

LAWS OF GUYANA

MATRIMONIAL CAUSES ACT

CHAPTER 45:02

Act

34 of 1919

Amended by

1	of	1951	O. 1/1977
34	of	1951	O. 6/1986
45	of	1952	

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1929 Ed.  
c. 143  
1953 Ed.  
c. 166

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**CHAPTER 45:02**  
**MATRIMONIAL CAUSES ACT**

34 of 1916

**An Act to determine the laws and procedure of Divorce and  
Matrimonial Causes and of Declarations of Legitimacy.**

[30<sup>TH</sup> DECEMBER, 1916]

**PART I**

Short title.

**1.** This Act may be cited as the Matrimonial Causes Act.

Jurisdiction.  
[1 of 1951  
34 of 1951]

**2.** (1) Subject to any Act, the High Court (hereafter in

this Act called “the Court”) shall exercise all jurisdiction in respect of divorces and other matrimonial causes and disputes, and in respect of declarations as to the legitimacy of a child, and as to the validity of any marriage under this or any other Act or under the common law, in as full and complete a manner as it has hitherto exercised jurisdiction in divorce and matrimonial causes under the Roman-Dutch common law, and that jurisdiction shall be exercised in the same manner and in accordance with the same principles and rules as jurisdiction in those matters was exercised by the Supreme Court of British Guiana immediately before 26th May, 1966, subject to any rules of court made under this Act or the High Court Act, hereafter in this Act called “the rules.”

c. 3:02

Extension of  
jurisdiction.  
[1 of 1951  
34 of 1951]

(2) Anything in the provisions of subsection (1) of this section to the contrary notwithstanding, the Court shall have jurisdiction to hear and determine any petition for divorce presented by a wife on the ground of malicious desertion where the petitioner was, immediately before the marriage, domiciled in Guyana.

Decree of  
judicial  
separation.

3. (1) A decree of judicial separation (which shall have the effect of a divorce *a mensa et thoro* under the existing law and other legal effect in this Act mentioned), may be obtained, either by the husband or the wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards.

(2) Application for restitution of conjugal rights or for judicial separation on any of the grounds aforesaid may be made by either husband or wife by petition to the Court in accordance with the rules, and the Court to which the petition is addressed, on being satisfied that the allegations therein contained are true and that there is no legal ground why the prayer should not be granted, may decree restitution of conjugal rights or judicial separation accordingly and, where the application is by the wife, may make any order for alimony deemed just.

Order for  
protection of  
wife's property.

4. (1) A wife deserted by her husband may at any time after the desertion, if resident within Guyana, apply to a magistrate or to the Court, for an order to protect any money or property she acquires by her own lawful industry, and property of which she becomes possessed, after the desertion, against her husband or his creditors, or any person claiming under him.

(2) The magistrate or the Court, if satisfied of the fact of desertion and that it was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting from her husband and all creditors and persons claiming under him her earnings and property acquired since the commencement of the desertion, and those earnings and property shall belong to the wife as if she were a *femme sole*:

Provided that—

- (a) the order, if made by a magistrate, shall within ten days after it is made be entered with the Registrar of the Court, and the husband, and any creditor or other person claiming under him, may apply to the Court, or to the magistrate by whom the order was made, for its discharge; and
- (b) if the husband or any creditor of, or person claiming under, the husband seizes or continues to hold any property of the wife after notice of the order, he shall be liable at the suit of the wife (which she is hereby empowered to institute) to restore the specific property, and also for a sum equal to double the value of the

property so seized or held after the notice.

(3) If an order of protection is made, the wife during the continuance thereof shall be and be deemed to have been, during the desertion of her, in the same position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

(4) Where an order of protection has been made the husband or creditor may apply to the Court, or to the magistrate for the time being exercising jurisdiction in the district in which the order has been made, and the Court, whether it has itself made the order or not, or the magistrate, may discharge the order.

Reversal of  
decree of  
judicial  
separation.

5. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may at any time thereafter present a petition to the Court, praying for a reversal thereof on the ground that it was obtained in his or her absence, and that there was reasonable ground for the alleged desertion, where desertion was the ground of the decree; and the Court, on being satisfied of the truth of the allegations of the petition, may order the decree to be reversed accordingly; but the reversal shall not prejudice or affect the rights or remedies which any other person would have had if it had not been ordered, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the decree of separation and of the order of reversal.

Payment of  
alimony to wife  
or to her  
trustee.

6. Whenever the Court makes any order for alimony, it may direct the alimony to be paid either to the wife herself or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions to the Court seeming expedient, and may from time to time appoint a new

trustee, if for any reason it appears expedient to the Court to do so.

Property acquired by wife after judicial separation. [45 of 1952]

7. In every case of judicial separation as from the date of the decree and so long as the separation continues, any property which is acquired by or devolves upon the wife shall not be affected by any restraint upon anticipation attached to the enjoyment by the wife of any property under any settlement, agreement for a settlement, will, or other instrument; and if she dies intestate such property shall devolve as if her husband had been then dead.

Husband's liability for necessaries. [45 of 1952]

8. In every case of judicial separation if alimony has been ordered to be paid and has not been duly paid by the husband he shall be liable for necessaries supplied for the use of the wife.

Petition for dissolution of marriage. [1 of 1951]

9. (1) A petition for divorce may be presented to the Court either by the husband or the wife on the ground that the respondent—

- (a) has since the celebration of the marriage been guilty of adultery or malicious desertion with or without adultery; or
- (b) has since the celebration of the marriage treated the petitioner with cruelty; or
- (c) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition, and by the wife on the ground that her husband has, since the celebration of the marriage been guilty of rape,



sodomy or bestiality.

Definition of  
"care and  
treatment" in  
relation to  
insanity.

(2) For the purposes of subsection (1) a person of unsound mind shall be deemed to be under care and treatment—

c. 140.  
1953 Ed. c.

(a) while he is detained in the Mental Hospital under section 12 or section 13 of the Mental Hospital Act; or

(b) during such time as he is receiving treatment as a voluntary patient in the Mental Hospital under section 14 of the Mental Hospital Act; or

c. 10:01

(c) is being dealt with as a lunatic under section 179 of the Criminal Law (Procedure) Act.

c. 3:05

(3) Notwithstanding any provision to the contrary in any previous Act, a petition may be presented under this section notwithstanding that a decree or order for judicial separation has been obtained from the Court or from a court of summary jurisdiction under section 36 of the Summary Jurisdiction (Magistrates) Act and remains undischarged, but the leave of the Court shall be first obtained.

(4) The Court on the application of a petitioner or respondent under the rules, and after giving both parties an opportunity to be heard by affidavit or otherwise, may make any preliminary order if it thinks fit as to the payment of all or part of the costs of proceedings by either party.

Co-  
respondents.

(5) Upon the petition presented by a husband the petitioner shall make the alleged adulterer a co-respondent thereto, unless on special grounds allowed by the Court he is excused from so doing; and on every petition presented by a wife for dissolution of marriage the Court, if it sees fit, may

direct that the person with whom the husband is alleged to have committed adultery be made a co-respondent.

Facts of which court must satisfy itself.

(6) Upon the petition, it shall be the duty of the Court to satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to or conniving at the adultery or has condoned it, and shall also inquire into any counter-charge made against the petitioner.

When court shall dismiss petition.

10. (1) If the Court, on the evidence in relation to the petition, is not satisfied that the alleged adultery has been committed, or finds that the petitioner has during the marriage been accessory to or conniving at the adultery of the other party to the marriage, or has condoned the adultery charged, or that the petition is presented or prosecuted in collusion with either of the respondents, then and in any of those cases the Court shall dismiss the petition.

When court shall pronounce decree for dissolution of marriage.

