4) Directions for trial under this rule must, unless the court orders otherwise, include a direction to the applicant to file an affidavit verifying, with such amendments as the circumstances may require, the contents of any statement of arrangements filed by the applicant under rule 10(5) (termination proceedings begun by application).
- (5) Any party to proceedings which are not being dealt with under rule 28(2)(a) (court action on application for provisional or separation order) may apply to the court for further directions at any time.

40 Evidence at trial

- (1) Subject to the provisions of this rule, rule 105 (evidence of civil partnership outside the Island), Part 2 of the *Administration of Justice Act 2008* and any other enactment, any fact required to be proved by the evidence of witnesses at the trial of termination proceedings must be proved by the examination of the witnesses orally and in open court.

- (2) Nothing in this rule or rule 105 affects the power of the judge at the trial to refuse to admit any evidence if, in the interest of justice, he or she thinks fit to do so.
- (3) The court may order —
 - (a) that the affidavit of any witness may be read at the trial on such conditions as the court thinks reasonable;
 - (b) that the evidence of any particular fact must be given at the trial in such manner as may be specified in the order and in particular —
 - (i) by statement on oath of information or belief; or
 - (ii) by the production of documents or entries in books; or
 - (iii) by copies of documents or entries in books; or
 - (iv) in the case of a fact which is or was a matter of common knowledge, by the production of a specified newspaper containing a statement of that fact; and
 - (c) that not more than a specified number of expert witnesses may be called.
- (4) An application for an order under paragraph (3) may, if the applicant and every party in a disputed case consents to the order sought, be made administratively by filing a consent order supported by evidence stating the grounds on which the application is made.
- (5) Where an application is made before the trial for an order that the affidavit of a witness may be read at the trial or that evidence of a particular fact may be given at the trial by affidavit, the proposed affidavit or a draft of it must be submitted with the application; and where the affidavit is sworn before the hearing of the application and sufficiently states the ground on which the application is made, no other affidavit is required under paragraph (4).

41 Mode and date of trial of a disputed case

- (1) Unless otherwise directed, a disputed case and any issue arising in or from it is tried, in open court, by a judge without a jury.
- (2) Except with the consent of the parties or with the permission of a judge, no disputed case may be tried until after the expiration of 10 days from the date on which directions for trial were given.

42 Restoration of matters adjourned at the hearing

Where at the trial of a disputed case, any application is adjourned by the court for hearing in private, it may be restored —

- (a) by notice by any party; or

- (b) by notice given by a judge when in the judge's opinion the matter ought to be further considered,

and the notice must state the date, time and place for the hearing of the restored application and be served on every party concerned.

43 Application for re-hearing

- (1) An application for re-hearing of proceedings tried by a judge alone, where no error of the court at the hearing is alleged, must be made to a judge.
- (2) Unless otherwise directed, the application must be made to the judge by whom the proceedings were tried and must be heard in open court.
- (3) The application must state the grounds on which it is made.
- (4) Unless otherwise directed, the application must be issued within 42 days after the judgment and served on every other party to the proceedings not less than 14 days before the day fixed for the hearing of the application.
- (5) The applicant must file a certificate that a copy of the application, with a notice of the time and place of the hearing, has been duly served on each person required to be served with it.
- (6) The application must be supported by an affidavit setting out the allegations on which the applicant relies or exhibiting a copy of any pleading which the applicant proposes to file if the application is granted, and a copy of the affidavit must be served on every other party to the proceedings.
- (7) Not less than 7 days before the application is heard the applicant must file a copy of a transcript of so much as is relevant of any official record of the proceedings at the trial.
- (8) Where a party wishes to appeal against a final dissolution order or final nullity order, the question whether the party has had the time and opportunity to appeal from the provisional order on which the final order was founded must be determined on an application for a re-hearing under this rule.
- (9) Any other application for re-hearing must be made by way of appeal to the Staff of Government Division.
- (10) This rule applies, with any necessary modifications, to proceedings under rule 28 (court action on application for provisional or separation order) as it applies to proceedings tried by a judge alone.

DIVISION 8 – PROCEEDINGS AFTER PROVISIONAL ORDER (STANDARD AND
DISPUTED CASES)

44 Intervention by the Attorney General

- (1) If the Attorney General wishes to show cause against a provisional order being made final, the Attorney General must file a notice to that effect and send a copy to the party in whose favour it was pronounced.
- (2) Within 21 days after giving notice under paragraph (1) the Attorney General must file an application (an “intervention application”) setting out the grounds on which the Attorney General desires to show cause, together with a copy for service on the party in whose favour the provisional order was made, and every other party affected by the order.
- (3) The Attorney General must serve a copy of the intervention application on each of the persons mentioned in paragraph (2).
- (4) Subject to the following provisions of this rule, these Rules apply to all subsequent applications and proceedings in respect of the intervention application as if it were an initial application.
- (5) If no answer to the intervention application is filed within the time allowed or, if an answer is filed and struck out or not proceeded with, the Attorney General may apply forthwith for an order revoking the provisional order and dismissing the application to which it relates.
- (6) The Attorney General must within 28 days of filing an intervention application apply to the court to give directions for the hearing of the application.
- (7) Where the Attorney General does not apply for directions under paragraph (6), then the person or persons in whose favour the provisional order was made may do so.
- (8) Rule 39(2) (case management hearing in a disputed case) applies to an intervention application as it applies to an application for a termination order.

45 Intervention by person other than the Attorney General

- (1) If a person other than the Attorney General wishes to show cause under section 38(1) or (2) of the Act against a provisional order being made final, he or she must file an affidavit stating the facts on which he or she relies and serve a copy on the party in whose favour the provisional order was made, and every other party affected by the order.
- (2) A party on whom a copy of the affidavit has been served under paragraph (1) may, within 14 days after service, file an affidavit in answer and, if he or she does so, must serve a copy on the person showing cause.

- (3) The person showing cause may file an affidavit in reply and, if he or she does so, must serve a copy on each party who was served with a copy of the affidavit filed under paragraph (1).
- (4) No affidavit after an affidavit in reply may be filed without permission of the court.
- (5) A person showing cause must apply to a Deemster for directions within 14 days after the expiry of the time allowed for filing an affidavit in reply or, where an affidavit in answer has been filed, within 14 days after the expiry of the time allowed for filing such an affidavit.
- (6) If the person showing cause does not apply under paragraph (5) within the time allowed, the person in whose favour the provisional order was made may do so.

46 Circumstances in which an order may be set aside (rescission)

- (1) Either civil partner concerned may apply —
 - (a) after a provisional order has been made but before it has been made final; or
 - (b) after a separation order has been made,
for the rescission of the order on the grounds that the parties are reconciled and both consent to the rescission.
- (2) An application under paragraph (1) must be made with notice to the other party and to any other party against whom costs have been awarded or who is otherwise affected by the provisional order or separation order, and a copy of the application must be served on every such person.
- (3) An application under this rule may be heard in private.

47 Making a provisional order final by giving notice

- (1) Unless rule 48 applies, in termination proceedings —
 - (a) a party in whose favour a provisional order has been made may give notice to the court that he or she wishes the provisional order to be made final;
 - (b) both parties in whose favour a provisional order has been made may jointly give notice to the court that they wish the provisional order to be made final; or
 - (c) subject to paragraph (2), where the provisional order is in favour of both parties, but the application is to proceed as a notice by one party only, that party may give notice to the court that he or she wishes the provisional order to be made final.
- (2) The party giving notice to the court under paragraph (1)(c) must first give the other party to the civil partnership 14 days' notice of his or her

intention to give notice to the court that he or she wishes the provisional order to be made final.

- (3) The party giving notice under paragraph (2) must file a certificate of service after serving the notice.
- (4) Any notice to the court under paragraph (1) must be given in the approved form.
- (5) Where the court receives a notice under paragraph (1), a court officer must search the records of the court and if a court officer is satisfied of the matters in paragraph (6), the court must make the provisional order final.
- (6) The matters referred to in paragraph (5) are that —
 - (a) no application for rescission of the provisional order is pending;
 - (b) no application for re-hearing of the proceedings is pending;
 - (c) no appeal against the making of the provisional order or the dismissal of an application for re-hearing of the proceedings is pending;
 - (d) no order has been made by the court extending the time for making an application for re-hearing of the proceedings or by the Staff of Government Division extending the time for appealing against the order or the dismissal of an application for re-hearing of the proceedings or, if any such order has been made, that the time so extended has expired;
 - (e) no application for an order of the kind mentioned in subparagraph (d) is pending;
 - (f) no application to prevent the provisional order being made final under rule 44 (intervention by the Attorney General) or 45 (intervention by a person other than the Attorney General) is pending;
 - (g) the court has complied with section 61(1) of the Act and has not given any direction under section 61(2) or any such direction given has been withdrawn by order of the court;
 - (h) that the provisions of section 46(2) to (5) of the Act do not apply or have been complied with; and
 - (i) where the provisional order was made on the ground in section 48(1)(d) of the Act, the notice under paragraph (1) is accompanied by an affidavit certifying that the deponent has made or caused to be made due enquiries (specifying them) to ascertain whether —
 - (i) there is not pending a reference under section 8(5) of the Gender Recognition Act 2004¹⁴ (of Parliament), or an

¹⁴ 2004 c.7

- application under section 8(5A) of that Act in respect of the application on which the interim gender recognition certificate to which the application relates was granted;
- (ii) that interim certificate has not been revoked under section 8(6)(b) of that Act; and
 - (iii) no appeal is pending against an order under section 8(6)(a) of that Act.
- (7) Where a notice under paragraph (1) is filed more than 12 months after the provisional order was made, an explanation in writing must be filed with the notice —
- (a) giving reasons for the delay;
 - (b) stating whether the parties have lived with each other since the making of the provisional order and, if so, between what dates; and
 - (c) stating whether the applicant being a female civil partner has, or being the male civil partner has reason to believe that, in the case of a civil partnership between a man and a woman, the female civil partner has, given birth to any child since the making of the provisional order and, if so, stating the relevant facts and whether or not it is alleged that the child is or may be a child of the family;
- and a court officer must refer the notice to a judge, who may require the applicant to file an affidavit verifying the said explanation and may make such order on the notice as the judge thinks fit.

48 Making a provisional order final: other circumstances

- (1) Where the conditions set out in paragraph (2) apply, in termination proceedings an application for a provisional order to be made final must be made to a judge.
- (2) The conditions referred to in paragraph (1) are —
 - (a) the Attorney General gives notice to the court and to the party in whose favour the provisional order was made that the Attorney General requires more time to decide whether to show cause against the order being made final, and the notice has not been withdrawn;
 - (b) there are other circumstances which ought to be brought to the attention of the court before the application is granted; or
 - (c) the application is made by the party against whom the provisional order was made.
- (3) Unless otherwise directed, an application under this rule must be served on every party to the proceedings (other than the applicant) and, in a case to which paragraph (2)(a) applies, on the Attorney General.

- (4) An application under this rule to which paragraph (2)(c) applies must not be made until the expiry of 3 months from the earliest date on which the other party to the civil partnership could have given notice under rule 47 or made application under paragraph (1), and the application must be served on the other party not less than 4 clear days before the day on which the application is to be heard.
- (5) A final order made under this rule does not take effect until a court officer has searched the records of the court and the court is satisfied as to the matters mentioned in rule 47(6).

49 Actions of the court when a provisional order is made final

- (1) Where a provisional order is made final, a court officer must —
 - (a) issue the final order, which must include a statement of the precise time at which it was made; and
 - (b) send to the applicant or applicants, the respondent and any other party a certificate in the approved form that the provisional order has been made final, authenticated by the seal of the court.
- (2) A copy of the certificate in the approved form that a provisional order has been made final must be issued to any person requiring it on payment of the prescribed fee.
- (3) An index of final orders must be kept in the General Registry, and any person is entitled to require a search to be made of the index and to be furnished with a certificate of the result of the search, on payment of the prescribed fee.

DIVISION 9 – PROVISIONS RELEVANT TO PROCEEDINGS FOR A NULLITY ORDER

50 Interim and full gender recognition certificates

- (1) Where an initial application is made for a nullity order under section 48(1)(d) of the Act, the applicant must file with the application a copy of an interim gender recognition certificate issued to the applicant or to the respondent (as the case may be), unless directed on an application made without notice.
- (2) Where —
 - (a) an initial application for a nullity order is made under section 48(1)(e) of the Act; and
 - (b) a full gender recognition certificate has been issued to the respondent,

the applicant must file a copy of that full certificate with the applicant's application, unless otherwise directed on an application made without notice.

(3) Where —

- (a) an initial application is made for a nullity order under section 48(1)(d); and
- (b) an interim gender recognition certificate has been issued to the respondent,

the respondent must, when returning an acknowledgement of service in the approved form to the General Registry, file with it a copy of that certificate, unless otherwise directed on an application made without notice.

(4) Where —

- (a) an initial application for a nullity order is made under section 48(1)(e) of the Act; and
- (b) a full gender recognition certificate has been issued to the respondent,

the respondent must, when returning an acknowledgement of service as set out in the approved form to the General Registry, file with it a copy of that certificate, unless otherwise directed on an application made without notice.

(5) Where a respondent —

- (a) makes an application under rule 31 (applications by the respondent) or 52 (nullity orders: applications by respondent); and
- (b) the application is for a nullity order under section 48(1)(d) of the Act,

the respondent must file with the application a copy of an interim gender recognition certificate issued to the respondent or to the applicant (as the case may be), unless otherwise directed on an application made without notice.

