

LN260E

L.N. 270 of 2001

Matrimonial Causes (Amendment) Rules 2001

(Made under section 54 of the Matrimonial Causes Ordinance (Cap. 179))

1. Commencement

These Rules shall come into operation on a day to be appointed by the Secretary for Home Affairs by notice published in the Gazette.

2. Directions for trial; the entry of joint application

Rule 33(2A) of the Matrimonial Causes Rules (Cap. 179 sub. leg.) is amended--

(a) by repealing everything before "then" and substituting---

"(2A) Where a cause is an undefended cause begun by petition for divorce or judicial separation pending in a district court,";

(b) in subparagraph (i), by repealing "or 21(4)" and substituting ", 21(4) or 21(7)".

3. Disposal of causes in special procedure list

Rule 47A(1)(a) is amended by repealing everything before "the registrar" and substituting---

"(a) if he is satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a decree and any costs for which he prays,".

4. Abridgement etc. of time

Rule 113 is amended by repealing everything after "writing" and substituting a full stop.

5. Forms

The Appendix is amended---

(a) in Form 21(1)---

(i) by repealing the table and substituting---

"

QUESTION ANSWER

About the divorce/judicial separation petition

1. Have you read the petition filed in this case?

2. Do you wish to alter anything in the petition or add anything to it? If so, state the alterations or additions.

3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.
4. State briefly your reasons for saying that the respondent has committed the adultery alleged.
5. On what date did it first become known to you that the respondent had committed the adultery alleged?
6. Do you find it intolerable to live with the respondent?
7. Since the date given in the answer to Question 5, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.

About the children of the family

8. Have you read the Statement as to Arrangements for Children filed in this case?
9. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.
10. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

(ii) after the table, in paragraph 2, by repealing "7" and substituting "10";

(b) in Form 21(2)---

(i) by repealing the table and substituting---

"

QUESTION ANSWER

About the divorce/judicial separation petition

1. Have you read the petition filed in this case?

2. Do you wish to alter anything in the petition or add anything to it? If so, state the alterations or additions.

3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.

4. State the date on which you and the respondent began to separate, and, if different, the date on which the alleged desertion began. At that time, did you agree to the separation?

5. State briefly the facts you rely on in support of the allegation that the respondent deserted you, and your reason for saying that the desertion continued up to the presentation of the petition.

6. Did the respondent ever offer to resume cohabitation?

7. State as far as you know the various addresses at which you and the respondent have respectively lived since the last date given in the answer to Question 4, and the periods of residence at each address:

Petitioner's Address	Respondent's Address
From	From
to	to

8. Since the last date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.

- About the children of the family

9. Have you read the Statement as to Arrangements for Children filed in this case?

10. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.

11. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

(ii) after the table, in paragraph 2, by repealing "8" and substituting "11";

(c) in Form 21(3)---

(i) by repealing the table and substituting---

"

QUESTION ANSWER

About the divorce/judicial separation petition

1. Have you read the petition filed in this case?
2. Do you wish to alter anything in the petition or add anything to it? If so, state the alterations or additions.
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.
4. State the date on which you and the respondent began to separate.
5. State briefly the reason or main reason for the separation.
6. State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.
7. State as far as you know the various addresses at which you and the respondent have respectively lived since the date given in the answer to Question 4, and the periods of residence at each address:

Petitioner's Address	Respondent's Address
From	From
to	to
8. Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.

About the children of the family

9. Have you read the Statement as to Arrangements for Children filed in this case?
10. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.
11. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

- (ii) after the table, in paragraph 2, by repealing "8" and substituting "11";
 - (d) in Form 21(4)---
 - (i) by repealing the table and substituting---
- "

QUESTION ANSWER

About the divorce/judicial separation petition

1. Have you read the petition filed in this case?
2. Do you wish to alter anything in the petition or add anything to it? If so, state the alterations or additions.
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.
4. State the date on which you and the respondent began to separate.
5. State briefly the reason or main reason for the separation.
6. State the date when and the circumstances in which you came to the conclusion that the marriage was in fact at an end.
7. State as far as you know the various addresses at which you and the respondent have respectively lived since the date given in the answer to Question 4, and the periods of residence at each address:

Petitioner's Address	Respondent's Address
From	From

to to

8. Since the date given in the answer to Question 4, have you ever lived with the respondent in the same household? If so, state the addresses and the period or periods, giving dates.

About the children of the family

9. Have you read the Statement as to Arrangements for Children filed in this case?

10. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.

11. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

(ii) after the table, in paragraph 2, by repealing "8" and substituting "11";
(e) in Form 21(5)---

(i) by repealing the table and substituting---

"

QUESTION ANSWER

About the divorce application

1. Have you read the application filed in this case?

2. Do you wish to alter anything in the application or add anything to it? If so, state the alterations or additions.

3. Subject to these alterations and additions (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.

4. State the date on which you both began to separate.

5. State briefly the reason or main reason for the separation.

6. State the date when and the circumstances in which you both came to the conclusion that the marriage was in fact at an end.

7. State as far as you know the various addresses at which each of you have respectively lived since the date given in the answer to Question 4, and the periods of residence at each address:

1st Applicant's Address	2nd Applicant's Address
From	From
to	to

8. Since the date given in the answer to Question 4, have you both ever lived together in the same household? If so, state the addresses and the period or periods, giving dates.

About the children of the family

9. Have you read the Statement as to Arrangements for Children filed in this case?

10. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.

11. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

(ii) after the table, in paragraph 2, by repealing "8" and substituting "11";
(f) in Form 21(6)---

(i) by repealing the table and substituting---

"

QUESTION ANSWER

About the divorce application

1. Have you read the application filed in this case?

2. Do you wish to alter anything in the application or add anything to it? If so, state the alterations or additions.

3. Subject to these alterations and additions (if any), is everything stated in your application true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.
4. State the date when and the circumstances in which you both came to the conclusion that the marriage was in fact at an end.

About the children of the family

5. Have you read the Statement as to Arrangements for Children filed in this case?
6. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.
7. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

";

- (ii) after the table, in paragraph 2, by repealing "4" and substituting "7";
- (g) by adding---

"Form 21(7) [Rule 33(2A)]

Affidavit by Petitioner in Support of Petition under Section 11A(2)(b)
of Matrimonial Causes Ordinance
[Heading as in Form 3]

QUESTION ANSWER

About the divorce/judicial separation petition

1. Have you read the petition filed in this case including what is said about the respondent's behaviour?
2. Do you wish to alter anything in the petition or add anything to it? If so, state the alterations or additions.
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge, indicate this and say whether it is true to the best of your information and belief.

4. (i) Is the respondent's behaviour as set out in the petition continuing?
(ii) If the respondent's behaviour is not continuing, what was the date of the final incident relied upon by you in the petition?

5. (i) Since the date given in the answer to Question 4 or, if no date is given in answer to that question, since the date of the petition, have you ever lived at the same address as the respondent for a period of more than 6 months, or for periods which together amount to more than 6 months?

(ii) If so, state the addresses and the period or periods, giving dates to the best of your information and belief, and describe the arrangements for sharing the accommodation.

[State:

- whether you have shared a bedroom;
- whether you have taken your meals together;
- what arrangements you have made for cleaning the accommodation and other domestic tasks;
- what arrangements you have made for the payment of household bills and other expenses.]

About the children of the family

6. Have you read the Statement as to Arrangements for Children filed in this case?

QUESTION ANSWER

7. Do you wish to alter anything in the Statement as to Arrangements for Children or add anything to it? If so, state the alterations or additions.

8. Subject to these alterations and additions (if any), is everything stated in the Statement as to Arrangements for Children true and correct to the best of your information and belief?

I, (full name)

of (full residential address)

(occupation)

make oath/do solemnly, sincerely and truly affirm and say as follows---

1. I am the petitioner in this cause.
2. The answers to Questions 1 to 8 above are true.
3. (1) I identify the

signature

(2) appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the respondent in this cause.

4. (3)

5. I ask the Court to grant a decree dissolving my marriage with the respondent (4) on the grounds stated in my petition [and to order the respondent to pay the costs of this suit] (5).

Sworn/Affirmed at

this day of .

Before me,

(1) Delete if the acknowledgement of service is signed by a solicitor or no acknowledgement of service has been filed.

(2) Insert name.

(3) Exhibit any other documents on which the petitioner wishes to rely.

(4) If the petitioner seeks a judicial separation, amend accordingly.

(5) Delete if costs are not sought.

A Commissioner for Oaths."

Andrew LI

Chief Justice

4 December 2001

Explanatory Note

These Rules amend the Matrimonial Causes Rules (Cap. 179 sub. leg.) ("the Rules")---

(a) to provide for all undefended causes begun by petitions for divorce and judicial separation to be entered in the special procedure list whereas before the amendments not all such undefended causes could be entered in that list (rules 2(a) and 3);

(b) to revise existing forms of affidavits in support of petitions or applications for divorce and judicial separation and add a new form of affidavit consequent upon amendments mentioned in paragraph (a) (rules 2(b) and 5);

(c) to allow the District Court to grant an application for extension of time under the Rules even though the time for making the application has expired (rule 4).