(2) If the Court is satisfied on the evidence that the case of the petitioner has been proved, and does not find that the petitioner has been in any manner accessory to or conniving at the adultery of the other party to the marriage, or has condoned the adultery charged, or that the petition is presented or prosecuted in collusion with either of the respondents, then the Court shall pronounce a decree declaring the marriage to be dissolved:

Provided that the Court shall not be bound to pronounce the decree if it finds that the petitioner has during the marriage been guilty of adultery, or if the petitioner, in the opinion of the Court, has been guilty of unreasonable delay in presenting or prosecuting the petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery charged, and without reasonable excuse or of wilful neglect or misconduct which has conduced to the adultery.

Direction that papers be sent to the Attorney-General

11. In every case of a petition for a dissolution of marriage the Court if it sees fit may direct all necessary papers in the cause to be sent to the Attorney-General, who may appear in person or may instruct counsel to argue before the Court any question in relation to the matter, and which the Court deems it necessary or expedient to have fully argued; and the Attorney-General shall be entitled to charge and be reimbursed the costs of any proceeding in the matter as part of the expenses of his office.

Decree *nisi* in the first instance, etc. [1 of 1951]

12. (1) Every decree for a divorce or for nullity of marriage shall be in the first instance a decree *nisi*, not to be made absolute till after the expiration of six weeks; and during that period any person shall be at liberty, in the manner the Court by general or special order in that behalf from time to time directs, to show cause why the decree should not be made absolute by reason of its having been obtained by collusion, or by reason of material facts not brought before the Court.

(2) On cause being so shown, the Court shall deal with the case by making the decree absolute or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may require.

(3) Where a decree *nisi* has been obtained, whether before or after the coming into force of this subsection, and no application for the decree to be made absolute has been made by the party who obtained the decree, then at any time after the expiration of three weeks from the earliest date on which that party could have made such an application, the party against whom the decree *nisi* has been granted shall be at liberty to apply to the Court, and the Court shall, on such application, have power to make the decree absolute, reverse the decree *nisi*, require further inquiry or otherwise deal with the case as the Court thinks fit.

(4) At any time during the progress of the cause or before the decree is made absolute, anyone may give information to the Attorney- General of any matter material to the due decision of the cause, who may thereupon take the steps he deems necessary or expedient.

Intervention of  
Attorney-  
General.

(5) If from that information or otherwise the Attorney-General suspects that any parties to the cause are or have been acting in collusion for the purpose of obtaining a divorce contrary to the justice of the case, he may by leave of the Court intervene in the cause, alleging that collusion, and retain counsel and summon witnesses to prove it; and the Court may order the costs of the counsel and witnesses, and otherwise arising from the intervention, to be paid by the parties or any of them it sees fit, including a wife if she has separate property, and if the Attorney-General is not thereby fully satisfied his reasonable costs, he shall be entitled to charge and be reimbursed the difference as part of the expenses of his office.

Relief to  
respondent in  
certain cases.

13. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of a suit instituted by a husband, of his adultery, cruelty, or desertion, or, in case of a suit instituted by a wife, on the ground of her adultery or cruelty, the Court may in the suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled if he or she had presented a petition seeking that relief.

Maintenance  
and alimony.

14. (1) The Court if it thinks fit, on any decree for dissolution or nullity of marriage, may order that the husband shall to the satisfaction of the Court secure to the wife that gross sum of money or that annual sum of money for any term not exceeding her life which, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it deems reasonable, and for that purpose may refer the matter to the Registra to settle and approve of a proper deed or instrument to be executed by all

necessary parties, and the Court if it thinks fit may suspend the pronouncement of its decree until that deed has been duly executed.

(2) In that case the Court if it thinks fit may make an order on the husband for payment to the wife during their joint lives of any monthly or weekly sum for her maintenance and support the Court thinks reasonable, and that order may be made either in addition to or instead of an order under the preceding subsection:

Provided that—

- (a) if the husband afterwards from any cause becomes unable to make those payments the Court may discharge or modify the order or temporarily suspend it as to the whole or any part of the money so ordered to be paid, and again revive the order wholly or in part as the Court thinks fit; and,
- (b) where the Court has made any order mentioned in this subsection and is satisfied that the means of the husband have increased, the Court if it thinks fit may increase the amount payable under the order.

(3) In any suit for dissolution or nullity of marriage the Court shall have the same power to make interim orders for payment of money, by way of alimony or otherwise, to the wife as it has in a suit instituted for judicial separation.

Intervention on terms.

**15.** In every case not already provided for by law in which anyone is charged with adultery with any party to a suit, or in which the Court considers, in the interest of anyone not already a party to the suit, that that person should be

made a party thereto, the Court if it thinks fit may allow that person to intervene upon any terms the Court thinks just.

Division of property where marriage in community or by antenuptial contract.

16. On any decree for dissolution or nullity of marriage, or judicial separation, the Court, where the marriage has been in community of goods or by antenuptial contract, may make any order for the division of the property subject to the community or to the antenuptial contract that seems equitable.

Claim for damages from adulterer.

17. (1) A husband, either in a petition for dissolution of marriage or for judicial separation, or in a petition limited to this object only, may claim damages from any person on the ground of his having committed adultery with the wife of the petitioner; and the petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with that service or directs some other service to be substituted; and in the absence of any rules of court the claim made by the petition shall be heard and tried on the same principles, in the same manner, and subject to the same or the like rules as those petitions were heard and determined in the Supreme Court of British Guiana immediately before 26th May, 1966, and all the enactments herein contained with reference to the hearing and determination of petitions to the Court, so far as necessary, shall be deemed applicable to the hearing and determination of petitions presented under this enactment.

(2) The damages to be recovered on the petition shall in all cases be fixed by the Court, although the respondents or either of them do not appear; and after judgment has been given the Court shall have power to direct in what manner the damages shall be paid or applied, and to direct that the whole or any part thereof shall be settled for the benefit of the children (if any) of the marriage, or as a provision for the maintenance of the wife.

Payment of costs by adulterer.

18. Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent and the

adultery has been established, the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Orders as to custody of children.

**19.** In any suit or other proceeding for a decree of judicial separation, or nullity of marriage, or dissolution of marriage, the Court may from time to time, before making the final decree, make any interim orders and provisions in the final decree it deems just and proper, with respect to the custody, maintenance and education of the children of the marriage of whose parents is the subject of the suit or other proceeding, and may give any further or other directions it deems advisable as guardian paramount of all infants.

Affidavit in support of petition.

**20.** (1) Everyone seeking a decree of nullity of marriage, or of judicial separation, or dissolution of marriage, or in a suit for jactitation of marriage, together with the petition therefor, shall file an affidavit verifying the petition so far as he or she is able to do so, and stating that there is not any collusion or connivance between the deponent and the other party to the marriage.

Service of petition.

(2) The petition shall be served on the party to be affected thereby, either within or without the Commonwealth, in the manner the Court by any general or special order from time to time directs; but the Court may dispense with the service altogether if it seems necessary or expedient to do so.

Examination of petitioner.

**21.** The Court, if it thinks fit, may order the attendance of the petitioner and examine him or her, or permit him or her to be examined or cross-examined on oath on the hearing of any petition; but the petitioner shall not be bound to answer any question tending to show that he or she has been guilty of adultery.

Adjournment.

**22.** The Court may from time to time adjourn the hearing of a petition and require further evidence thereon, if it

sees fit to do so.

Mode of taking  
evidence.

23. Subject to the rules the witnesses in all proceedings before the Court, where their attendance can be had, shall be sworn and examined orally in open court:

Provided that parties, except as hereinbefore provided, shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every affidavit shall be, on the application of the opposite party or by direction of the Court, subject to be cross-examined by or on behalf of the opposite party orally in open court, and after the cross-examination may be re-examined orally in open court as aforesaid by or on behalf of the party by whom the affidavit was filed.

Attendance of  
witnesses in  
court.

24. The Court may under its seal issue writs of subpoena *ad testificandum* or subpoena *duces tecum*, commanding the attendance of witnesses at the time and place therein expressed; and those writs may be served in any part of Guyana; and everyone served with the writ shall be bound to attend and to be sworn and give evidence in obedience thereto, in the same manner as if it had been a writ of subpoena issued in any other cause pending in the Court.

Liberty to  
parties to  
marry again.