(6) Where a respondent —

- (a) makes an application under rule 31 (applications by the respondent) or 52 (nullity orders: applications by respondent);
- (b) that application is for a nullity order under section 48(1)(e) of the Act; and
- (c) a full gender recognition certificate has been issued to the applicant,

the respondent must file a copy of that certificate with the respondent's application, unless otherwise directed on an application made without notice.

- (7) Where —
- (a) a respondent makes an application as described in paragraph (5); and
 - (b) an interim gender recognition certificate has been issued to the applicant,
- the applicant must, when filing an answer to the application, file with it a copy of that certificate, unless otherwise directed on an application made without notice.
- (8) Where —
- (a) a respondent makes an application as described in paragraph (6); and
 - (b) a full gender recognition certificate has been issued to the applicant,
- the applicant must, when filing an answer to the application, file with it a copy of that certificate, unless otherwise directed on an application made without notice.

51 Nullity orders: filing an answer

- (1) Paragraph (2) applies where —
- (a) the initial application is for a nullity order under section 48(1)(b); and
 - (b) the respondent files an answer containing no more than a simple denial of the facts stated in the application.
- (2) Where this paragraph applies, the respondent must, if intending to rebut the matters stated in the application, give notice to the court of that intention when filing the answer.

52 Nullity orders: applications by respondent

- (1) A respondent to an application for a nullity order who wishes to make an application for a termination order must file and serve the application for that order with the respondent's answer to the application filed and served in accordance with rule 23, unless the court gives permission to make the application after the answer is filed.
- (2) Where the respondent makes an application under this rule, the application is to be treated as an application in the same proceedings for the purposes of this Part.

53 Provisional nullity orders: inspection of certificate

Unless the court gives permission, rule 28(7) (court action on an application for a provisional order or separation order) does not apply to a certificate which relates to a nullity order under section 48(1)(d) of the Act.

54 Medical examination in proceedings for a nullity order

- (1) Where there is an application for a nullity order in relation to an opposite sex couple on the ground of incapacity to consummate the civil partnership or wilful refusal to do so, the court must determine whether medical examiners should be appointed to examine the parties or either of them.
- (2) The court must only appoint medical examiners under paragraph (1) where it considers it is necessary for the proper disposal of the case.
- (3) If the court appoints a medical examiner under this rule, it must serve on the party to be examined notice of the date, time and place appointed for that party's examination.
- (4) Every medical examination ordered under this rule must be held at the consulting room of the medical examiner (or, as the case may be, of one of the medical examiners) appointed to conduct the examination, unless, on the application of the party to be examined, the court directs that the examination of that party must be held at such other place as the court thinks convenient.
- (5) The person to be examined must, in the presence of the medical examiner, sign a statement identifying that person as the party to whom the order for examination applies.
- (6) The medical examiner must certify on the same statement that it was signed in his or her presence by the person who has been examined.

55 Report of medical examination

- (1) The person who carries out the medical examination under rule 54 must prepare a report and file it with the court by a date directed by the court.
- (2) Either party is entitled to see a copy of the report filed under paragraph (1).
- (3) In a disputed case, if the report made under this rule is accepted by both parties, notice to that effect must be given by the parties to the court and to the examiner or examiners not less than 7 clear days before the date fixed for the trial.
- (4) Where a notice is given under paragraph (3), it is not necessary for the examiner or examiners to attend and give evidence at the trial.
- (5) Where a report is filed under paragraph (1) —

- (a) in a disputed case, and the evidence of the examiner or examiners is not given at the trial; or
- (b) in a standard case,
the report is treated as information furnished to the court by a court expert and is given such weight as the court thinks fit.

DIVISION 10 – PROVISIONS APPLICABLE TO BOTH STANDARD AND DISPUTED CASES

56 Notice of trial and hearing

A court officer must give notice to the each of the parties —

- (a) of the date, time and place of every hearing or trial which is to take place in a case to which he or she is a party; and
- (b) in the case of a hearing following a direction under rule 28(2)(a) of the fact that, unless the person wishes or the court requires, the person need not attend.

57 Stays under Schedule 1 to the Matrimonial Proceedings Act 2003 as it applies to civil partnerships

- (1) Schedule 2 has effect for making provision in relation to civil partnerships corresponding to that made in relation to marriages by Schedule 1 to MPA 2003 (staying of proceedings).
- (2) An application to the court by the applicant or respondent in proceedings for dissolution for an order under paragraph 3 (obligatory stay) or paragraph 4 (discretionary stay) of Schedule 2 must be made to the Chief Registrar.
- (3) Where —
 - (a) the court is considering an application in accordance with rule 28 or gives directions under rule 29 or rule 39;
 - (b) it appears to the court that there are proceedings continuing in another jurisdiction which are in respect of the civil partnership in question, or which are capable of affecting its validity or subsistence; and
 - (c) the court considers that the question whether the proceedings should be stayed under paragraph 4 of Schedule 2 ought to be determined by the court,the court must give directions for the hearing of that question.
- (4) The court may, if all parties agree, deal with any question about the jurisdiction of the court without a hearing.

- (5) Any party who makes a request for directions in relevant proceedings within the meaning of Schedule 2 must, if there has been a change in the information given pursuant to paragraph 1(j) of Schedule 1 and rule 36(4), file a statement giving particulars of the change.
- (6) An application by a party to the proceedings for an order under paragraph 5 (revocation of stay) of Schedule 2 must be made to the Chief Registrar.

58 **Separate trial of issue**

Where the court gives directions for the separate trial of an issue and those directions have been complied with, a court officer must —

- (a) if the issue arises on an application for financial provision or an application with respect to any child or alleged child of the family, proceed as if the issue were a question referred to a judge on an application for financial provision;
- (b) in any other case, set the issue down for trial as if the issue were a disputed case.

59 **Right to be heard on question of costs**

- (1) Subject to paragraph (2), any party to termination proceedings may be heard on any question as to costs at the hearing of the proceedings.
- (2) In the case of a hearing following a direction under rule 28(2)(a), a party may not be heard unless that party has, not less than 3 days before the hearing —
 - (a) given written notice to the court of that party's intention to attend the hearing and apply for, or oppose the making of, an order for costs; and
 - (b) served that notice on every other party.
- (3) On receipt of a written notice under paragraph (2), the court may make such directions in relation to the hearing as it sees fit.
- (4) The court may at any time order any party objecting to a claim for costs to file and serve on the party making the claim a written statement setting out the reasons for such objection.

60 **Procedure for complying with section 61 of the Act**

- (1) The court must consider the matters set out in paragraph (2) —
 - (a) after it gives a certificate and direction under rule 28(2)(a); or
 - (b) after the provision of evidence in accordance with a direction under rule 39(3).
- (2) The matters referred to in paragraph (1) are —

- (a) whether there are any children of the family to whom section 61 of the Act applies; and
 - (b) if there are such children, and no application as mentioned in rule 61 is pending in relation to them, the matters set out in section 61(1)(b) of the Act.
- (3) Where, on consideration of the relevant evidence, including any further evidence or report provided under this rule and any statement filed by the respondent under rule 24 (respondent's statement as to arrangement for children), the court is satisfied that —
 - (a) there are no children of the family to whom section 61 of the Act applies; or
 - (b) there are such children, but the court need not exercise its powers under the *Children and Young Persons Act 2001* with respect to any of them or give any direction under section 61(2) of the Act,it must give a certificate to that effect and, in a case to which subparagraph (b) applies, a court officer must send the applicant and the respondent a copy of the certificate.
- (4) Where the court does not issue a certificate under paragraph (3), it may, without prejudice to its powers under the *Children and Young Persons Act 2001* or section 61(2) of the Act, direct that —
 - (a) the parties, or any of them, must file further evidence relating to the arrangements for the children and may direct what specific matters must be dealt with in that evidence;
 - (b) a welfare report on the children, or any of them, be prepared;
 - (c) the parties, or any of them, attend a hearing for the court to consider that matter at a date, time and place specified in the direction, of which the parties must be notified.
- (5) Where the court gives a direction under section 61(2) of the Act, notice of the direction must be given to the parties.
- (6) In this rule “parties” means the applicant, the respondent and any person who appears to the court to have the care of the child.

61 Applications relating to children of the family

- (1) Where termination proceedings are pending, an application by a party to the proceedings, or by any other person, for an order under any provision of Part 1 or Part 2 of the *Children and Young Persons Act 2001* in relation to a child of the family must be made in the proceedings.
- (2) Where the applicant for an order as described in paragraph (1) is not a party to the termination proceedings and has obtained such permission of the court as is required under the *Children and Young Persons Act 2001* to

make the application, no permission of the court to intervene in the termination proceedings is required.

- (3) If, while termination proceedings are pending, proceedings relating to any child of the family are begun in any other court, a concise statement of the nature of the proceedings must immediately be filed by the person beginning those proceedings or, if that person is not a party to the termination proceedings, by the applicant in the termination proceedings.
- (4) The court must consider an application under paragraph (1) –
 - (a) after it gives a certificate and direction under rule 28(2)(a); or
 - (b) after the trial, under Division 7, of the termination proceedings in which the application is made.

62 Application under section 46(2) of the Act

- (1) An application under section 46(2) of the Act by a respondent in proceedings for a dissolution order for the court to consider the respondent's financial position after dissolution of a civil partnership must be –
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee.
- (2) The respondent must file a certificate that a copy of the application, with a notice of the time and place of the hearing, has been duly served on each person required to be served with it.
- (3) Part 4 applies to an application under section 46(2) of the Act as if the application were for financial provision.

63 Orders

Except in a case to which rule 74 (consent orders) applies, in termination proceedings –

- (a) every dissolution order, nullity order, separation order or presumption of death order;
- (b) every order made in open court; and
- (c) every other order which is required to be drawn up,

must be drawn up by a court officer unless the court otherwise directs.

PART 4

APPLICATIONS FOR FINANCIAL PROVISION ETC.

64 **Financial provision: general**

This Part applies to any application for financial provision and to any application under section 41(2) (consideration by the court of certain agreements or arrangements) or 46(2) (protection for respondent) of the Act.

65 **Right to be heard on financial questions**

A respondent may be heard on any question of financial provision without filing an answer and whether or not the respondent has returned to the General Registry an acknowledgement of service stating his or her wish to be heard on that question.

66 **Application by applicant or respondent for financial provision**

- (1) Any application by an applicant for a dissolution order, nullity order or separation order, or by a respondent who files an answer claiming financial provision, for —
 - (a) an interim maintenance order,
 - (b) a financial provision order,
 - (c) a property adjustment order, or
 - (d) a pension sharing order,must be made in the initial application or answer, as the case may be, but subject to paragraph (2).
- (2) An application for financial provision which should have been made in the initial application or answer may be made subsequently —
 - (a) with the permission of the court, either in the approved form or at the trial, or
 - (b) where the parties are agreed upon the terms of the proposed order, in the approved form without the permission of the court.
- (3) An application for financial provision, not being an application which is required to be made in the initial application or answer, must be made in the approved form.

67 **Application by parent, guardian etc for financial provision in respect of children**

An application for financial provision for a child of the family may be made, in the approved form, by any of the following persons —

- (a) a parent or guardian of any child of the family,

- (b) any person in whose favour a residence order has been made with respect to a child of the family, and any applicant for such an order,
- (c) any other person who is entitled to apply for a residence order with respect to a child,
- (d) Manx Care, where a child is in its care by virtue of an order made by any Court; and
- (e) a child of the family who has been given permission of the court to intervene in the proceedings for the purpose of applying for financial provision.

68 Application for financial provision

Where an application for financial provision is made in the approved form, the applicant must serve a copy on the respondent to the application.

69 Application for financial provision after order of court of summary jurisdiction

Where an application for financial provision is made while there is in force an order of a court of summary jurisdiction for maintenance of a civil partner or child, the applicant must file a copy of the order on or before the hearing of the application.

70 Children to be separately represented on certain applications

- (1) Where an application is made to the court for an order for a variation of a settlement, the court must, unless it is satisfied that the proposed variation does not adversely affect the rights or interests of any children concerned, direct that the children be separately represented on the application, and may appoint the Attorney General or other fit person to be guardian ad litem of the children for the purpose of the application.
- (2) On any other application for financial provision the court may give such a direction or make such appointment as it is empowered to give or make by paragraph (1).
- (3) Before a person other than the Attorney General is appointed guardian ad litem under this rule, the Attorney General or the advocate acting for the children must file a certificate that the person proposed as guardian has no interest in the matter adverse to that of the children and is a proper person to be such guardian.

71 General provisions as to evidence etc on application for financial provision

- (1) An applicant or respondent who has applied for financial provision in his or her initial application or answer and who intends to proceed with the

application must, subject to rule 79 (periodic payments), deliver to the General Registry a notice in the approved form in duplicate and serve a copy on the other party to the application.

- (2) Where an application is made for financial provision, not being an application to which rule 74 (consent orders) applies, the application or notice in the approved form must, unless otherwise directed, be supported by an affidavit by the applicant containing full particulars of his or her property and income, and stating the facts relied on in support of the application.
- (3) Within 28 days after the service of an affidavit under paragraph (2) or within such other time as the court may fix, the respondent to the application, other than an application for a variation order, must file an affidavit in answer containing full particulars of his or her property and income.