25. When the time for appealing against a decree for dissolution of marriage has expired and no appeal has been presented against it, or when an appeal has been dismissed, or when as the result of an appeal any marriage is declared to be dissolved, but not sooner, the respective parties thereto may marry again as if the prior marriage had been dissolved by death.

Periodical  
payments in  
lieu of  
attachment.

26. (1) Where a petition for restitution of conjugal rights is presented by the wife the Court, at the time of making the decree, or at any time afterwards, may order that in the event of the decree not being obeyed within any time in that behalf limited by the Court the respondent shall make to



the petitioner any periodical payments that may be just, and the order may be enforced in the same prior manner as an order for alimony in a suit for judicial separation.

(2) The Court, if it thinks fit, may order that the husband shall to the satisfaction of the Court secure to the wife those periodical payments and for that purpose may refer the matter to the Registrar of the Court to settle and approve of a proper deed or instrument to be executed by all necessary parties.

Settlement of  
wife's property.

**27.** Where the petition for restitution of conjugal rights is presented by the husband, if it is made to appear to the Court that the wife is entitled to any property, either in possession or reversion, or is in receipt of profits of trade or earnings, the Court, if it thinks fit, may order a settlement to be made to the satisfaction of the Court of that property, or any part thereof, for the benefit of the petitioner and of the children of the marriage, or either or any of them, or may order that part which the Court thinks reasonable of the profits of trade or earnings to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the children of the marriage, or either of them.

Power to vary  
orders.

**28.** The Court may from time to time vary or modify any order for the periodical payment of money, either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid, and again revive the order wholly or in part, as the Court thinks just.

Non-  
compliance  
with decree for  
restitution  
deemed to be  
desertion.  
[1 of 1951]

**29.** (1) If the respondent fails to obey a decree of the Court for restitution of conjugal rights he or she shall thereupon be deemed to have been guilty of desertion without reasonable cause, and a suit for judicial separation may be forthwith instituted, and a decree of judicial

separation may be pronounced although the period of two years may not have elapsed since the failure to obey the decree for restitution of conjugal rights.

(2) When any husband who has been guilty of desertion by failure on his part to obey a decree for restitution of conjugal rights has also been guilty of adultery, the wife may forthwith present a petition for dissolution of her marriage, and the Court may pronounce a decree *nisi* for the dissolution of the marriage on the grounds of adultery coupled with desertion.

Custody of children.

30. The Court, at any time before final decree on any petition for restitution of conjugal rights, or after final decree if the respondent fails to comply therewith, upon application for that purpose, may make from time to time all the orders and provisions with respect to the custody, maintenance, and education of the children of the petitioner and respondent which might have been made by interim orders during the pendency of a trial for judicial separation between the same parties.

Appeal.

31. An appeal shall lie from any decision of the Court under this Act in the same manner as from any other decision of the Court.

## PART II

Declaration of legitimacy or of validity of marriage.

32. (1) Any Commonwealth citizen or anyone whose right to be deemed a citizen of Guyana or a Commonwealth citizen depends wholly or in part on his legitimacy or on the validity of a marriage, being domiciled in Guyana, or claiming any movable or immovable property situate therein, may apply by petition to the Court praying for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother, or of his grandfather and grandmother, was a valid marriage, or for a decree declaring either of the matters aforesaid; and any

subject or person aforesaid, being so domiciled or claiming as aforesaid, may in like manner apply to the Court for a decree declaring that his marriage was or is a valid marriage.

(2) The Court shall have jurisdiction to hear and determine the application and to make a decree declaratory of the legitimacy or illegitimacy of that person, or the validity or invalidity of that marriage, as to the Court seems just; and the decree, except as hereinafter mentioned, shall be binding to all intents and purposes on the State and on all persons whomsoever.

Declaration of right to be deemed a natural-born subject.

**33.** Anyone, being so domiciled or claiming as aforesaid, may apply by petition to the Court for a decree declaratory of his right to be deemed a citizen of Guyana or a Commonwealth citizen; and the Court shall have jurisdiction to hear and determine the application and to make any decree thereon to the Court seeming just; and where the application last aforesaid is made by the person making an application for a decree declaring his legitimacy or the validity of a marriage, both applications may be included in the same petition; and every decree made by the Court, except as hereinafter mentioned, shall be valid and binding to all intents and purposes upon the State and all persons whomsoever.

Affidavit to accompany petition.

**34.** Every petition under section 32 shall be accompanied by such affidavit verifying the petition and of the absence of collusion as the Court by any general rule directs.

Power to award and enforce payment of costs.

**35.** In all proceedings under section 33 the Court shall have full power to award and enforce payment of costs to any persons cited, whether they do or do not oppose the declaration sought, if the Court deems it reasonable that those costs shall be paid.

Papers to Attorney-General.

**36.** A copy of every petition under this Part and of the affidavit accompanying it shall, one month at least before the

petition is presented or filed, be delivered to the Attorney-General, who shall be a respondent upon the hearing thereof and upon every subsequent proceeding relating thereto.

Persons cited to see proceedings.

37. Where an application to the Court is made under this Part, any person or persons besides the Attorney-General whom the Court thinks fit shall, subject to the rules, be cited to see proceedings or otherwise summoned in the manner directed by the Court, and may be permitted to become parties to the proceedings and oppose the application.

Saving of rights.

38. The decree of the Court shall not in any case prejudice anyone unless that person has been cited or made a party to the proceedings, or is the heir-at-law, or next-of-kin, or other real or personal representative of, or derives title under or through, a person so cited or made a party; nor shall the decree prejudice anyone if subsequently proved to have been obtained by fraud or collusion.

Saving of judgment.

39. No proceeding to be had under this Act shall affect any final judgment or decree already pronounced or made by a court of competent jurisdiction.

Rules of court. c. 3:02

40. Rules of court may be made for the purpose of this Act under the High Court Act.

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[Subsidiary]

*Rules of Court (Matrimonial Causes)*

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R.22/3/1921  
4 of 1972  
R. 1/1978

**RULES OF COURT (MATRIMONIAL CAUSES)**

*made under section 40*

Citation.                   1. (1) The following rules shall take effect in the High Court for divorce and matrimonial causes, and may be cited as the Rules of Court (Matrimonial Causes).

Interpretation.           (2) In these Rules—  
  
“the Act” means the Matrimonial Causes Act;  
  
“the Court” includes a judge thereof; reference by numbers to orders and rules is to orders and rules so numbered in the Rules of the High Court.

**PETITION**

Proceeding commenced by petition.           2. Proceedings before the Court in divorce and matrimonial causes shall be commenced by petition, preferred unto the High Court of Guyana.

Statement in petition.           3. In all proceedings before the Court exercising jurisdiction under the Act, a petition shall state—

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- (a) whether or not there have been any, and if so what, proceedings previous thereto with reference to the marriage, by or on behalf of either of the parties to the marriage;
- (b) the description of the husband;
- (c) the place of residence of each of the parties to the marriage;
- (d) the domicile of the parties to the marriage, unless the petitioner is asserting a domicile for the wife different from that of the husband, when it will be sufficient if the domicile of the husband is stated.

Affidavit with  
petition.

4. (1) There shall be filed with every petition an affidavit made by the petitioner verifying the facts of which he or she has personal knowledge, and deposing to belief in the truth of the other facts alleged in the petition.

(2) Where a petitioner seeks a decree of nullity of marriage, or of judicial separation, or of dissolution of marriage, or a decree in a suit for jactitation of marriage, the petitioner's affidavit filed with his or her petition shall also state that no collusion or connivance exists between the petitioner and the other party to the marriage or alleged marriage.

Affidavit with  
petition for  
restitution of  
conjugal rights.

5. (1) The affidavit filed with a petition for restitution of conjugal rights shall also state sufficient facts to satisfy the Registrar that a written demand for cohabitation and restitution has been made by the petitioner upon the party to be cited, and that, after a reasonable opportunity for compliance therewith, the cohabitation and restitution have been withheld.

(2) At any time after the commencement of proceedings for restitution of conjugal rights, the respondent may apply by summons for an order to stay the proceedings in the cause by reason that he or she is willing to resume or to return to cohabitation with the petitioner.

**CO-RESPONDENTS**

Adulterer to be co-respondent.

6. (1) Upon a husband filing a petition for dissolution of marriage on the ground of adultery, any alleged adulterer shall be made a co-respondent in the cause unless the Court shall otherwise direct.

(2) Application for the direction shall be made on motion founded on affidavit.

Name of adulterer to be supplied.

7. If the name of the alleged adulterer is unknown to the petitioner at the time of filing his petition, it must be supplied as soon as known, and application to amend the petition by inserting the name therein must be made forthwith by summons, and the Court shall give directions as to the amendment and such further directions as are deemed necessary as to service of the amended petition.

Respondent.

8. The term “respondent” where hereinafter used includes all co-respondents so far as the same is applicable to them.

**CITATION**

Petitioner files citation. [R. 1/1978]

9. (1) Every petitioner who files a petition, affidavit and praecipe shall forthwith extract a citation and such copies thereof under the seal of the Court as are required for service under those Rules.

(2) The address given in the praecipe shall be

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within one mile of the office of the registry wherein the petition and praecipe were filed.

Service of  
citation.

10. (1) Service of a citation shall be personal and shall be effected by a person authorised in that behalf by the Registrar.

(2) To every person served with a citation shall be delivered, together with a copy thereof, a certified copy of the petition under the seal of the Court.

(3) In cases where personal service cannot be effected applications may be made by summons for substitution of some other mode of service.

(4) After service has been effected, the citation, with a certificate of service endorsed thereon, shall be forthwith returned into and filed in the registry.

(5) When it is ordered that a citation be advertised, the newspapers containing the advertisement are to be filed in the registry with the citation.

(6) The citation referred to in an affidavit of service thereof must be annexed to the affidavit and marked by the person before whom the affidavit is sworn.

**CHANGE OF ATTORNEY-AT-LAW**

Any party may  
change  
Attorney-at-  
law.  
[R. 1/1978]

11. Any party to a cause shall be at liberty to change his or her Attorney-at-law, upon filing notice of such change in the registry containing an address for service which shall be within one mile from the office of the registry, in which the notice is filed and a copy of such notice shall be served upon the opposite party, but until the notice is filed and a copy thereof served, the former Attorney-at-law shall be considered the Attorney-at-law of the party until the final conclusion of the cause, whether in the Court of first instance

or the Court of Appeal.

### APPEARANCE

Procedure after  
extracting  
citation.  
[R. 1/1978]

12. (1) Before a petitioner can proceed after having extracted a citation an appearance must have been entered by or on behalf of the respondents, or it must be shown by affidavit together with a certificate of the Registrar in support thereof, filed in the registry, that they have been duly cited and have not appeared.

(2) All appearances to citations are to be entered in the registry in a book provided for that purpose and, unless otherwise required, within ten days after service of the citation.

(3) An appearance may be entered at any time before a proceeding has been taken in default, or afterwards by leave of the Court on application by summons founded on affidavit.

(4) An entry of appearance which may be filed in the office of the registry in New Amsterdam if the respondent resides in the county of Berbice or in the office of the registry in Georgetown if he resides outside the county of Berbice shall state in the memorandum of appearance an address within one mile of the office of the registry in which the appearance has been entered.

Party cited.

13. If a party cited wishes to raise any question as to the jurisdiction of the Court, he or she must enter an appearance under protest, and within two days give notice of motion for extension of the protest and to raise the question of jurisdiction. After the entering of an absolute appearance to the citation a party cited cannot raise any objection to the jurisdiction.

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*Rules of Court (Matrimonial Causes)***ANSWER**

Respondent to  
file answer.  
[R. 1/1978]

**14.** (1) Each respondent who has entered an appearance may, within ten days after service of citation on him or her, file in the office of the registry in which appearance was entered an answer to the petition.

(2) When the time allowed for entry of appearance is more than ten days after service of citation, a respondent who has entered an appearance may, within ten days from the expiration of that time, file in the registry an answer to the petition.

(3) Each respondent shall, on the day he or she files an answer, deliver a copy thereof to the petitioner, or to his or her Attorney-at-law.

Answer other  
than simple  
denials.

**15.** (1) Every answer which contains matter other than a simple denial of the facts stated in the petition shall be accompanied by an affidavit made by the respondent verifying the other or additional matter, so far as he or she has personal knowledge thereof, and deposing as to his or her belief in the truth of the rest of the other or additional matter, and the affidavit shall be filed with the answer.

(2) In cases involving a decree of nullity of marriage, or of judicial separation, or of dissolution of marriage, or a decree in a suit of jactitation of marriage, the respondent who is husband or wife of the petitioner shall, in the affidavit filed with the answer, also state that there is not any collusion or connivance between the deponent and the petitioner.

**SUBSEQUENT PLEADINGS**

Petitioner to file  
reply.  
[R. 1/1978]

**16.** (1) Within ten days from the filing and delivery of the answer, the petitioner may file a reply thereto, and the same time shall be allowed for filing any further pleading by

way of rejoinder, or any subsequent pleading.

(2) A copy of every reply and subsequent pleading shall, on the day the same is filed, be delivered to the opposite parties, or to their Attorney-at-law.

(3) Where any document is filed in an office of the registry other than that out of which the citation was issued the former office shall forthwith notify the office of the registry out of which the citation was issued of the filing of such document.

#### AMENDMENT OF PLEADINGS, ETC.

Amendment by application to Court.

17. (1) Either party desiring to alter or amend any pleading must apply to the Court for permission to do so on summons, unless the alteration or amendment be merely verbal, or in the nature of a clerical mistake, or error arising from any accidental slip or omission, when it may be made without summons.

(2) The costs of and occasioned by any amendment made under this rule shall be borne by the party making it, unless the Court otherwise orders.

(3) When a petition, answer, or other pleading has been ordered to be altered or amended, the time for filing and delivering a copy of the next pleading shall be reckoned from the time of compliance with the order.

(4) A copy of every pleading, showing the alterations and amendments made therein, shall be delivered to the opposite parties on the day the alterations and amendments are made in the pleadings filed in the registry, and the opposite parties, if they have already pleaded thereto, shall be at liberty to amend their pleadings within four days after the delivery, or such further time as may be allowed for



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the purpose.

(5) The Court may at any time, and on such terms as to costs or otherwise as are deemed just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question at issue raised by or depending on the proceedings.

### PARTICULARS

Court may order furnishing of further particulars.

18. (1) Further and better particulars of any matter stated in any pleading may in all cases be ordered by the Court on application by summons.

(2) Before applying for particulars by summons, a party may apply for them by letter, and the costs of the letter and of any particulars delivered pursuant thereto shall be allowable on taxation. In dealing with the costs of any application for particulars by summons, the provisions of this paragraph shall be taken into consideration by the Court.

(3) Particulars of matters stated in a petition shall not be ordered under this rule to be delivered before answer, unless the Court shall be of opinion that they are necessary or desirable to enable the respondent to plead, or ought for any other special reason to be so delivered.

(4) The party at whose instance particulars have been delivered under the Court's order shall, unless the order otherwise provides, have the same length of time for pleading after the delivery of the particulars that he had at the return of the summons. Save as in this rule provided, an order for particulars shall not, unless the order otherwise provides, operate as a stay of proceedings, or give any extension of time.

**RAISING POINTS OF LAW**

Any party may raise points of law.

19. (1) Any party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the judge who hears the cause at or after the hearing.

(2) By consent of the parties, or by order of the Court on the application by summons of either party, the point so raised may be set down for argument and disposed of at any time before the hearing.

(3) If in the opinion of the Court the decision of the point of law substantially disposes of the whole suit, or of any distinct ground of suit, defence, or reply therein, the Court may thereupon dismiss the suit or make such other order therein as may be just.

**INTERVENERS**

Application for leave to intervene.

20. (1) Application for leave to intervene in any cause must be made to the Court by motion, supported by affidavit.