72 Evidence on application for property adjustment or avoidance of disposition order

- (1) Where an application is made for a property adjustment order or an avoidance of disposition order, the affidavit in support must contain, so far as known to the applicant, full particulars —
 - (a) in the case of an application for a transfer or settlement of property —
 - (i) of the property in respect of which the application is made,
 - (ii) of the property to which the party against whom the application is made is entitled either in possession or reversion;
 - (b) in the case of an application for an order for a variation of settlement
 - (i) of all settlements, whether executed before or after the formation of the civil partnership, made on the civil partners, and
 - (ii) of the funds brought into settlement by each civil partner;
 - (c) in the case of an application for an avoidance of disposition order —
 - (i) of the property to which the disposition relates,
 - (ii) of the person in whose favour the disposition is alleged to have been made and in the case of a disposition alleged to have been made by way of settlement, of the trustees and the beneficiaries of the settlement.

- (2) Where an application for a property adjustment order or an avoidance of disposition order relates to land, the application or notice in the approved form, must identify the land and —
- (a) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number; and
 - (b) give particulars, so far as known to the applicant, of any mortgage of the land or any interest therein.
- (3) A copy of the application or notice, together with a copy of the supporting affidavit, must be served on the following persons as well as on the respondent to the application —
- (a) in the case of an application for an order for variation of a settlement, the trustees of the settlement and the settlor if living;
 - (b) in the case of an application for an avoidance of disposition order, the person in whose favour the disposition is alleged to have been made;
- and such other persons, if any, as the court may direct.
- (4) In the case of an application to which paragraph (2) refers, a copy of the approved form must be served on any mortgagee of whom particulars are given under that paragraph; and any person so served may apply to the court in writing, within 14 days after service, for a copy of the applicant's affidavit.
- (5) Any person who —
- (a) is served with an affidavit pursuant to paragraph (3), or
 - (b) receives an affidavit following an application made in accordance with paragraph (4),
- may, within 14 days after service or receipt, as the case may be, file an affidavit in answer.

73 Service of affidavit in answer or reply

A person who files an affidavit for use on an application under rule 71 or 72 must at the same time serve a copy on the opposite party.

74 Information on application for consent order for financial relief

- (1) With every application for a consent order under any of Parts 1, 2 and 3 of Schedule 5 to the Act, such of the following as are applicable to the case must be filed, subject to paragraphs (2) and (3) —
- (a) two copies of a draft of the order in the terms sought, one of which must be endorsed with a statement signed by the respondent to the application signifying his or her agreement, and

- (b) a statement of information (which may be made in more than one document) which must include —
 - (i) the duration of the civil partnership, the age of each party and of any minor or dependent child of the family;
 - (ii) an estimate in summary form of the approximate amount or value of the capital resources and net income of each party and of any minor child of the family;
 - (iii) what arrangements are intended for the accommodation of each of the parties and any minor child of the family;
 - (iv) whether either party has formed a further civil partnership or remarried or has any present intention to do so or to cohabit with another person;
 - (v) where an order includes provision to be made under Part 4 of Schedule 5 to the Act (pension sharing), a statement confirming that the person responsible for the pension arrangement in question has been served with the documents required by rule 81 and that no objection to such an order has been made by that person within 14 days from such service;
 - (vi) where the terms of the order provide for a transfer of property, a statement confirming that any mortgagee of that property has been served with notice of the application and that no objection to such a transfer has been made by the mortgagee within 14 days from such service; and
 - (vii) any other especially significant matters.
- (2) Where an application is made for a consent order varying an order for periodical payments paragraph (1) is sufficiently complied with if the statement of information required to be filed with the application includes only the information in respect of net income mentioned in paragraph (1)(b), and an application for a consent order for interim periodical payments pending the determination of an application for financial provision may be made in like manner.
- (3) Where all or any of the parties attend the hearing of an application for financial relief the court may dispense with the filing of a statement of information in accordance with paragraph (1) and give directions for the information which would otherwise be required to be given in such a statement to be given in such a manner as it sees fit.

75 Investigation of application for financial provision

- (1) On or after the filing of an application or a notice in the approved form an appointment must be fixed for the hearing of the application by a judge.

- (2) An application for an avoidance of disposition order must, if practicable, be heard at the same time as any related application for financial relief.
- (3) Notice of the appointment, unless given in the approved form, must be given by the applicant to every party to the application.
- (4) At the hearing of an application for financial provision the judge —
 - (a) must, subject to rule 78, investigate the allegations made in support of and in answer to the application;
 - (b) may take evidence orally; and
 - (c) may at any stage of the proceedings, whether before or during the hearing, order the attendance of any person for the purpose of being examined or cross-examined and order the discovery and production of any document or require further affidavits.
- (5) The judge may at any stage of the proceedings give directions as to the filing and service of pleadings and as to the further conduct of the proceedings.
- (6) Where any party to such an application intends on the day appointed for the hearing to apply for directions, he or she must file and serve on every other party a notice to that effect.
- (7) Any party may apply to the court for an order that any person attend an appointment (a “production appointment”) before the court and produce any documents to be specified or described in the order, the production of which appears to the court to be necessary for disposing fairly of the application for financial provision or for saving costs.
- (8) No person may be compelled by an order under paragraph (7) to produce any document at a production appointment which he or she could not be compelled to produce at the hearing of the application for financial provision.
- (9) The court must permit any person attending a production appointment in compliance with an order under paragraph (7) to be represented at the appointment.
- (10) The hearing must, unless the court otherwise directs, take place in private.

76 Open proposals

- (1) Not less than 14 days before the date fixed for the final hearing of an application for financial provision, the applicant must (unless the court otherwise directs) file and serve on the respondent an open statement which sets out concise details, including the amounts involved, of the orders which the applicant proposes to ask the court to make.
- (2) Not more than 7 days after service of a statement under paragraph (1), the respondent must file and serve on the applicant an open statement which

sets out concise details, including the amounts involved, of the orders which the respondent proposes to ask the court to make.

77 Request for further information etc.

Any party to an application for financial provision may by letter require any other party to give further information concerning any matter contained in any affidavit filed by or on behalf of that other party or any other relevant matter, or to furnish a list of relevant documents or to allow inspection of any such document, and may, in default of compliance by such other party, apply to the court for directions.

78 Order on application for financial provision

- (1) The judge must, after completing the investigation under rule 75, make such order as the judge thinks just.
- (2) Pending the final determination of the application, a judge may make an interim order upon such terms as the judge thinks just.
- (3) Where the court considers it expedient to give effect to an order under Part 3 of Schedule 5 to the Act (orders for sale of property) or any other order for financial provision relating to any property, it may –
 - (a) grant execution in respect of the property, or
 - (b) make an order compelling any person in receipt of the rents and profits of the property to deliver them up to such person as the court may direct.

79 Request for periodical payments order at same rate as order for maintenance pending suit

- (1) Where at or after the date of a final dissolution order or nullity order an interim maintenance order is in force, the party in whose favour the order was made may, if he or she has made an application for an order for periodical payments for himself or herself in the initial application or answer, request the court in writing to make such an order providing for payments at the same rate as those provided for by the interim maintenance order.
- (2) Where such a request is made, the applicant must serve on the respondent a notice in the approved form requiring the respondent, if he or she objects to the making of a corresponding order, to give notice to that effect to the court and to the applicant within 14 days after service of the notice.
- (3) If the respondent does not give notice of objection within the time provided by paragraph (2), the court may make an order providing for payments at the same rate as those provided for by the interim maintenance order without further notice to the respondent and without

requiring the attendance of the applicant or the applicant's advocate, and must in that case serve a copy of the order on the applicant as well as on the respondent.

80 **Application for order under paragraph 65(2) of Schedule 5 to the Act**

An application under paragraph 65(2) of Schedule 5 to the Act for an order restraining any person from attempting to defeat a claim for financial provision or otherwise for protecting the claim may be made to a judge.

81 **Pensions**

- (1) This rule applies where —
 - (a) an application for financial provision has been made, and
 - (b) the applicant or respondent has or is likely to have any benefits under a pension arrangement.
- (2) Within 7 days of giving or receiving notice in the approved form, the party with pension rights must request the person responsible for each pension arrangement under which he or she has or is likely to have benefits to furnish the information referred to in regulation 2(2) of the Pensions on Divorce etc. (Provision of Information) Regulations 2000¹⁵.
- (3) Within 7 days of receiving information under paragraph (2) the party with pension rights must send a copy of it to the other party, together with the name and address of the person responsible for each pension arrangement.
- (4) A request under paragraph (2) need not be made where the party with pension rights is in possession of, or has requested, a relevant valuation of the pension rights or benefits accrued under the pension arrangement in question.
- (5) In this rule a “relevant valuation” means a valuation of pension rights or benefits as at a date not more than 12 months earlier than the date of giving or receiving notice in the approved form, which has been furnished or requested under any of the following —
 - (a) the Pensions on Divorce etc. (Provision of Information) Regulations 2000¹⁶;
 - (b) regulation 5 of and Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996¹⁷;
 - (c) section 94(1)(a) of the Pension Schemes Act 1993 (of Parliament);

¹⁵ SI 2000/1048

¹⁶ SI 2000/1048

¹⁷ SI 1996/1655

- (d) section 94(1)(b) of the Pension Schemes Act 1993 (of Parliament) or paragraph 2(a) (or, where applicable, 2(b)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987¹⁸.
- (6) Upon making or giving notice of intention to proceed with an application for financial provision including provision to be made under Part 4 of Schedule 5 to the Act (pension sharing), or upon adding a request for such provision to an existing application for financial provision, the applicant must send to the person responsible for the pension arrangement concerned a copy of the approved form.
- (7) Upon making or giving notice of intention to proceed with an application for financial provision including provision to be made under Part 6 of Schedule 5 to the Act (pension earmarking), or upon adding a request for such provision to an existing application for financial provision, the applicant must send to the person responsible for the pension arrangement concerned —
 - (a) a copy of the approved form in the case;
 - (b) an address to which any notice is to be sent which the person responsible is required to serve on the applicant under regulations made under paragraph 27 of Schedule 5 to the Act;
 - (c) an address to which any payment which the person responsible is required to make to the applicant is to be sent; and
 - (d) where the address in sub-paragraph (c) is that of a bank, a building society or National Savings and Investments, sufficient details to enable payment to be made into the account of the applicant.
- (8) A person responsible for a pension arrangement on whom a copy of a notice under paragraph (7) is served may, within 21 days after service, require the applicant to provide the person responsible with a copy of the affidavit supporting the application.
- (9) A person responsible for a pension arrangement who receives a copy of an affidavit as required by paragraph (8) may within 21 days after receipt file an affidavit in answer.
- (10) A person responsible for a pension arrangement who files an affidavit in answer under paragraph (9) may file with it a notice to a court officer requiring an appointment to be fixed; and where such a notice is filed —
 - (a) a court officer must fix the appointment for the hearing or further hearing of the application and give not less than 14 days' notice of that appointment to the applicant, the respondent and the person responsible for the pension arrangement; and

¹⁸ SI 1987/1110

- (b) the person responsible for the pension arrangement is entitled to be represented at any such hearing.
- (11) Where the parties have agreed on the terms of an order including provision under Part 6 of Schedule 5 to the Act, then unless service has already been effected under paragraph (7), they must serve on the person responsible for the pension arrangement concerned —
 - (a) the notice in the approved form;
 - (b) a draft of the proposed order, complying with paragraph (13); and
 - (c) the particulars set out in paragraph (7)(b), (c) and (d).
- (12) No consent order under paragraph (11) may be made unless either —
 - (a) the person responsible has not made any objection within 21 days after the service of the notice referred to in that paragraph upon the person responsible; or
 - (b) the court has considered any such objection;and for the purpose of considering any objection the court may make such direction as it sees fit for the person responsible to attend before it or to furnish written details of the person's objection.
- (13) An order for financial provision, whether by consent or not, including provision under Part 4 or 6 of Schedule 5 to the Act, must —
 - (a) in the body of the order, state that there is to be provision by way of pension sharing or pension attachment in accordance with the annex or annexes to the order; and
 - (b) be accompanied by an annex containing the information set out in paragraph (14) or paragraph (15); and if provision is made in relation to more than one pension arrangement there must be one annex for each pension arrangement.
- (14) Where provision is made under Part 4 of Schedule 5 to the Act, the annex must state —
 - (a) the case number and the title of the proceedings;
 - (b) that it is a pension sharing order made under Schedule 5 to the Act;
 - (c) the names of the transferor and the transferee;
 - (d) the national insurance number of the transferor;
 - (e) sufficient details to identify the pension arrangement concerned and the transferor's rights or benefits from it (for example a policy reference number);
 - (f) the specified percentage, or where appropriate the specified amount, required in order to calculate the appropriate amount for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (of Parliament) (creation of pension debits and credits);

- (g) how the pension sharing charges are to be apportioned between the parties or alternatively that they are to be paid in full by the transferor;
- (h) that the person responsible for the pension arrangement has furnished the information required by regulation 4 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000 and that it appears from that information that there is power to make an order including provision under Part 4 of Schedule 5 to the Act (pension sharing);
- (i) the day on which the order or provision takes effect; and
- (j) that the person responsible for the pension arrangement concerned must discharge his or her liability in respect of the pension credit within a period of 4 months beginning with the day on which the order or provision takes effect or, if later, with the first day on which the person responsible for the pension arrangement concerned is in receipt of —
 - (i) the order for financial provision, including the annex;
 - (ii) the dissolution order or nullity order; and
 - (iii) the information prescribed by regulation 5 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000;

provided that if the court knows that the implementation period is different from that stated in sub-paragraph (j) by reason of regulations under section 34(4) or 41(2)(a) of the Welfare Reform and Pensions Act 1999 (of Parliament), the annex must contain details of the implementation period as determined by those regulations instead of the statement in sub-paragraph (j).