(2) Every party intervening must join in the proceedings at the stage in which he finds them, unless it is otherwise ordered by the Court.

**INTERVENTION OF THE ATTORNEY-GENERAL**

Attorney General to intervene after obtaining leave therefore.

21. (1) The Attorney-General shall, within ten days after he has obtained leave to intervene in any cause, enter an appearance and plead to the petition, and on the day he files his plea in the registry, deliver a copy thereof to the petitioner or his or her Attorney-at-law.

(2) All subsequent pleadings and proceedings in respect of the Attorney-General's intervention in a cause shall

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be filed and conducted in the same manner as heretofore directed in respect of the pleadings and proceedings of the original parties to the cause.

**EVIDENCE ON COMMISSION OR LETTER OF  
REQUEST: AFFIDAVITS**

Application of  
Order 34.  
c. 3:02 Sub. Leg.

**22.** (1) Order 34, rules 12 to 20 shall apply to proceedings under the Act.

(2) If in any case the Court so orders, there shall be issued a request to examine a witness in lieu of a commission.

Application to  
Court for leave.

**23.** (1) Any of the parties to the cause may apply to the Court for leave to join in a commission or letters of request for examination of witnesses out of the jurisdiction of the Court and to examine witnesses thereunder, and the Court may direct the necessary alterations to be made in the commission or letters for that purpose and settle the same.

(2) After an application hereunder has been made, the commission or letters of request shall not issue without the direction of the Court.

Husband or  
wife obtains  
order.

**24.** If a husband or wife applies for and obtains an order, or a commission, or letters of request for the examination of witnesses, the wife shall be at liberty, without any special order for that purpose, to apply to the Registrar to ascertain and report to the Court what is a sufficient sum of money to be paid or secured to the wife to cover her expenses of attendance at the examination of the witnesses in pursuance of the order, or by virtue of the commission or letters of request; and that sum of money shall be paid or secured before the order, commission, or letters is or are issued from the registry, unless the Court otherwise directs.

Application of  
Order 34. c.

**25.** Order 34, rules 34 to 48, as to affidavits shall apply to proceedings under the Act.

3:02 Sub. Leg.

**SETTING DOWN CAUSE FOR HEARING**

Petitioner sets down cause of hearing.

26. (1) When the pleadings are concluded the petitioner shall set down the cause for hearing and on the same day give notice of his having done so to each party in the cause for whom an appearance has been entered.

(2) If the petitioner fails to set down the cause for hearing, or to give due notice thereof, for ten days after conclusion of the pleadings, either of the respondents entitled to be heard at the hearing may set down the cause, and shall on the same day give notice of his having done so to the petitioner and to each of the other parties to the cause for whom an appearance has been entered.

(3) If none of the parties to the cause sets down the same for hearing within one month after the conclusion of the pleadings, the Registrar shall set down the cause for hearing and on the same day give notice of his having done so to the petitioner and to each of the other parties to the cause for whom an appearance has been entered.

(4) A copy of every notice of the cause being set down for hearing given by a party thereto shall be filed in the registry.

**HEARING**

Hearing of cause.

27. (1) No cause shall be called on for hearing until after the expiration of fourteen days from the day when the same has been set down for hearing and notice of hearing has been given, except with the consent of all parties thereto.

(2) The Registrar shall enter in the court book the decree of the Court and sign the same.

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*Rules of Court (Matrimonial Causes)***EVIDENCE TAKEN BY AFFIDAVIT**

Pleadings to be proved by affidavits.

**28.** (1) When the Court has directed that all or any of the facts set forth in the pleadings be proved by affidavits, those affidavits shall be filed in the registry within ten days after the time when the direction was given, unless the Court shall otherwise direct.

(2) In an undefended cause when directions have been given that all or any of the facts set forth in the petition be proved by affidavits, those affidavits may be filed in the registry at any time up to ten clear days before the cause is heard.

(3) Counter-affidavits as to any facts to be proved by affidavit may be filed within ten days after the filing of the affidavit which they are intended to answer.

(4) Affidavits in reply to the counter-affidavits cannot be filed without the permission of the Court.

(5) Copies of all affidavits and counter-affidavits shall, on the same day as they are filed, be delivered to the other parties to be heard at the hearing of the cause, or to their Attorneys-at-law.

Attendance of deponents.

**29.** Application for an order for the attendance of a deponent for the purpose of being cross-examined in open Court shall be made by summons.

**REVERSAL OF DECREE OF JUDICIAL SEPARATION**

Petition for reversal of decree.

**30.** (1) A petition to the Court for the reversal of a decree of judicial separation must set forth the grounds on which the petitioner relies.

(2) Before the petition can be filed, an appearance on behalf of the party praying for reversal must be entered in

the cause in which the decree has been pronounced.

(3) A certified copy of the petition, under the seal of the Court, shall be delivered personally to the party in the cause in whose favour the decree has been made, who may, within ten days after the date of delivery, file an answer thereto in the registry, and shall, on the day on which the answer is filed, deliver a copy thereof to the other party in the cause, or to his or her Attorney-at-law.

(4) All subsequent pleadings and proceedings arising from the petition and answer shall be filed and conducted in accordance with the same directions as heretofore given in respect of an original petition for judicial separation and answer thereto, so far as those directions are applicable.

#### SHOWING CAUSE AGAINST A DECREE

Showing cause  
against decree  
absolute.

31. (1) Subject to rule 32, any person desiring to show cause against making absolute a decree nisi for dissolution of marriage or nullity of marriage, shall enter an appearance in the cause in which the decree has been pronounced, and shall, at the time of entering appearance, or within four days thereafter, file affidavits setting forth the facts upon which he relies and deliver copies of the same to the party in whose favour the decree nisi has been pronounced.

(2) That party may, within ten days after delivery of the affidavits, file affidavits in answer and shall, upon the same day deliver copies thereof to the person showing cause against the decree being made absolute, who may, within ten days file affidavits in reply and shall, upon the same day, deliver copies thereof to the party supporting the decree nisi.

(3) No affidavits are to be filed in rejoinder to the affidavits in reply without permission of the Court.

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(4) The questions raised on the affidavits shall be argued in such manner and at such time as the Court may direct.

Attorney-  
General to  
enter an  
appearance to  
show cause.

32. (1) The last preceding rule shall not apply to the Attorney General, but when the Attorney-General desires to show cause against making absolute a decree nisi for dissolution of marriage or nullity of marriage, he shall enter an appearance in the cause in which that decree has been pronounced and shall, within ten days after entering appearance, file his plea in the registry setting forth the grounds upon which he desires to show cause.

(2) On the day the Attorney-General files his plea he shall deliver a copy thereof to the person in whose favour the decree nisi has been pronounced, or to his or her Attorney-at-law, and all subsequent pleadings and proceedings in respect of the Attorney-General's intervention in a cause shall be filed and conducted in the same manner as before directed in respect of the pleadings and proceedings of the original parties to the cause.

**DECREE ABSOLUTE**

Application to  
make decree  
nisi absolute.

33. (1) An application to make absolute a decree nisi for dissolution marriage or nullity of marriage shall be made by filing in absolute. the registry a notice in writing setting forth that the application is made, and it must be shown by affidavit—

- (a) that search has been made in the proper books of the registry up to within two days of the affidavit being filed; and
- (b) that at that time no person had obtained leave to intervene in the cause and no appearance had been

entered nor affidavits filed by or on behalf of any person wishing to show cause against the decree nisi being made absolute; and,

- (c) if leave to intervene had been obtained or appearance entered, or affidavits filed on behalf of any such person as aforesaid, what proceedings, if any, had been taken thereon.

(2) If application to make absolute the decree nisi is for any reason deferred beyond six days from the time when the affidavit in the last preceding rule mentioned is filed, it must be shown by further affidavit—

- (a) that search has been made in the proper books up to within six clear days of the hearing of the application; and
- (b) that at that time no person had obtained leave to intervene and no appearance had been entered, nor any affidavits filed by or on behalf of any person wishing to show cause against the decree nisi being made absolute; and,
- (c) if leave to intervene had been obtained or appearance entered, or affidavits filed by or on behalf of any such person as aforesaid, what proceedings, if any, had been taken thereon.



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## ALIMONY

Wife petitioner.

34. (1) The wife, being petitioner in a cause, may file her petition for alimony pending suit at any time after the citation has been duly served upon her husband, or after an order made by a judge to dispense with that service, provided the fact of marriage between the parties is established by affidavit previously filed.

(2) The wife, being the respondent in a cause, may also, after having entered an appearance, file the like petition.

Husband  
respondent.

35. (1) The husband shall, within ten days after the filing and delivery of a petition for alimony, file his answer thereto upon oath, and, being respondent in a cause, must enter an appearance before he can do so.

(2) The wife, if not satisfied with her husband's answer, may object to the same as insufficient and apply to the Court on summons for an order on her husband to give a further and better answer, or to attend on the hearing of the petition for the purpose of being examined on his answer.

(3) If the answer of the husband alleges that the wife has property of her own, she may within four days, file a reply on oath to that allegation, but the husband is not at liberty to file a rejoinder to that reply without the permission of the Court.

Copy of  
petition.

36. A copy of every petition for alimony, answer and reply must be delivered to the opposite party, or his or her Attorney-at-law, on the day the same is filed.

Application for  
allotment of  
alimony.

37. After the husband has filed an answer to the petition for alimony, or, if no answer is filed, at the expiration of the time allowed for filing an answer, the wife may apply by motion for an allotment of alimony pending suit and proceed to examine witnesses in support of her petition,

LAWS OF GUYANA

notice of the motion and of the intention to examine witnesses being given to the husband or his Attorney-at-law four days before the motion is heard and the witnesses are examined, unless the Court shall dispense with that notice.

Affidavits.

38. No affidavits can be read or used as evidence in support of or in opposition to the averments contained in a petition for alimony or in the answer thereto, or in a reply, except such as may be required by the Court.

Judicial separation affirmed on appeal.

39. A wife who has obtained a final decree of judicial separation in her favour, on the decree being affirmed on appeal, or after the expiration of the time for appealing against it if no appeal be then pending, may apply to the Court by petition for an allotment of permanent alimony, although no alimony has been allotted pending suit, and the above rules 35 and 36 shall be observed in respect of the proceedings upon that petition.

Increase of alimony.

40. A wife may, at any time after alimony has been allotted to her, whether pending suit or permanently, file her petition for an increase of alimony allotted, by reason of the increased facilities of her husband, or the husband may file a petition for a diminution of the alimony allotted, by reason of his reduced facilities, and the course of proceeding in those cases shall be the same as above required in respect of the original petition for alimony, and the allotment thereof, so far as the same is applicable.

Permanent alimony.  
c. 3:02  
c. 3:01

41. Permanent alimony shall, unless otherwise ordered, commence and be computed from the date of the final decree of the Court or of the Court of Appeal on appeal, as the case may be.

Alimony pending suit.

42. Alimony pending suit, and also permanent alimony, shall be paid to the wife, or to some person or persons to be nominated in writing by her and approved by

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the Court as trustee or trustees on her behalf.

### MAINTENANCE AND SETTLEMENTS

Exercise of authority in sections 14, 16, 22, 26, 27, 30.

**43.** (1) Applications to the Court to exercise the authority given by sections 14, 16, 22, 26, 27 and 30 of the Act are to be made in a separate petition, which must, unless by leave of the Court, be filed as soon as by the said sections those applications can be made, or within one month thereafter.

(2) When application is made for maintenance under section 14, the petition may be filed as soon as, but not before, a decree nisi has been pronounced.

(3) A certified copy of the petition, under seal of the Court, shall be personally served on the husband or wife, as the case may be, and on the person or persons who may have any legal or beneficial interest in the property in respect of which the application is made, unless the Court on summons shall direct any other mode of service, or dispense with service on that person or any of those persons.

Filing of answer to application.

**44.** (1) The husband or wife, and the other person or persons Filing of (if any) served with the petition may, within ten days after service, file an answer on oath thereto, and shall on the same day deliver a copy thereof to the opposite party or his Attorney-at-law.

(2) Any person served with the petition, not being a party to the principal cause, must enter an appearance before filing an answer thereto.

Reply.

**45.** Within ten days from filing the answer, the opposite party may file a reply thereto, and the same time is allowed for filing any further pleading by way of rejoinder.

Setting down for hearing.                    46. Within four days after the filing of the reply or rejoinder Setting down thereto (if any), the petitioner shall set down the petition for hearing.

Costs.                                    47. The costs of a wife of and incidental to the petition or answer shall not be allowed on taxation of costs against the husband before the final decree in the principal cause without direction of the Court.

### CUSTODY OF AND ACCESS TO CHILDREN

Custody.                                48. Before the hearing of a cause, a husband or wife who are parties to it may apply to the Court on summons for an order relating to the custody, maintenance or education of, or for access to, children the issue of the marriage.

### GUARDIANS OF MINORS

Election of guardian.                49. (1) A minor above the age of seven years may elect any one or more of his or her next of kin, or next friends, as guardian or guardians for the purpose of proceeding on his or her behalf as petitioner, respondent, or intervener in a cause.

(2) The instrument of election must be filed in the registry before the guardian elected can extract a citation or enter an appearance on behalf of the minor.

(3) When a minor elects some person or persons other than his or her next of kin as guardian for the purposes of a suit, application for assignment of the guardian must be made to the Court on summons founded on affidavit.

(4) It shall not be necessary for a minor who is made a co-respondent in a suit or an alleged adulterer to elect or have assigned to him a guardian for the purpose of conducting his defence.

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*Rules of Court (Matrimonial Causes)***PERSONS OF UNSOUND MIND**

Suit on behalf  
of person of  
unsound mind.

50. (1) A committee duly appointed of a person of unsound mind may take out a citation and prosecute a suit on behalf of that person as a petitioner, or enter an appearance, intervene, or proceed with the defence, on behalf of the person as a respondent.

(2) If no committee has been appointed, application is to be made to the Court by summons for assignment of a guardian to the person of unsound mind for the purpose of prosecuting, intervening in, or defending the suit, on his or her behalf.

(3) If the opposite party is already before the Court when the application for assignment is made, he or she shall be served with notice of the application.

**PROTECTION ORDERS**

Deserted wife  
protection  
order.

51. (1) Applications on the part of a wife deserted by a husband for an order to protect her earnings and property acquired since the commencement of the desertion shall be made in writing in judges' chambers and supported by affidavit in which the applicant must state whether she has any knowledge of the residence of her husband.

(2) If the husband is known to be residing within the jurisdiction the application must be made by summons to him to show cause why an order should not be made, with which he must be personally served.

Discharge of  
protection  
order.

52. Applications for the discharge of a protection order are to be made by motion supported by affidavit, and notice of the motion and copies of any affidavit, or other document to be read or used in support thereof, must be personally served on the wife eight clear days before the motion is heard.

## APPLICATIONS TO THE COURT

Method of making applications.

53. Applications to the Court shall be made—

- (a) if by motion, to a judge in Court;
- (b) if on summons, to a judge in chambers.

Making of motions.

54. Except where any order or rule may be made absolute *ex parte* in the first instance, no motion shall be made without notice to the parties affected thereby, but the Court, if satisfied that the delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief, may make any order *ex parte* upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court may think just, and any party affected by the order may move to set it aside.

Four clear days between service and hearing.

55. Subject to the provisions of these rules, unless the Court gives special leave to the contrary, there must be at least four clear days between the service of a notice of motion and the day named in the notice for hearing the motion.

Party giving notice of motion.

56. (1) The party giving the notice of motion shall on the same day file in the registry a copy thereof and any affidavit to be read in support of the motion, and deliver a copy of the affidavit to the opposite parties to the suit who are entitled to be heard in opposition to the motion.

(2) Any party so entitled may file affidavits in reply and shall deliver copies thereof to the party giving the notice two clear days before the day named therein for hearing the motion.

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Hearing of  
notice.