- (15) Where provision is made under Part 6 of Schedule 5 to the Act, the annex must state —
- (a) the case number and the title of the proceedings;
 - (b) that it is an order making provision under paragraph 24 or 25 of Schedule 5, as the case may be, to the Act;
 - (c) the names of the party with pension rights and the other party;
 - (d) the national insurance number of the party with pension rights;
 - (e) sufficient details to identify the pension arrangement concerned and the rights or benefits from it to which the party with pension rights is or may become entitled (for example a policy reference number);
 - (f) in the case of an order including provision under paragraph 24(3) of Schedule 5 to the Act, what percentage of any payment due to the party with pension rights is to be paid for the benefit of the other party;

- (g) in the case of an order including any other provision under paragraph 24 or 25 of Schedule 5 to the Act, what the person responsible for the pension arrangement is required to do;
 - (h) the address to which any notice which the person responsible for the pension arrangement is required to serve on the other party under regulations made under paragraph 27 of Schedule 5 to the Act is to be sent, if not notified under paragraph (7)(b);
 - (i) an address to which any payment which the person responsible for the pension arrangement is required to make to the other party is to be sent, if not notified under paragraph (7)(c);
 - (j) where the address in sub-paragraph (i) is that of a bank, a building society or National Savings and Investments, sufficient details to enable payment to be made into the account of the other party, if not notified under paragraph (7)(d); and
 - (k) where the order is made by consent, that no objection has been made by the person responsible for the pension arrangement, or that an objection has been received and considered by the court, as the case maybe.
- (16) Where the court makes, varies or revokes an order including provision under Part 4 or Part 6 of Schedule 5 to the Act, the applicant for the order, variation or revocation (or, if it is made otherwise than on an application, the court) must send to the person responsible for the pension arrangement concerned —
- (a) a copy of the final dissolution order, final nullity order or separation order; and
 - (b) a copy of that order, or as the case may be of the order varying or discharging that order, including any annex to that order relating to that pension arrangement but no other annex to that order.
- (17) The documents referred to in paragraph (16) must be sent within 7 days after the making of the relevant order, or within 7 days after the final dissolution order, final nullity order or separation order, whichever is the later.
- (18) In this rule —
- (a) terms defined in Parts 4 and 6 of Schedule 5 to the Act have the meanings given by that provision;
 - (b) all words and phrases defined in section 46 of the Welfare Reform and Pensions Act 1999 (of Parliament) have the meanings given by that section.

PART 5

OTHER CIVIL PARTNERSHIP PROCEEDINGS

DIVISION 1: FAILURE TO PROVIDE REASONABLE MAINTENANCE

82 **Application in case of failure to provide reasonable maintenance**

- (1) Every application under Part 8 of Schedule 5 to the Act must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee.
- (2) There must be filed with the application an affidavit by the applicant and also a copy of the application and of the affidavit for service on the respondent.
- (3) The affidavit must state —
 - (a) the same particulars regarding the civil partnership, the court's jurisdiction, the children and the previous proceedings as are required in the case of an application for a dissolution order by paragraph 1(a), (c), (d), (f) and (i) of Schedule 1;
 - (b) particulars of the respondent's failure to provide reasonable maintenance for the applicant, or, as the case may be, of the respondent's failure to provide, or to make a proper contribution towards, reasonable maintenance for the children of the family; and
 - (c) full particulars of the applicant's property and income and of the respondent's property and income, so far as may be known to the applicant.
- (4) A copy of the application and of the affidavit referred to in paragraph (2) must be served on the respondent, together with a notice in the approved form with an acknowledgement of service in the approved form.
- (5) Subject to paragraph (6), the respondent must, within 14 days after the time allowed for returning the acknowledgement of service, file an affidavit stating —
 - (a) whether the alleged failure to provide, or to make proper contribution towards, reasonable maintenance is admitted or denied, and, if denied, the grounds on which the respondent relies;
 - (b) any allegation which the respondent wishes to make against the applicant; and
 - (c) full particulars of the respondent's property and income, unless otherwise directed.
- (6) Where the respondent challenges the jurisdiction of the court to hear the application he or she must, within 14 days after the time allowed for

returning the acknowledgement of service, file an affidavit setting out the grounds of the challenge; and the obligation to file an affidavit under paragraph (5) does not arise until 14 days after the question of jurisdiction has been determined and the court has decided that the necessary jurisdiction exists.

- (7) If the respondent does not file an affidavit in accordance with paragraph (5), the court may order him or her to file an affidavit containing full particulars of his or her property and income, and in that case the respondent must serve a copy of any such affidavit on the applicant.
- (8) Within 14 days after being served with a copy of any affidavit filed by the respondent, the applicant may file a further affidavit as to means and as to any fact in the respondent's affidavit which is disputed, and in that case the applicant must serve a copy on the respondent.

No further affidavit may be filed without the permission of the court.

- (9) Rule 75(4) applies, with any necessary modifications, to an application for an order under Part 8 of Schedule 5 to the Act as if the application were for financial provision.

DIVISION 2: ALTERATION OF MAINTENANCE AGREEMENT

83 **Application for alteration of maintenance agreement during lifetime of parties**

- (1) An application under paragraph 60 of Schedule 5 to the Act for the alteration of a maintenance agreement must —
 - (a) unless otherwise directed, be in the approved form; and
 - (b) be accompanied by the prescribed fee.
- (2) With the application, the applicant must file an affidavit exhibiting a copy of the agreement and verifying the statements in the application and also a copy of the application and of the affidavit for service on the respondent.
- (3) A copy of the application and of the affidavit referred to in paragraph (2) must be served on the respondent, together with a notice in the approved form with an acknowledgement of service in the approved form attached.
- (4) The respondent must, within 14 days after the time allowed for returning the acknowledgement of service indicating the respondent's intention to dispute, file an affidavit in answer to the application containing full particulars of his or her property and income and, if the respondent does not do so, the court may order the respondent to file an affidavit containing such particulars.
- (5) A respondent who files an affidavit under paragraph (4) must at the same time serve a copy on the applicant.

84 Application for alteration of maintenance agreement after death of one party

- (1) An application under paragraph 64 of Schedule 5 to the Act for the alteration of a maintenance agreement after the death of one of the parties must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee.
- (2) Where an application is made under paragraph (1), an affidavit by the applicant exhibiting a copy of the agreement and an official copy of the grant of representation to the deceased's estate and of every testamentary document admitted to proof must be filed with the application.
- (3) The affidavit under paragraph (2) must state —
 - (a) whether the deceased died domiciled in the Island;
 - (b) the place and date of the civil partnership between the parties to the agreement and the name and status of each party to the civil partnership before the civil partnership;
 - (c) the name of every child of the family and of any other child for whom the agreement makes financial arrangements, and —
 - (i) the date of birth of each such child who is still living (or, if it be the case, that he or she has attained 18) and the place where and the person with whom any such minor child is residing,
 - (ii) the date of death of any such child who has died since the agreement was made;
 - (d) whether there have been in any court any, and if so what, previous proceedings with reference to the agreement or to the civil partnership or to the children of the family or any other children for whom the agreement makes financial arrangements, and the date and effect of any order or decree made in such proceedings;
 - (e) whether there have been any proceedings by the applicant against the deceased's estate under the *Inheritance (Provision for Family and Dependants) Act 1982*¹⁹ or any Act repealed by that Act and the date and effect of any order made in such proceedings;
 - (f) in the case of an application by the surviving party, the applicant's means;
 - (g) in the case of an application by the personal representatives of the deceased, the surviving party's means, so far as they are known to the applicant, and the information mentioned in rule 85(3)(a), (b) and (c);

¹⁹ AT 8 of 1982

- (h) the facts alleged by the applicant as justifying an alteration in the agreement and the nature of the alteration sought;
 - (i) if the application is made after the end of the period of 6 months from the date on which representation in regard to the deceased's estate was first taken out, the grounds on which the court's permission to entertain the application is sought.
- (4) In this rule and rule 85 "the deceased" means the deceased party to the agreement to which the application relates.

85 Further proceedings on application under rule 84

- (1) The court may at any stage of the proceedings direct that any person be added as a respondent to an application under rule 84.
- (2) Rule 3.29 of the Rules of Court (representation orders) applies to the proceedings as if they were mentioned in that rule.
- (3) A respondent who is a personal representative of the deceased must, within 14 days after the time allowed for giving notice of intention to dispute, file an affidavit in answer to the application stating –
 - (a) full particulars of the value of the deceased's estate for probate, after providing for the discharge of the funeral, testamentary and administration expenses, debts and liabilities payable out of it, including the amount of any tax or duty payable on the deceased's estate and interest on such tax or duty;
 - (b) the person or classes of persons beneficially interested in the estate (giving the names and addresses of all living beneficiaries) and the value of their interests so far as ascertained, and
 - (c) if such be the case, that any living beneficiary (naming that beneficiary) is a minor or a patient within the meaning of rule 100.
- (4) If a respondent who is a personal representative of the deceased does not file an affidavit stating the matters mentioned in paragraph (3) the court may order the respondent to do so.
- (5) A respondent who is not a personal representative of the deceased may, within 14 days after the time allowed for giving notice of intention to dispute, file an affidavit in answer to the application.
- (6) Every respondent who files an affidavit in answer to the application must at the same time serve a copy on the applicant.

86 Application of other rules to proceedings under paragraph 60 or 64 of Schedule 5 to the Act

- (1) Rules 73, 75(4) and 78(2) and (3) apply, with any necessary modifications, to an application under paragraph 60 or 64 of Schedule 5 to the Act as they apply to an application for financial provision.

- (2) Subject to paragraph (1) and to Division 8 of Part 3, these Rules are to apply, so far as applicable, with any necessary modifications to an application under paragraph 60 or 64 of Schedule 5 to the Act as if the application were an initial application in termination proceedings.

DIVISION 3: SUMMARY DETERMINATION OF PROPERTY DISPUTES

87 Applications under section 64

- (1) Subject to paragraph (2), an application under section 64 of the Act must be —
 - (a) made in the approved form;
 - (b) supported by affidavit; and
 - (c) accompanied by the prescribed fee.
- (2) An order under section 64 of the Act may be made in any financial provision proceedings upon the application of any party to those proceedings in the approved form.
- (3) Where the application concerns the title to or possession of land, the application must —
 - (a) state whether the title to the land is registered or unregistered and, if registered, the Land Registry title number; and
 - (b) give particulars, so far as known to the applicant, of any mortgage of the land or any interest in the land.
- (4) The application must be served on the respondent, together with a copy of the affidavit in support and an acknowledgement of service in the approved form.
- (5) Where particulars of a mortgage are given pursuant to paragraph (3), the applicant must serve a copy of the application on the mortgagee; and any person so served may apply to the court in writing, within 14 days after service, for a copy of the affidavit in support; and within 14 days of receiving such affidavit may file an affidavit in answer and is entitled to be heard on the application.
- (6) If the respondent intends to contest the application, the respondent must, within 14 days after the time allowed for returning the acknowledgement of service, file an affidavit in answer to the application setting out the grounds on which the respondent relies, and serve a copy of the affidavit on the applicant.
- (7) If the respondent fails to comply with paragraph (6), the applicant may apply for directions; and the court may give such directions as it thinks fit, including a direction that the respondent be debarred from defending the application unless an affidavit is filed within such time as the court may specify.

- (8) The court may grant an injunction in proceedings under section 64 of the Act if, but only so far as, the injunction is ancillary or incidental to any relief sought in those proceedings.
- (9) Rules 73, 75(4) and 78(2) and (3) apply, with any necessary modifications, to an application under section 64 of the Act as they apply to an application for financial provision.
- (10) Subject to the provisions of this rule, these Rules apply, with any necessary modifications, to proceedings on an application under section 64 of the Act as if they were termination proceedings.

DIVISION 4: FAMILY HOMES AND DOMESTIC VIOLENCE

88 Applications under Part 5 of MPA 2003

- (1) An application for an occupation order or a non-molestation order under Part 5 of the MPA 2003 must be made in the approved form.
- (2) An application for an occupation order or a non-molestation order made by a child under the age of 16 must be made in the approved form, but is to be treated, in the first instance, as an application to the court for permission.
- (3) An application for an occupation order or a non-molestation order which is made in other proceedings which are pending must be made in the approved form.
- (4) An application under paragraph (1), (2) or (3) must be —
 - (a) supported by an affidavit by the applicant; and
 - (b) accompanied by the prescribed fee.
- (5) Where an application is made without notice, the affidavit must state the reasons why notice was not given.
- (6) An application made on notice (together with the affidavit and a notice of the time and place of the hearing) must be served on the respondent personally not less than 2 days before the date on which the application will be heard.
- (7) The court may shorten the period specified in paragraph (6).
- (8) Where the applicant is acting in person, service of the application must be effected by the coroner if the applicant so requests.

This does not affect the court's power to order substituted service.
- (9) Where an application for an occupation order or a non-molestation order is pending, the court must consider (on the application of either party or of its own motion) whether to exercise its power under section 91(3) of MPA 2003 to transfer the hearing of that application to a court of summary

jurisdiction, and must make an order for transfer in the approved form if it seems necessary or expedient to do so.

- (10) A copy of an application for an occupation order under section 95, 97 or 98 of MPA 2003 must be served by the applicant by post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question, with a notice in the approved form informing the mortgagee or the landlord of the right to make representations in writing or at any hearing.
- (11) Rules 75(4) (investigation of an application for financial provision) and 77 (request for further information etc) apply, with any necessary modifications, to an application for an occupation order under section 95, 97 or 98 of MPA 2003 as they apply to an application for financial provision.
- (12) The applicant must file a statement in the approved form after serving the application.

89 Hearing of applications under Part 5 of MPA 2003

- (1) An application for an occupation order or a non-molestation order under Part 5 of the MPA 2003 must be dealt with in private unless the court otherwise directs.
- (2) Where an order is made on an application made without notice, a copy of the order together with a copy of the application and of the affidavit in support must be served on the respondent personally.
- (3) Where the application is for an occupation order under section 95, 97 or 98 of the MPA 2003, a copy of any order made on the application must be served by the applicant by post on the mortgagee or, as the case may be, the landlord of the dwelling-house in question.
- (4) A copy of an order made on an application heard on notice must be served on the respondent personally.
- (5) Where the applicant is acting in person, service of a copy of any order made on the hearing of the application must be effected by the coroner if the applicant so requests.
- (6) Any order made on the hearing of an application under Part 5 of the MPA 2003 must be issued in the approved form.
- (7) The court may direct that a further hearing be held in order to consider any representations made by a mortgagee.
- (8) An application to vary, extend or revoke an order made under Part 5 of the MPA 2003 must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee,and this rule applies to the hearing of such an application.

90 Enforcement of orders made on applications under Part 5 of MPA 2003

- (1) Where a power of arrest is attached to one or more of the provisions (“the relevant provisions”) of an order made under Part 5 of the MPA 2003 —
 - (a) the relevant provisions must be set out in an abridged copy of the order in the approved form, which must not include any provisions of the order to which the power of arrest was not attached; and
 - (b) the abridged copy must be delivered to the Chief Constable.
- (2) Where an order is made varying or revoking the relevant provisions, the Chief Registrar must —
 - (a) immediately inform the Chief Constable; and
 - (b) deliver a copy of the order to Chief Constable.
- (3) An application for the issue of a warrant for the arrest of the respondent must be made in the approved form.
- (4) The court before whom a person is brought following the person’s arrest may —
 - (a) determine whether the facts, and the circumstances which led to the arrest, amounted to disobedience of the order; or
 - (b) adjourn the proceedings and, where such an order is made, the arrested person may be released and —
 - (i) be dealt with within 14 days of the day on which he or she was arrested; and
 - (ii) be given not less than 2 days’ notice of the adjourned hearing.
- (5) The courts may adjourn consideration of the penalty to be imposed for contempts found proved and such consideration may be restored if the respondent does not comply with any conditions specified by the court.
- (6) Where the court makes a hospital order or a guardianship order under section 111 of MPA 2003, the Chief Registrar must —
 - (a) send to the hospital any information which will be of assistance in dealing with the patient;
 - (b) inform the applicant when the respondent is being transferred to hospital.
- (7) Where a transfer direction given by the Department of Home Affairs under section 54 of the Mental Health Act 1998²⁰ is in force in respect of a person remanded in custody by the court under Schedule 3 to MPA 2003, the Chief Registrar must notify —

²⁰ AT 3 of 1998

- (a) the chief officer of the institution where that person was detained; and
 - (b) the hospital where that person is detained,
- of any committal hearing which that person is required to attend, and the Chief Registrar must give notice in writing to the hospital where that person is detained of any further remand under paragraph 3 of Schedule 3 to MPA 2003.
- (8) In paragraph (4) “arrest” means arrest under a power of arrest attached to an order or under a warrant of arrest.

91 Bail application

- (1) An application for bail made by a person arrested under a power of arrest or a warrant of arrest may be made either orally or in writing.
- (2) Where an application is made in writing, it must contain the following particulars —
 - (a) the full name of the person making the application;
 - (b) the address of the place where the person making the application is detained at the time when the application is made;
 - (c) the address where the person making the application would reside if he were to be granted bail;
 - (d) the amount of the recognizance in which he or she would agree to be bound; and
 - (e) the grounds on which the application is made and, where a previous application has been refused, full particulars of any change in circumstances which has occurred since that refusal.
- (3) An application made in writing must be signed by the person making the application or by a person duly authorised by him or her in that behalf or, where the person making the application is a minor or is for any reason incapable of acting, by a guardian *ad litem* acting on that person’s behalf, and a copy must be served by the person making the application on the applicant for the order under Part 5 of the MPA 2003.

DIVISION 5: APPLICATION FOR DECLARATION CONCERNING CIVIL PARTNERSHIP

92 Application under section 56 for a declaration concerning civil partnership

- (1) Unless otherwise directed, an application under section 56 of the Act for a declaration concerning a civil partnership must state —

- (a) the names of the parties to the civil partnership to which the application relates and the residential address of each of them at the date of the application;
- (b) the place and date of any ceremony of civil partnership to which the application relates;
- (c) the grounds on which the application is made, and all other material facts alleged by the applicant to justify the making of the declaration;
- (d) whether there have been or are continuing any proceedings in any court, tribunal or authority in the Island or elsewhere between the parties which relate to, or are capable of affecting, the validity or subsistence of the civil partnership, dissolution, annulment or legal separation to which the application relates, or which relate to the status as civil partners of either of the parties, and, if so —
 - (i) the nature, and either the outcome or present state of those proceedings,
 - (ii) the court, tribunal or authority before which they were begun,
 - (iii) the date when they were begun,
 - (iv) the names of the parties to them,
 - (v) the date or expected date of the trial,
 - (vi) any other facts relevant to the question whether the application should be stayed under Schedule 2;and any such proceedings include any which are instituted otherwise than in a court of law in any country outside the Island, if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status, and are to be treated as continuing if they have begun and have not been finally disposed of,
- (e) where it is alleged that the court has jurisdiction based on domicile, which of the parties to the civil partnership to which the application relates is domiciled in the Island on the date of the application, or died before that date and was at death domiciled in the Island;
- (f) where it is alleged that the court has jurisdiction based on habitual residence, which of the parties to the civil partnership to which the application relates has been habitually resident in the Island throughout the period of one year ending with the date of the application, or died before that date and had been habitually resident in the Island throughout the period of one year ending with the date of death;

- (g) where the applicant was not a party to the civil partnership to which the application relates, particulars of the applicant's interest in the determination of the application.
- (2) Where the proceedings are for a declaration that the validity of a dissolution, annulment or legal separation obtained in any country outside the Island in respect of the civil partnership either is or is not entitled to recognition in the Island, the application must in addition state the date and place of the dissolution, annulment or legal separation.
- (3) There must be annexed to the application a copy of the certificate of any civil partnership to which the application relates, or, as the case may be, a certified copy of any order or decree of dissolution or annulment or for legal separation to which the application relates.
- (4) Where a document produced by virtue of paragraph (3) is not in English it must, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.
- (5) The parties to the civil partnership in respect of which a declaration is sought are the applicant for and respondent to the application respectively, unless a third party is applying for a declaration, in which case that party is the applicant and the parties to the civil partnership are the respondents to the application.

93 General provisions as to proceedings under rule 92

- (1) An application under rule 92 must be —
 - (a) supported by an affidavit by the applicant verifying the application and giving particulars of every person whose interest may be affected by the proceedings and such person's relationship to the applicant; and
 - (b) accompanied by the prescribed fee.

Provided that if the applicant is under the age of 18, the affidavit must, unless otherwise directed, be made by the applicant's next friend.

- (2) Where the jurisdiction of the court to entertain an application is based on habitual residence the application must include a statement of the addresses of the places of residence of the person so resident and the length of residence at each place either during the period of one year ending with the date of the application or, if that person is dead, throughout the period of one year ending with the date of death.
- (3) An affidavit for the purposes of paragraph (1) may contain statements of information or belief with the sources and grounds of them.
- (4) A copy of the application and every document accompanying it must be sent by the applicant to the Attorney General at least one month before the

application is filed, and it is not necessary thereafter to serve these documents upon the Attorney General.

- (5) A court officer must send a copy of any answer to the Attorney General if the Attorney General has notified the court that he or she wishes to intervene in the proceedings.
- (6) When all answers to the application have been filed the applicant must issue and serve on all respondents to the application a request for directions as to any other persons who should be made respondents to the application or given notice of the proceedings.
- (7) When giving directions in accordance with paragraph (6) the court must consider whether it is necessary that the Attorney General should argue before it any question relating to the proceedings, and if it does so consider, the Attorney General need not file an answer and the court must give directions requiring the Attorney General to serve on all parties to the proceedings a summary of the Attorney General's argument.
- (8) Persons given notice of proceedings pursuant to directions given in accordance with paragraph (6) are entitled, within 21 days after service of the notice upon them, to apply to the court to be joined as parties.
- (9) The Attorney General may file an answer to the application within 21 days after directions have been given under paragraph (7) and no directions for trial may be given until that period and the period referred to in paragraph (8) have expired.
- (10) The Attorney General, in deciding whether it is necessary or expedient to intervene in the proceedings, may have a search made for, and may inspect and bespeak a copy of, any document filed or filed in the General Registry which relates to any other family proceedings referred to in the proceedings.
- (11) Subject to rule 92 and this rule, these Rules, so far as applicable, apply with the necessary modifications to the proceedings as if they were termination proceedings.

DIVISION 6: FINANCIAL RELIEF AFTER FOREIGN DISSOLUTION

94 **Application for leave under Schedule 7 to the Act (financial relief after dissolution of a civil partnership outside the Island)**

- (1) An application for leave to apply for an order for financial relief under Schedule 7 to the Act must be —
 - (a) made without notice in the approved form;
 - (b) supported by an affidavit by the applicant stating the facts relied on in support of the application with particular reference to the matters set out in paragraph 8(3) of that Schedule; and

- (c) accompanied by the prescribed fee.
- (2) The affidavit in support must give particulars of the judicial or other proceedings by means of which the civil partnership to which the application relates was dissolved or annulled or by which the parties to the civil partnership were legally separated and state, so far as is known to the applicant —
 - (a) the names of the parties to the civil partnership and the date and place of the civil partnership;
 - (b) the occupation and residence of each of the parties to the civil partnership;
 - (c) whether there are any living children of the family and, if so, the number of such children and the full names (including surname) of each and his or her date of birth or, if it be the case, that he or she is over 18;
 - (d) whether either party to the civil partnership has married or entered into another civil partnership;
 - (e) an estimate in summary form of the appropriate amount or value of the capital resources and net income of each party and of any minor child of the family;
 - (f) the grounds on which it is alleged that the court has jurisdiction to entertain an application for an order for financial relief under Schedule 7 to the Act.
- (3) A court officer must fix a date, time and place for the hearing of the application by a judge in private and give notice of it to the applicant.

95 Application for order for financial relief or avoidance of transaction order under Schedule 7 to the Act

- (1) An application for an order for financial relief under Schedule 7 to the Act must be made in the approved form, and at the same time the applicant, unless otherwise directed, must file an affidavit in support of the application giving full particulars of the applicant's property and income.
- (2) Such an application must be accompanied by the prescribed fee.
- (3) The applicant must serve a copy of the application on the respondent and must annex to it a copy of the affidavit in support, if one has been filed, and a notice of proceedings and acknowledgement of service in the approved form, and rule 106 applies to such an acknowledgement of service as if the reference in paragraph (2) of that rule to 14 days was a reference to 21 days.
- (4) Rules 70, 72 and 74 apply, with any necessary modifications, to an application for an order for financial relief under this rule as they apply to an application for financial provision made under rule 66 in the approved

form; and the court may order the attendance of any person for the purpose of being examined or cross-examined and the disclosure and inspection of any document.

- (5) An application for an interim order for maintenance under paragraph 5 of Schedule 7 to the Act or an avoidance of transaction order under paragraph 14 of Schedule 7 to the Act may be made, unless the court otherwise directs, in the application under paragraph (1), and an application for an order under paragraph 14 of that Schedule must be supported by an affidavit, which may be the affidavit filed under paragraph (1), stating the facts relied on.
- (6) If the respondent intends to contest the application the respondent must, within 28 days after the time allowed for giving notice to dispute, file an affidavit in answer to the application setting out the grounds on which he or she relies and serve a copy on the applicant.
- (7) In respect of any application for an avoidance of transaction order the court may give such a direction or make such appointment as it is empowered to give or make by paragraph (4), and rule 72 applies, with any necessary modifications, to an application for an avoidance of transaction order as it applies to an application for an avoidance of disposition order.

PART 6

GENERAL PROCEDURAL PROVISIONS

DIVISION 1: APPLICATION & SERVICE

96 Application

This Part applies to all proceedings in the High Court under the Act, but has effect subject to —

- (a) the provisions of any other Part, and
- (b) where the proceedings relate to any matter under Part 1 or 2 of the *Children and Young Persons Act 2001*, the provisions of Part 2 of the Rules of the High Court (Family Proceedings) 2009²¹.