57. If on the hearing of a notice or other application the Court is of opinion that any person to whom notice has not been given ought to have or to have had notice, the Court may either dismiss the motion or application, or adjourn the hearing thereof in order that the notice may be given, upon such terms, if any, as the Court may think fit to impose.

Adjournment  
of motion.

58. The hearing of any motion or application may from time to time be adjourned upon such terms, if any, as the Court thinks fit.

Notice of  
motion served  
upon  
respondent.

59.(1) The petitioner shall, without any special leave, be at liberty to serve any notice of motion, or other notice, or any petition or summons, upon any respondent who, having been duly served with a citation, has not appeared within the time limited for appearance.

(2) The petitioner may, by leave of the court to be obtained *ex parte*, serve any notice of motion upon any respondent together with the citation, or at any time after service of the citation and before the time limited for the appearance of that respondent.

Service of  
summons.

60. Every summons shall be served two clear days before the return thereof, unless in any case it is otherwise ordered:

Provided that, in case of summons for time only, the summons may be served on the day previous to the return thereof.

Where any  
party fails to  
attend.

61. (1) Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time appointed for the consideration or further consideration of the matter, the judge may proceed *ex parte* if, in view of the nature of the case, he thinks it expedient to do so. No affidavit of non-attendance shall be required or allowed, but the judge may require such evidence of service as he may think just.

(2) Where the judge has proceeded *ex parte*, the proceeding shall not in any manner be reconsidered in the judge's chambers, unless the judge is satisfied that the party failing to attend was not guilty of wilful delay or negligence, and in that case the costs occasioned by his non-attendance shall be in the discretion of the judge, who may fix the same at the time and direct them to be paid by the party or his Attorney-at-law before he shall be permitted to have the proceeding reconsidered, or make such other order as to the costs as the judge may think just.

(3) Where a proceeding in chambers fails by reason of the non-attendance of any party, and the judge does not think it expedient to proceed *ex parte*, the judge may order such amount of costs, if any, as he shall think reasonable to be paid to the party attending by the absent party or by his Attorney-at-law personally.

Dating of order.

62. (1) Every order, if and when drawn up, shall be dated the day of the week, month and year on which the same was made, unless the Court otherwise directs.

(2) An order shall be sealed and shall be marked with the name of the judge by whom it is made.

### WIFE'S COSTS

Filing of bills of costs.

63. (1) After a cause has been set down for hearing, or at an earlier stage of a cause by order of Court to be obtained on summons, a wife who is petitioner, or who has entered an appearance as respondent, in the cause, may file her bill or bills of costs for taxation against her husband.

(2) The Registrar, when the cause has been set down for hearing, shall ascertain what is a sufficient sum of money to be paid into the registry, or what is sufficient



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security to be given by the husband, to cover the costs of the wife of and incidental to the hearing of the cause, and shall thereupon issue an order upon the husband to pay or secure the said sum within a time to be fixed by the Registrar.

(3) If the husband, by reason of his wife having separate property, or for other reasons, disputes her right to recover against him any costs pending suit, the Registrar may suspend the order to pay the wife's costs, or to pay or secure the sum ascertained to be sufficient to cover the costs of and incidental to the hearing of the cause, for such time as seems to him necessary to enable the husband to obtain the Court's decision as to his liability.

(4) The bond taken to secure the costs of a wife of and incidental to the hearing of a cause shall be filed in the registry and shall not be delivered out or be sued upon without the order of the Court.

Decision  
against wife.

64. When on the hearing of a cause the decision is against the wife, no costs of the wife of and incidental to that hearing shall be allowed against the husband except those applied for, and ordered to be allowed by the Court, at the time of the hearing.

Order for  
payment.

65. (1) The order for payment of costs of suit in which a respondent or co-respondent has been condemned by a decree nisi shall, if applied for before the decree is made absolute, direct the payment thereof into the registry, and they shall not be paid out of the registry to the party entitled to receive them under the decree nisi until the decree absolute has been obtained.

(2) A wife who is unsuccessful in a cause, and who at the hearing thereof has, in pursuance of rule 64, obtained an order of the Court that her costs of and incidental to the hearing shall be allowed against her husband to the extent of the sum paid or secured by him to cover those costs, may

nevertheless proceed at once to obtain them after allowance thereof on taxation.

### COSTS GENERALLY

Condemnation  
in costs.

**66.** (1) In all cases in which the Court at the hearing of a cause condemns any party to the suit in costs, the Attorney-at-law of the party to whom the costs are to be paid may forthwith file his bill of costs in the registry and obtain an appointment for taxation, but the taxation shall not take place before the time allowed for appeal has expired, or, if a rule nisi has been granted, until the rule is disposed of, unless the Court, for cause shown, directs a more speedy taxation.

(2) The party who has obtained an appointment to tax a bill of costs shall give the other party or parties to be heard on the taxation thereof two clear days' notice of the appointment and, at or before the same time, deliver to him or them a copy of the bill to be taxed.

(3) When an appointment has been made for taxation of any bill of costs, and any parties to be heard on the taxation do not attend at the time appointed, the taxing officer may nevertheless proceed to tax the bill after the expiration of a quarter of an hour, upon being satisfied by affidavit that the parties not in attendance had due notice of the time appointed.

(4) The fees payable on the taxation of any bill of costs shall be paid by the party on whose application the bill is taxed and shall be allowed as part of that bill.

Bill of costs.

**67.** The bill of costs of any Attorney-at-law will be taxed on his application as against his client, after sufficient notice given to the person or persons liable for the payment thereof, or on the application of that person or those persons after sufficient notice given to the Attorney-at-law.

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Order for  
payment of  
costs.

68. If an order for payment of costs is required, the same may be obtained by summons, on the amount of those costs being certified by the Registrar.

Taxing.

69. (1) On every taxation the taxing officer shall allow all such costs, charges, and expenses as appear to him to have been necessary or proper for the attainment of justice, or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing officer to have been incurred or increased through over-caution, negligence, or mistake, or by payment of special fees to counsel, or special charges or expenses to witnesses or other persons, or by other unusual expenses.

(2) Such costs of procuring the advice of counsel on the pleadings, evidence, and proceedings in any cause or matter as the taxing officer in his discretion thinks just and reasonable, and of procuring counsel to settle such pleadings and special affidavits as the taxing officer in his discretion thinks proper to be settled by counsel, are to be allowed; but as to affidavits, a separate fee is not to be allowed for each affidavit, but one fee for all the affidavits proper to be so settled, which are or ought to be filed at the same time.

(3) Allowances to witnesses are to be made according to the condition of witness and scale of allowance given in the Rules of the High Court, Appendix V:

c. 3:02  
Sub. Leg.

Provided always that as to evidence, such just and reasonable charges and expenses as appear to have been properly and necessarily incurred in procuring evidence and by the witnesses themselves in giving their attendance, are to be allowed.

Execution for  
non-payment  
of costs.

70. Subject to these Rules, upon the taxing officer's certificate of costs being signed and a copy thereof served upon the party liable to pay the costs,

execution may issue thereunder upon an affidavit of the service and of non-payment.

### ATTORNEYS' -AT-LAW FEES AND FEES OF COURT

Attorneys'-at-law fees.

71. In divorce and other matrimonial causes and matters Attorneys-at-law shall be entitled to charge and be allowed the fees set forth in the First Schedule.

Fees in registry.

72. (1) The fees and percentages contained in the Second Schedule to these rules shall be taken in the registry in proceedings under the Act.

(2) A folio is to comprise 72 words, every figure comprised in a column, or authorised to be used, being counted as one word.

### TIME

Time to apply to proceedings.  
c.3:02 Sub. Leg.

73. (1) Order 48 shall apply to proceedings under the Act.

(2) When the time for delivering any pleading or document or filing any affidavit, answer, or document, or doing any act, is or has been fixed or limited by any of these rules, or by any order of the Court, the costs of any application to extend that time and of any order made thereon shall be borne by the party making the application unless the Court otherwise orders.

(3) In any case in which any particular number of days, not expressed to be clear days, is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day.