97 Service on advocate

- (1) Where a document is required by these Rules to be sent to any person who is acting by an advocate, service must, subject to any other direction or order, be effected —

²¹ SD 353/09

- (a) by sending the document by post to the advocate's address for service; or
 - (b) by sending a legible copy of the document by facsimile transmission or e-mail to the advocate's office.
- (2) Where no other mode of service is prescribed, directed or ordered, service may additionally be effected by leaving the document at the advocate's address.

98 Service on litigant in person

- (1) Subject to paragraph (3) and to any other direction or order, where a document is required by these Rules to be sent to any person who is acting in person, service must be effected by sending the document by post to the address given by the person or, if the person has not given an address for service, to the person's last known address.
- (2) Subject to paragraph (3), where no other mode of service is prescribed, directed or ordered, service may additionally be effected by delivering the document to the person to be served or by leaving it at the address mentioned in paragraph (1).
- (3) Where it appears to a judge that it is impracticable to deliver the document to the person to be served and that, if the document were left at, or sent by post to, the address specified in paragraph (1) it would be unlikely to reach the person to be served, the judge may dispense with service of the document.

99 Service out of the Island

- (1) Any document in proceedings to which these Rules apply may be served out of the Island without permission of the court either in the manner prescribed by these Rules or in accordance with Chapter 9 of Part 2 of the Rules of Court.
- (2) Where an application is to be served on a person out of the Island, the time within which that person must acknowledge service or give notice of intention to dispute must be determined by the Chief Registrar, and the notice in the approved form amended accordingly.

DIVISION 2: PERSONS UNDER A DISABILITY

100 Person under disability must sue by next friend, etc.

- (1) In this rule and rule 101 —
“**Part 7**” means Part 7 of the *Mental Health Act 1998*;

“patient” means a person who, by reason of mental disorder within the meaning of the *Mental Health Act 1998*, is incapable of managing and administering his or her property and affairs;

“person under disability” means a person who is a minor or a patient.

- (2) A person under disability may begin and prosecute any proceedings to which these Rules apply by his or her next friend and may defend any such proceedings by his or her guardian ad litem and, except as otherwise provided by this rule, it is not necessary for a guardian ad litem to be appointed by the court.
- (3) No person's name may be used in any proceedings as next friend of a person under disability unless the person is the Attorney General or the documents mentioned in paragraph (8) have been filed.
- (4) Where a person is authorised under Part 7 to conduct legal proceedings in the name of a patient or on the patient's behalf, that person is, subject to paragraph (5), entitled to be next friend or guardian ad litem of the patient in any proceedings to which these Rules apply and to which the person's authority extends.
- (5) Where a person entitled to dispute any proceedings to which these Rules apply is a patient and there is no person authorised under Part 7 to dispute the proceedings in the patient's name or on the patient's behalf, then —
 - (a) the Attorney General, if he or she consents, is to be the patient's guardian ad litem, but at any stage of the proceedings an application may be made on not less than 4 days' notice to the Attorney General for the appointment of some other person as guardian;
 - (b) in any other case, an application may be made on behalf of the patient for the appointment of a guardian ad litem;and the documents mentioned in paragraph (8) must be filed in support of any application under this paragraph.
- (6) Where an application or answer has been served on a person whom there is reasonable ground for believing to be a person under disability and no notice of intention to dispute has been given, or answer or affidavit in answer filed, on behalf of that person, the party at whose instance the document was served must, before taking any further steps in the proceedings, apply to a judge for directions as to whether a guardian ad litem should be appointed to act for that person in the proceedings, and on any such application the judge may, if he or she considers it necessary in order to protect the interests of the person served, order that some proper person be appointed the guardian ad litem of the person served.
- (7) No notice of intention to dispute may be given, or answer or affidavit in answer filed, by or on behalf of a person under disability unless the person giving the notice or filing the answer or affidavit —

- (a) is the Attorney General or, in a case to which paragraph (5) applies, is the Attorney General or has been appointed by the court to be guardian ad litem; or
 - (b) in any other case, has filed the documents mentioned in paragraph (8).
- (8) The documents referred to in paragraphs (3), (5) and (7) are —
 - (a) a written consent to act by the proposed next friend or guardian ad litem;
 - (b) where the person under disability is a patient and the proposed next friend or guardian ad litem is authorised under Part 7 to conduct the proceedings in the name of, or on behalf of the patient, an office copy of the order or other authorisation made or given under Part 7; and
 - (c) except where the proposed next friend or guardian ad litem is authorised as mentioned in sub-paragraph (b), a certificate by the advocate acting for the person under disability —
 - (i) that the advocate knows or believes that the person to whom the certificate relates is a minor or patient, stating (in the case of a patient) the grounds of that knowledge or belief and, where the person under disability is a patient, that there is no person authorised as mentioned in that sub-paragraph, and
 - (ii) that the person named in the certificate as next friend or guardian ad litem has no interest in the case or matter in question adverse to that of the person under disability and is a proper person to be next friend or guardian.

101 Service on person under disability

- (1) Where a document to which Division 3 of Part 3 applies is required to be served on a person under disability, it must be served —
 - (a) in the case of a minor who is not also a patient, on the minor's parent or guardian or, if the minor has no parent or guardian, on the person with whom the minor resides or in whose care the minor is;
 - (b) in the case of a patient —
 - (i) on the person (if any) who is authorised under Part 7 to conduct in the name of the patient or on the patient's behalf the proceedings in connection with which the document is to be served, or
 - (ii) if there is no person so authorised, on the Attorney General if he or she has consented under rule 99 to be the guardian ad litem of the patient, or

- (iii) in any other case, on the person with whom the patient resides or in those care the patient is:

Provided that the court may order that a document which has been, or is to be, served on the person under disability or on a person other than one mentioned in sub- paragraph (a) or (b) be deemed to be duly served on the person under disability.

- (2) Where a document is served in accordance with paragraph (1) it must be endorsed with a notice in the approved form; and after service has been effected the person at whose instance the document was served shall, unless the Attorney General is the guardian ad litem of the person under disability or the court otherwise directs, file an affidavit by the person on whom the document was served stating whether the contents of the document were, or its purport was, communicated to the person under disability and, if not, the reasons for not doing so.

102 Application for nullity order on ground of mental disorder

- (1) Where an application for a nullity order has been made on the ground that at the time of the civil partnership the respondent was suffering from mental disorder within the meaning of the *Mental Health Act 1998* of such a kind or to such an extent as to be unfitted for civil partnership, then, whether or not the respondent gives notice of intention to dispute, the applicant must not proceed with the case without the permission of the court.
- (2) The court may make it a condition of granting permission under paragraph (1) that some proper person be appointed to act as guardian ad litem of the respondent.

103 Guardian ad litem

- (1) Without prejudice to rule 70 (circumstances in which children to be represented separately), if in any proceedings to which these Rules apply it appears to the court that any child ought to be separately represented, the court may appoint —
 - (a) the Attorney General, or
 - (b) some other proper person,(provided, in either case, that the person consents) to be the guardian ad litem of the child, with authority to take part in the proceedings on the child's behalf.
- (2) An order under paragraph (1) may be made by the court of its own motion or on the application of a party to the proceedings or of the proposed guardian ad litem.

- (3) The court may at any time direct that an application be made by a party for an order under paragraph (1) and may stay the proceedings until the application has been made.
- (4) Unless otherwise directed, on making an application for an order under paragraph (1) the applicant must, —
 - (a) unless he or she is the proposed guardian ad litem, file a written consent by the proposed guardian to act as such;
 - (b) unless the proposed guardian ad litem is the Attorney General, file a certificate by an advocate that the proposed guardian has no interest in the proceedings adverse to that of the child and that he is a proper person to be a guardian.
- (5) Unless otherwise directed, a person appointed under this rule to be the guardian ad litem of a child in proceedings to which these Rules apply is to be treated as a party for the purpose of any provision of these Rules requiring a document to be served on or notice to be given to a party to the proceedings.

DIVISION 3: EVIDENCE

104 Evidence by affidavit

- (1) On any application evidence may be given by affidavit unless these Rules otherwise provide or the court otherwise directs, but the court may, on the application of any party, order the attendance for cross-examination of the person making any such affidavit; and where, after such an order has been made, that person does not attend, his or her affidavit must not be used as evidence without the permission of the court.
- (2) Paragraph (1) does not apply to termination proceedings, except proceedings on an application to which Part 4 (applications for financial provision etc) applies.

105 Evidence of civil partnership outside the Island

- (1) The formation of a civil partnership outside the Island and its validity under the law of the country where it was celebrated may, in any proceedings in which the existence and validity of the civil partnership is not disputed, be proved by the evidence of one of the parties to the civil partnership and the production of a document purporting to be —
 - (a) a civil partnership certificate or similar document issued under the law in force in that country; or
 - (b) a certified copy of an entry in a register of civil partnerships kept under the law in force in that country.

- (2) Where a document produced by virtue of paragraph (1) is not in English it must, unless otherwise directed, be accompanied by a translation certified by a notary public or authenticated by affidavit.

DIVISION 4: MISCELLANEOUS

106 Acknowledgement of service

- (1) An acknowledgment of service in the approved form should include a statement as to whether or not the person by whom or on whose behalf it is signed intends to dispute the proceedings to which the acknowledgment of service relates.
- (2) If a person is served with a document requiring or authorising an acknowledgment of service to be returned to the General Registry, the acknowledgment of service must be returned to the General Registry, subject to any other time specified by or in accordance with these Rules, within 14 days beginning with the date the document is served, or such other time as may be fixed by the court and should indicate whether or not the person wishes to dispute the relevant proceedings.
- (3) Subject to the time limits in paragraph (2), a person may file an acknowledgment of service indicating an intention to dispute proceedings, even though the person has already returned to the General Registry an acknowledgment of service which did not give such an indication.

107 Orders for transfer of proceedings

- (1) In this rule “order for transfer” means —
 - (a) an order under paragraph 35(5) of Schedule 5 to the Act that a matter be heard and determined by a court of summary jurisdiction;
 - (b) an order under paragraph 2(2) of Schedule 6 to the Act that an application be reheard and determined by a court of summary jurisdiction.
- (2) The court must not, either of its own motion or on the application of any party, make an order for transfer unless the parties have either —
 - (a) had an opportunity of being heard on the question, or
 - (b) consented to such an order.
- (3) Where the parties, or any of them, desire to be heard on the question of an order for transfer, a court officer must give the parties notice of a date, time and place at which the question will be considered.
- (4) Where an order for transfer is made, a court officer must, unless otherwise directed, give notice of the transfer to the parties.

108 Orders: general

- (1) A court officer must send a copy of every dissolution order, nullity order, separation order or presumption of death order to every party to the proceedings.
- (2) Where any other order made in proceedings to which these Rules apply has been drawn up, a court officer must, unless otherwise directed, send a copy of the order to every party affected by it.
- (3) Where a party against whom the order is made is acting by an advocate, a copy may, if a court officer thinks fit, be sent to that party as if the party were acting in person, as well as to the party's advocate.
- (4) It is not necessary for the person in whose favour the order was made to prove that a copy of the order has reached any other party to whom it is required to be sent.
- (5) A sealed or other copy of an order made in open court must be issued to any person requiring it on payment of the prescribed fee.
- (6) This rule does not limit rule 49 (actions of the court when a provisional order is made final) and rule 63 (orders).

109 No striking out of dormant claim

Rule 2.62 of the Rules of Court (striking out of dormant claim) does not apply to any proceedings to which these Rules apply.

110 Appeals from Chief Registrar or court officer

- (1) Any party may appeal to a judge from an order or decision made or given by the Chief Registrar or a court officer in proceedings to which these Rules apply.
- (2) On hearing an appeal under this rule the judge may exercise his or her own discretion in substitution for that of the Chief Registrar or a court officer.
- (3) Unless the court otherwise orders, any notice under this rule must be issued within 7 days of the order or decision appealed against and served not less than 14 days before the day fixed for the hearing of the appeal.
- (4) Appeals under this rule must be heard in private unless the judge otherwise directs.
- (5) Unless the court otherwise orders, an appeal under this rule does not operate as a stay of proceedings on the order or decision appealed against.

111 Inspection etc of documents retained in court

- (1) Subject to rule 112 —

- (a) a party to any proceedings to which these Rules apply or such a party's advocate, or
- (b) the Attorney General, or
- (c) a person appointed under rule 103 to be the guardian ad item of a child in any proceedings,

may have a search made for, and may inspect and bespeak a copy of, any document filed in those proceedings.

- (2) Any person not entitled to a copy of a document under paragraph (1) who intends to make an application under the Hague Convention in a Contracting State other than the United Kingdom, if he or she satisfies the Chief Registrar that he or she intends to make such an application, is entitled to obtain a copy bearing the seal of the court of any order relating to the custody of the child in respect of whom the application is to be made.

In this paragraph "the Hague Convention" and "Contracting State" have the meanings given by sections 23 and 24 respectively of the *Child Custody Act 1987*²².

- (3) Except as provided by rules 28(7) and 93(10) and paragraphs (1) and (2), no document filed other than an order made in open court shall be open to inspection by any person without the permission of the Chief Registrar, and no copy of any such document, or of an extract from any such document, shall be taken by, or issued to, any person without such permission.
- (4) All documents in termination proceedings brought under section 48(1)(d) or (e) of the Act must, while they are in the custody of the court, be kept in a place of special security.
- (5) This rule is without prejudice to section 12 (prohibitions on disclosure) of the *Gender Recognition Act 2009*.

112 Disclosure of addresses

- (1) Nothing in these Rules is to be construed as requiring any party to reveal the address of his or her private residence (or that of any child) save by order of the court.
- (2) Where a party declines to reveal an address in reliance upon paragraph (1), he or she must give notice of that address to the court in the approved form and that address must not be revealed to any person save by order of the court.

²² AT 11 of 1987

PART 7

AMENDMENT OF RULES OF THE HIGH COURT (MATRIMONIAL PROCEEDINGS) 2023

113 Amendment of Rules of the High Court (Matrimonial Proceedings) 2023

- (1) The Rules of the High Court (Matrimonial Proceedings) 2023²³ are amended as follows.
- (2) In rule 3(1) (interpretation) —
 - (a) in the appropriate place, insert —

“court officer” means an officer of the court (other than a judicial officer);²² and
 - (b) omit the definition of “person named”.
- (3) In rule 10 (making of initial application), after paragraph (5) insert —

“(6) The initial application must be accompanied by the prescribed fee.²²
- (4) In rule 14 (service of initial application) —
 - (a) for “rules 99 and 101” substitute “rules 98 (service on advocate), 100 (service out of the Island) and 102 (service on person under disability)²²; and
 - (b) in paragraph (2)(a), for “rule 100” substitute “rule 101²²”.
- (5) In rule 15 (deemed service and proof of service of initial application) —
 - (a) in paragraph (3), for “him” substitute “that party²²; and
 - (b) in paragraph (5), for “the Chief Registrar” substitute “a court officer²²”.
- (6) In rule 20(1) (joint applications for divorce orders and separation orders: notice of proceedings), for “under rule 14” substitute “in accordance with rule 14²²”.
- (7) In rule 22 (respondent’s statement as to arrangements for children) —
 - (a) in paragraph (1), for “the Chief Registrar” substitute “a court officer²²; and
 - (b) in paragraph (2), for “limited” substitute “allowed²²”.
- (8) In rule 25 (amendment of application and supplemental applications) —
 - (a) in paragraph (4)(b), or “leave” substitute “permission²²; and
 - (b) after paragraph (5), insert —

²³ SD 2023/0135

- 66(6) Rule 9 applies to an amended application or supplemental application as it applies to an initial application. 62.
- (9) In rule 29(1)(b) (application by the respondent), for “under rule 21(6) or (7)” substitute 66 in accordance with rule 21 62.
- (10) In rule 31(3)(b) (making supplemental application and amendment of initial application), after “apply” insert 66 with any necessary modification 62.
- (11) In rule 41(4) (application for re-hearing), for “6 weeks” substitute 66 42 days 62.
- (12) In rule 42(5) (intervention by the Attorney General), for “limited” substitute 66 allowed 62.
- (13) In rule 43(1) (intervention by person other than the Attorney General), after “the provisional order was made” insert 66, and every other party affected by the order 62.
- (14) In rule 45 (making a provisional order final by giving notice) —
- (a) in paragraph (5), for “the Chief Registrar”, in both places, substitute 66 a court officer 62;
 - (b) in paragraph (6)(f), after “(intervention by the Attorney General)” insert 66 or 43 (intervention by a person other than the Attorney General) 62;
 - (c) in paragraph (7), for “the Chief Registrar” substitute 66 a court officer 62.
- (15) In rule 46 (making a provisional order final: other circumstances) —
- (a) in paragraph (4), for “rule 44” substitute 66 rule 45 62; and
 - (b) in paragraph (5), for “the Chief Registrar” substitute 66 a court officer 62.
- (16) In rule 47 (actions of the Chief Registrar when a provisional order is made final) —
- (a) in the heading, for “Chief Registrar” substitute 66 court 62; and
 - (b) in paragraph (1), for “the Chief Registrar” substitute 66 a court officer 62.
- (17) In rule 48(6)(c) (interim and full gender recognition certificates), for “the respondent” substitute 66 the applicant 62.
- (18) In rule 49(1) (annulment orders: filing an answer), for “section 13(1)(g)”, in both places, substitute 66 section 13(1)(d) 62.
- (19) In rule 50(1) (annulment orders: applications by respondent), for “under rule 21(6) and (7)” substitute 66 in accordance with rule 21 62.
- (20) In rule 54 (notice of trial and hearing), for “The Chief Registrar” substitute 66 A court officer 62.

- (21) In rule 56 (separate trial of issue), for “the Chief Registrar” substitute **“a court officer”**.
- (22) In rule 58(3) (procedure for complying with section 25 of the Act), for “the Chief Registrar” substitute **“a court officer”**.
- (23) In rule 59(2) (applications relating to children of the family), for “leave”, in both places, substitute **“permission of the court”**.
- (24) In rule 60 (application under section 9(2) of the Act), for paragraph (1) substitute —
 - “(1) An application under section 9(2) of the Act by a respondent in proceedings for a divorce order for the court to consider the respondent’s financial position after a divorce must be —**
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee. **”**
- (25) In rule 61 (orders), for “the Chief Registrar” substitute **“a court officer”**.
- (26) In rule 62 (financial provision: general), for “section 9(2) of the Act (consideration of certain agreements)” substitute **“section 8 (consideration of certain agreements or arrangements) or 9(2) (protection for respondent) of the Act”**.
- (27) In rule 63 (right to be heard on financial questions) —
 - (a) for “he” substitute **“the respondent”**; and
 - (b) after “his”, insert **“or her”**.
- (28) In rule 64(2)(a), for “Court” substitute **“court”**.
- (29) In rule 65(e) (application by parent, guardian etc for financial provision in respect of children), for “leave” substitute **“permission of the court”**.
- (30) In rule 72(1)(a) (information on application for consent order for financial relief), after “his” insert **“or her”**.
- (31) In rule 73 (investigation of application for financial provision) —
 - (a) in paragraph (8), after “he” insert **“or she”**; and
 - (b) in paragraph (10), for “chambers” substitute **“private”**.
- (32) In rule 79 (pensions) —
 - (a) in paragraph (5), for subparagraphs (b) and (c) substitute —
 - “(b) regulation 5 of and Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996²⁴;**
 - (c) section 94(1)(a) of the Pension Schemes Act 1993 (of Parliament);**

²⁴ SI 1996/1655

- (d) section 94(1)(b) of the Pension Schemes Act 1993 (of Parliament) or paragraph 2(a) (or, where applicable, 2(b)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987²⁵. **22**;
 - (b) in paragraph (10), for “the Chief Registrar”, in both places, substitute **23** a court officer **22**;
 - (c) in paragraph (11)(a), omit “under rule 63(2)(b)”;
 - (d) in paragraph (14)(j), after “his” insert **23** or her **22**.
- (33) In rule 80 (application in case of failure to provide reasonable maintenance), for paragraph (1) substitute —
- 23**(1) Every application under section 38 of the Act must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee. **22**.
- (34) In rule 81 (application for alteration of maintenance agreement during lifetime of parties), for paragraph (1) substitute —
- 23**(1) An application under section 50 of the Act for the alteration of a maintenance agreement must —
 - (a) unless otherwise directed, be in the approved form; and
 - (b) be accompanied by the prescribed fee. **22**.
- (35) In rule 82 (application for alteration of maintenance agreement after death of one party) —
- (a) for paragraph (1), substitute —
 - 23**(1) An application under section 51 of the Act for the alteration of a maintenance agreement after the death of one of the parties must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee. **22**;
 - (b) in paragraph (3)(c)(i), after “he” insert **23** or she **22**; and
 - (c) in paragraph (4), for “rule 82” substitute **23** rule 83 **22**.
- (36) In rule 83 (further proceedings on application under rule 82) —
- (a) in paragraph (3), for “limited” substitute **23** allowed **22**;
 - (b) in paragraph (4), for “paragraph (4)” substitute **23** paragraph (3) **22**; and
 - (c) in paragraph (5), for “limited” substitute **23** allowed **22**.
- (37) In rule 85 (applications under section 128) —
- (a) for paragraph (1) substitute —

²⁵ SI 1987/1110

- (1) Subject to paragraph (2), an application under section 128 of the Act must be —
 - (a) made in the approved form;
 - (b) supported by affidavit; and
 - (c) accompanied by the prescribed fee. **22**;
 - (b) in paragraph (3)(a), for “the title number” substitute **23** the Land Registry title number **22**.
 - (38) In rule 86 (applications under Part 5 of the Act) —
 - (a) for paragraph (4) substitute —
 - (4) An application under paragraph (1), (2) or (3) must be —
 - (a) supported by an affidavit by the applicant; and
 - (b) accompanied by the prescribed fee. **22**; and
 - (b) in paragraph (10), before “landlord” insert **23** mortgagee or the **22**.
 - (39) In rule 87 (hearing of applications under Part 5 of the Act) —
 - (a) in paragraph (1), for “chambers” substitute **23** private **22**; and
 - (b) for paragraph (8) substitute —
 - (8) An application to vary, extend or revoke an order made under Part 5 of the Act must be —
 - (a) made in the approved form; and
 - (b) accompanied by the prescribed fee,
 - and this rule applies to the hearing of such an application. **22**.
 - (40) In rule 88(4)(b)(i) (enforcement of orders made on applications under Part 5 of the Act), after “he” insert **23** or she **22**.
 - (41) In rule 89(3) (bail application), for “the Part 5 order” substitute **23** the order under Part 5 of the Act **22**.
 - (42) In rule 92 (general provisions as to proceedings under rule 90) —
 - (a) in the heading, for “rule 90” substitute **23** rule 91 **22**;
 - (b) for paragraph (1) substitute —
 - (1) An application under rule 91 must be —
 - (a) supported by an affidavit by the applicant verifying the application and giving particulars of every person whose interest may be affected by the proceedings and such person’s relationship to the applicant; and
 - (b) accompanied by the prescribed fee.
- Provided that if the applicant is under the age of 18, the affidavit must, unless otherwise directed, be made by the applicant’s next friend. **22**;

- (c) in paragraph (5), for “The Chief Registrar” substitute **“A court officer”**; and
 - (d) in paragraph (11), for “rule 90” substitute **“rule 91”**.
- (43) In rule 93 (application for leave under section 79) —
 - (a) for paragraph (1) substitute —
 - “(1) An application for leave to apply for an order for financial relief under Part 4 of the Act must be —**
 - (a) made without notice in the approved form;
 - (b) supported by an affidavit by the applicant stating the facts relied on in support of the application with particular reference to the matters set out in section 82(2) of the Act; and
 - (c) accompanied by the prescribed fee. **”**; and
 - (b) in paragraph (3) —
 - (i) for “The Chief Registrar” substitute **“A court officer”**; and
 - (ii) for “chambers” substitute **“private”**.
- (44) In rule 94 (application for order for financial relief or avoidance of transaction order under Part 4) —
 - (a) after paragraph (1) insert —
 - “(1A) Such an application must be accompanied by the prescribed fee. ”**;
 - (b) in paragraph (2) —
 - (i) for “rule 106” substitute **“rule 107”**; and
 - (ii) after “14” insert **“days”**;
 - (c) in paragraph (3) —
 - (i) for “Rules 67, 69 and 71” substitute **“Rules 68, 70 and 72”**; and
 - (ii) for “rule 63” substitute **“rule 64”**.
- (45) In rule 95(2) (application for order under section 89 preventing transaction), for “rule 106” substitute **“rule 107”**.
- (46) In rule 96(1) (consent to marriage of minor), for “chambers” substitute **“private”**.
- (47) In rule 101 (person under disability must sue by next friend, etc.) —
 - (a) in paragraph (1) —
 - (i) for “rule 90” substitute **“rule 102”**; and
 - (ii) in the definition of “patient”, after “his” insert **“or her”**; and
 - (b) in paragraph (2), after “his”, in both places, insert **“or her”**.

- (48) In rule 103 (application for annulment order on ground of mental disorder), for “leave”, in both places, substitute “permission”.
- (49) In rule 105(1) (evidence by affidavit), for “leave” substitute “permission”.
- (50) In rule 107(2) (acknowledgement of service), after “General Registry,” in the first place it occurs, insert “the acknowledgement of service”.
- (51) In rule 108 (orders for transfer of proceedings), for “the Chief Registrar”, in both places, substitute “a court officer”.
- (52) In rule 109 (orders: general) —
 - (a) for the “the Chief Registrar”, in all three places, substitute “a court officer”; and
 - (b) in paragraph (6), for “rule 46” substitute “rule 47”.
- (53) In rule 111 (appeals from Chief Registrar) —
 - (a) in the heading, at the end insert “or court officer”;
 - (b) in paragraphs (1) and (2), after “the Chief Registrar” insert “or a court officer”; and
 - (c) in paragraph (4), for “chambers” substitute “private”.
- (54) In rule 112 (inspection etc of documents retained in court) —
 - (a) in paragraph (1)(c), for “rule 103” substitute “rule 104”;
 - (b) in paragraph (3), for “91(10)” substitute “92(10)”;
 - (c) in paragraph (4), for “section 13(g)” substitute “section 13(1)(g)”.
- (55) In the Schedule (particulars required to be contained in applications unless otherwise directed) —
 - (a) in paragraph 1(n), for “rule 89” substitute “rule 90”; and
 - (b) in paragraph 4(c) —
 - (i) for “sues” substitute “is represented”;
 - (ii) for “suing” substitute “acting”; and
 - (iii) after “he” insert “or she”.

PART 8

AMENDMENT OF RULES OF THE HIGH COURT OF JUSTICE 2009

114 Amendment of the Rules of Court

- (1) The Rules of Court are amended as follows.
- (2) In rule 1.3(2) (application of rules) —
 - (a) in subparagraph (i), for “2022.” substitute “2023;”; and

- (b) after subparagraph (i), insert —
- 14**(j) the Rules of the High Court (Civil Partnership Proceedings) 2023. **22**.

MADE 14 DECEMBER 2023

SCHEDULE 1**PARTICULARS REQUIRED TO BE CONTAINED IN APPLICATIONS UNLESS OTHERWISE DIRECTED**

(Rule 10(2))

- I. Every initial application must state —
 - (a) the names of the civil partners and the date and place of the formation of the civil partnership;
 - (b) the last address at which the civil partners have lived together as such;
 - (c) where it is alleged that the court has jurisdiction based on domicile —
 - (i) the country in which the applicant is domiciled, and
 - (ii) if that country is not the Island, the country in which the respondent is domiciled;
 - (d) where it is alleged that the court has jurisdiction based on habitual residence —
 - (i) the country in which the applicant has been habitually resident throughout the period of one year ending with the date of the application, or
 - (ii) if the applicant has not been habitually resident in the Island, the country in which the respondent has been habitually resident during that period, with details in either case, including the addresses of the places of residence and the length of residence at each place;
 - (e) the occupation and residence of the applicant and the respondent;
 - (f) whether there are any living children of the family and, if so —
 - (i) the number of such children and the full names (including surname) of each and his or her date of birth or (if it be the case) that he or she is over 18, and
 - (ii) in the case of each minor child over the age of 16, whether he or she is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation;
 - (g) whether (to the knowledge of the applicant in the case of a male civil partner, or in the case of a same-sex civil partner), any other child now living has been born to a female civil partner during the civil partnership and, if so, the full names (including surname) of the child and his or her date of birth or, if it be the case, that he or she is over 18;

- (h) if it be the case, that there is a dispute whether a living child is a child of the family;
- (i) whether or not there are or have been any other proceedings in any court in the Island or elsewhere with reference to the civil partnership or to any child of the family or between the applicant and the respondent with reference to any property of either or both of them and, if so —
 - (i) the nature of the proceedings,
 - (ii) the date and effect of any order or decree, and
 - (iii) in the case of proceedings with reference to the civil partnership, whether there has been any resumption of cohabitation since the making of the order or decree;
- (j) whether there are any proceedings continuing in any country outside the Island which relate to the civil partnership or are capable of affecting its validity or subsistence and, if so —
 - (i) particulars of the proceedings, including the court in or tribunal or authority before which they were begun,
 - (ii) the date when they were begun,
 - (iii) the names of the parties,
 - (iv) the date or expected date of any trial in the proceedings, and
 - (v) such other facts as may be relevant to the question whether the proceedings on the application should be stayed under Schedule 2;

and such proceedings shall include any which are not instituted in a court of law in that country, if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status, and shall be treated as continuing if they have been begun and have not been finally disposed of,
- (k) whether any, and if so what, agreement or arrangement has been made or is proposed to be made between the parties for the support of the respondent or, as the case may be, the applicant or any child of the family;
- (l) in the case of an application for a dissolution order, that the civil partnership has broken down irretrievably;
- (m) where the application is not for a dissolution order or a separation order, the ground on which relief is sought, together in any case with brief particulars of the individual facts relied on but not the evidence by which they are to be proved;
- (n) any further or other information required by such of the following paragraphs as may be applicable.

2. An application for a nullity order under section 48(1)(cc), (c) or (e) of the Act must state whether the applicant was at the time of the civil partnership ignorant of the facts alleged.
3. An application for a presumption of death order must state: —
 - (a) the last place at which the civil partners cohabited;
 - (b) the circumstances in which the civil partners ceased to cohabit;
 - (c) the date when and the place where the respondent was last seen or heard of; and
 - (d) the steps which have been taken to trace the respondent.
4. Every application must conclude with —
 - (a) a request setting out particulars of the relief claimed, including any application for an order under any provision of Part 1 or Part 2 of the *Children and Young Persons Act 2001* with respect to a child of the family, any claim for costs and any application for financial provision which it is intended to claim;
 - (b) the names and addresses of the persons who are to be served with the application, indicating if any of them is a person under disability;
 - (c) the applicant's address for service, which, where the applicant is represented by an advocate, shall be the advocate's name or firm and address. Where the applicant, although acting in person, is receiving legal advice from an advocate, the advocate's name or firm and address may be given as the address for service if he or she agrees. In any other case, the applicant's address for service shall be the address of any place in the Island to which documents for the applicant may be delivered or sent.

SCHEDULE 2**STAYING OF TERMINATION PROCEEDINGS**

(Rule 57)

1 Interpretation

(1) In this Schedule —

“another jurisdiction” means any country outside the Island;

“relevant proceedings” means any proceedings so far as they are one or more of the 5 following kinds, namely, proceedings for —

- (a) dissolution of civil partnership;
- (b) separation of civil partners;
- (c) annulment of civil partnership;
- (d) a declaration as to the validity of a civil partnership of the applicant; and
- (e) a declaration as to the subsistence of such a civil partnership; and

“related jurisdiction” means England and Wales, Scotland, Northern Ireland, Jersey or Guernsey (including Alderney and Sark).

- (2) References in this Schedule to the trial or first trial in any proceedings do not include references to the separate trial of an issue as to jurisdiction only.
- (3) For the purposes of this Schedule, proceedings in the High Court are continuing if they are pending and not stayed.
- (4) Any reference in this Schedule to proceedings in another jurisdiction is to —
 - (a) proceedings in a court of that jurisdiction; and
 - (b) proceedings which are not instituted in a court of that jurisdiction but which are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status.
- (5) Proceedings are continuing in another jurisdiction if they are proceedings which have been begun and have not been finally disposed of.

2 Duty to furnish particulars of concurrent proceedings in another jurisdiction

- (1) While relevant proceedings are pending in the court in respect of a civil partnership and the trial or first trial in those proceedings has not begun, it is the duty of any person who is an applicant in the proceedings, or is a respondent and has in his or her answer included a prayer for relief, to

furnish in accordance with this paragraph particulars of any proceedings which —

- (a) he or she knows to be continuing in another jurisdiction; and
 - (b) are in respect of that civil partnership or capable of affecting its validity or subsistence.
- (2) The particulars to be furnished under sub-paragraph (1) are those specified in paragraph 1(j) of Schedule 1.
- (3) Those particular are to be furnished —
- (a) in accordance with rule 10(2), 36(4) or 57(5); or
 - (b) in a separate statement filed and served on every party to the proceedings.

3 Obligatory stays

- (1) Where before the beginning of the trial or first trial in any proceedings for a dissolution order which are continuing in the court it appears to the court on the application of a party to the civil partnership —
- (a) that in respect of the same civil partnership proceedings for a dissolution or annulment of civil partnership are continuing in a related jurisdiction;
 - (b) that the civil partners have resided together after its formation;
 - (c) that the place where they resided together when the proceedings in the court were begun or, if they did not then reside together, where they last resided together before those proceedings were begun, is in that jurisdiction; and
 - (d) that either of the said parties was habitually resident in that jurisdiction throughout the year ending with the date on which they last resided together before the date on which the proceedings in the court were begun,

the court must, subject to paragraph 5(2), order that the proceedings in the court be stayed.

4 Discretionary stays

- (1) Where, before the beginning of the trial or first trial in any relevant proceedings which are continuing in the court, it appears to the court —
- (a) that any proceedings in respect of the civil partnership in question, or capable of affecting its validity or subsistence, are continuing in another jurisdiction; and
 - (b) that the balance of fairness (including convenience) as between the civil partners is such that it is appropriate for the proceedings in that jurisdiction to be disposed of before further steps are taken in

the proceedings in the court or in those proceedings so far as they consist of a particular kind of relevant proceedings,

the court may then, if it thinks fit, order that the proceedings in the court be stayed or, as the case may be, that those proceedings be stayed so far as they consist of proceedings of that kind.

- (2) In considering the balance of fairness and convenience for the purposes of sub-paragraph (1)(b), the court must have regard to all factors appearing to be relevant, including the convenience of witnesses and any delay or expense which may result from the proceedings being stayed, or not being stayed.
- (3) In the case of any proceedings so far as they are proceedings for a dissolution order, the court must not exercise the power conferred on it by sub-paragraph (1) while an application under paragraph 3 in respect of the proceedings is pending.
- (4) If, at any time after the beginning of the trial or first trial in any relevant proceedings which are pending in the court, the court declares by order that it is satisfied that a person has failed to perform the duty imposed on that person in respect of the proceedings by paragraph 2, sub-paragraph (1) has effect in relation to those proceedings, and to the other proceedings by reference to which the declaration is made, as if the words “before the beginning of the trial or first trial” were omitted; but no action lies in respect of the failure of a person to perform such a duty.

5 Revocation of stay

- (1) Where an order staying any proceedings is in force in pursuance of paragraph 3 or 4, the court may, if it thinks fit, on the application of a party to the proceedings, revoke the order if it appears to the court that the other proceedings by reference to which the order was made are stayed or concluded, or that a party to those other proceedings has delayed unreasonably in prosecuting them.
- (2) If the court revokes an order staying any proceedings and made in pursuance of paragraph 3, the court must not again stay those proceedings in pursuance of that paragraph.

6 Financial provision for children

- (1) This paragraph applies where proceedings for a dissolution order, nullity order or separation order are stayed by reference to proceedings in a related jurisdiction for dissolution or annulment of a civil partnership or separation of civil partners.
- (2) In this paragraph —

“lump sum order” means an order for payment of a lump sum made under paragraph 1(1) or (2)(a) of Schedule 5 to the Act in favour of a child of the family of the parties;

“the other proceedings”, in relation to any stayed proceedings, means the proceedings in another jurisdiction by reference to which the stay was imposed;

“relevant order” means —

- (a) an interim maintenance order;
- (b) a periodical payments order or secured periodical payments order made under paragraph 1(1) or (2)(a) of Schedule 5 to the Act in favour of a child of the family of the parties;
- (c) an order under section 11 of the Children and Young Persons Act 2001 (residence, contact etc.), including (except for the purposes of paragraphs (5) to (7)) an order restraining a person from removing a child out of the Island or out of the case of another person;

“stayed” means stayed in pursuance of this Schedule.

(3) Where any proceedings are stayed, then, without prejudice to the effect of the stay apart from this paragraph —

- (a) the court does not have power to make a relevant order or lump sum order in connection with the stayed proceedings except in pursuance of sub-paragraph (4); and
- (b) subject to sub-paragraph (4), any relevant order made in connection with the stayed proceedings shall, unless the stay is previously removed or the order previously revoked, cease to have effect on the expiration of the period of 3 months beginning with the date on which the stay was imposed.

(4) If the court considers that, for the purpose of dealing with circumstances needing to be dealt with urgently, it is necessary during or after the period mentioned in sub-paragraph (3)(b) to make a relevant order or a lump sum order in connection with the stayed proceedings or to extend or further extend the duration of a relevant order made in connection with the stayed proceedings, the court may do so and the order shall not cease to have effect by virtue of sub-paragraph (3)(b).

(5) Sub-paragraph (6) applies where —

- (a) any proceedings are stayed; and
- (b) at the time when the stay is imposed an order is in force, or at a subsequent time an order comes into force, which —
 - (i) was made in connection with the other proceedings; and
 - (ii) provides for periodical payments for a party to the civil partnership in question, periodical payments for a child or any matter in relation to which an order under section 11 of

the Children and Young Persons Act 2001 may be made with respect to a child.

- (6) Where this sub-paragraph applies, on the imposition of the stay in a case where the order is in force when the stay is imposed, and on the coming into force of the order in any other case —
- (a) any relevant order made in connection with the stayed proceedings shall cease to have effect in so far as it makes for a civil partner or child any provision for any of those matters as respects which the same or different provision for that civil partner or child is made by the other order;
 - (b) the court shall not have power in connection with the stayed proceedings to make a relevant order containing for a civil partner or child provision for any of those matters as respects which any provision for that civil partner or child is made by the other order; and
 - (c) if the other order contains provision for periodical payments for a child, the court shall not have power in connection with the stayed proceedings to make a lump sum order for that child.
- (7) Where a secured periodical payment order (within the meaning of Schedule 5 to the Act) made under paragraph 1(1) or (2)(a) of that Schedule in favour of a child of the family of the parties ceases to have effect by virtue of sub-paragraph (3) or (6), any sale of property order made under paragraph 9 of that Schedule which requires the proceeds of sale of property to be used for securing periodical payments under the first-mentioned order shall also cease to have effect.

7 Restriction on stay in certain cases

- (1) If any proceedings are stayed so far as they consist of relevant proceedings of a particular kind but are not stayed so far as they consist of relevant proceedings of a different kind, paragraph 6(3) to (6) shall not apply to the proceedings but, without prejudice to the effect of the stay apart from this paragraph, the court shall not have power to make a relevant order or a lump sum order in connection with the proceedings so far as they are stayed.
- (2) In this paragraph references to relevant proceedings do not include proceedings for a declaration.

8 Savings

Nothing in paragraph 6 or 7 affects any power of the court —

- (a) to vary or revoke a relevant order so far as the order is for the time being in force; or

- (b) to enforce a relevant order as respects any period when it is or was in force; or
- (c) to make a relevant order or a lump sum order in connection with proceedings which were but are no longer stayed.

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.