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*Rules of Court (Matrimonial Causes)***NOTICES, PAPER, ETC.; SERVICE**Application of  
Orders 50 & 51.  
c.3:02 Sub Leg.

74. Order 50 and Order 51 rules 1 to 8 (inclusive) shall apply to proceedings under the Act.

**PROCEEDINGS BY POOR PERSONS**Poor persons.  
c.3:02

75. The provisions of Order 53 shall apply to proceedings by poor persons under the Act.

**EFFECT OF NON-COMPLIANCE**Non-  
compliance.  
c.3:02  
Sub. Leg.

76. (1) Order 54 shall apply to proceedings under the Act.

(2) Where an application is made to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated in the summons or notice of motion.

(3) When a summons is taken out to set aside any process or proceeding for irregularity with costs, and the summons is dismissed generally without any special direction as to costs, it is to be understood as dismissed with costs.

**FORMS**

Forms.

77. Forms to be used in proceedings under these Rules shall be those in general use in the Supreme Court of British Guyana immediately before 26th May, 1966, for divorce and matrimonial causes and matters therein.

**PROCEEDINGS UNDER PART II OF THE ACT**Proceedings  
under Part II  
c.3:02

78. The above rules, so far as the same may be applicable, shall extend to applications and proceedings under Part II of the Act.

## FIRST SCHEDULE

## ATTORNEYS'-AT-LAW FEES

CITATIONS, SUBPOENAS, WRITS, SUMMONSES,  
NOTICES AND SERVICE OF SAME

1. Citation	25.00
2. Citation to see proceedings	15.00
3. Writ of subpoena ad testificandum or duces tecum	10.00
4. And if of more than 3 folios for each folio beyond 3	1.00
5. Writ of execution, or other writ to enforce any decree or order	15.00
6. And if more than 3 folios, for each folio beyond 3	1.00
7. Any writ not included in above	15.00

8. These fees include all endorsements and copies, praecipes for the officers sealing them, and attendances to issue or seal except where otherwise provided, but not the Court fees

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9. Summons to attend at Judge's chambers	10.00
10. Each copy summons for service	2.00
11. Or per folio	1.00
12. For preparing notice of motion	1.00
13. Or per folio	1.00
14. For preparing notice to produce on the hearing or notice to admit	10.00
15. If necessary long, per folio	1.00
16. And for each copy, such allowance as the taxing officer shall think proper, not exceeding per folio	1.00
17. For preparing any other notice	5.00
18. If necessarily exceeding 3 folios, for each folio beyond 3	1.00
19. Service, where an appearance has been entered on the Attorney-at-law or party	5.00

## INSTRUCTIONS

- |  |       |
|--|-------|
| 20. For petitions, citations, answers, or other pleadings, or Amendment of pleadings, for interrogatories, special affidavits, or applications for an order for protection of a wife's earnings and property | 10.00 |
| 21. To defend suit   | 10.00 |
| 22. To appeal against order of Court or Judge and to appear thereon  | 15.00 |
| 23. For brief on hearing   | 30.00 |
| 24. If there are several witnesses examined and the brief or case is necessarily long, an additional fee will be allowed   |       |
| 25. For attorney at law to make any application to the court on a Judge, where no other brief  | 15.00 |

DRAWING PLEADINGS AND OTHER DOCUMENTS;  
PERUSALS

- |  |       |
|--|-------|
| 26. Drawing and engrossing petition or answer                | 20.00 |
| 27. And if of more than 10 folios, for every folio beyond 10 | 2.00  |



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28. Drawing and engrossing reply or other subsequent pleadings	10.00
29. Or per folio	1.00
30. Drawing particulars, per folio	1.00
31. Drawing brief or hearing of cause, issues of fact, examination of witnesses, when necessary and proper in addition to pleadings, including necessary and proper observations, per folio	2.00
32. For every necessary letter to an opposite party or his Attorney-at-law during the dependence of the cause	5.00
33. Drawing bill of costs per folio, including copy for taxation	1.00
34. Drawing any instrument to be filed in or issued by the registry for which no other fee is herein allowed, per folio	1.00
35. Perusing pleadings, affidavits, exhibits, and other documents	5.00
36. Or per folio	1.00

**COPIES**

37. Copies of petition, answer, and other pleadings, of exhibits, briefs, of costs, or other documents, where no other

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provision is made, at per folio 1.00

ATTENDANCES

38. To search for appearance to citation 5.00

39. To enter appearance 10.00

40. To amend petition, answer, or other pleading  
filed in the Registry 10.00

41. On examination of witnesses before any examiner,  
commissioner, officer, or other person, each day 20.00

42. When attended, not to exceed for each day 15.00

43. To enter or set down cause, or appeal, for  
hearing 5.00

44. In court on motion of course, and for order 5.00

45. In court on every special motion, each day 5.00

46. On the hearing of any cause, when in the  
paper 15.00

47. When heard, each day 25.00

48. To hear judgement when same adjourned 15.00

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49. On taxation of costs 10.00

50. Unless the same shall necessarily occupy so much time that the taxing officer shall consider that amount inadequate, when he may allow such further fee as he thinks proper.

51. For every necessary attendance in Chambers, in the registry, before a commissioner, or on the adverse parties or Attorney-at-law, for which no other fee is herein allowed 15.00

#### AFFIDAVITS

52. Drawing and engrossing affidavit of service, or of search 5.00

53. If more than 3 folios, for every folio beyond 3 1.00

54. Drawing and engrossing any other affidavit, per folio 1.00

55. For preparing each exhibit 1.00

#### ATTORNEYS'-AT- LAW FEES

56. Fees for advising and settling allowed under rule 69, are not to exceed seventy five dollars.

57. The fee for appearance on an application to the Court on motion is not to exceed one hundred and fifty dollars,

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58. The fee for appearance on an application to the Court on summons, is not to exceed seventy five dollars.

59. The fee for appearance on the hearing of a cause shall be, for the first day, from fifty dollars upward, for the second and any subsequent day, from thirty five dollars upwards.

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## SECOND SCHEDULE

## TABLE OF FEES TO BE TAKEN IN THE SUPREME COURT FOR DIVORCE AND MATRIMONIAL CAUSES

## CITATION

- |    |   |    |    |    |      |
|----|---|----|----|----|------|
| 1. | On sealing citation   | .. | .. | .. | 5.00 |
| 2. | For settling citation, or an abstract thereof for advertisement or other advertisement: |    |    |    |      |
|    | If of 5 folios or under   | .. | .. | .. | 5.00 |
|    | If above 5 folios, for each additional folios or part of a folio..                      |    |    |    | 2.00 |
| 3. | For serving citation, the same fees as for service of a writ of summons                 |    |    |    |      |
| 4. | For certificate of service  | .. | .. | .. | 3.00 |

## APPEARANCE

- |    |   |    |        |
|----|---|----|--------|
| 5. | On entering appearance, for each person.. | .. | 3.00   |
| 6. | On amending appearance                    | .. | ..3.00 |

## PLEADINGS

- |    |  |      |      |    |      |
|----|--|------|------|----|------|
| 7. | Filing petition, answer, reply and any subsequent pleading, each | .... | ..   | .. | 3.00 |
| 8. | On any amendment of pleadings                                    | ..   | .... | .. | 3.00 |

## EVIDENCE

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9. Filing interrogatories (each set).. .... .. 3.00
10. Filing deposition of each witness .. 3.00

### PROTECTION ORDERS

11. Filing application for an order for the protection of a wife's earnings and property.. .... .. 3.00
12. For entering order on the application.. .. 3.00
13. For the order under seal of the Court .. .. 5.00

### SETTING DOWN

14. Setting a cause down for hearing .. .. 7.00

### WITHDRAWAL

15. On withdrawal of a cause after same is set down for hearing, to be paid by party at whose instance it is withdrawn .. .. 5.00

### SUBPOENA

16. On every subpoena.. .. 5.00

### HEARING

17. On the hearing of a cause; from the party setting down the cause for hearing and when setting down ... 10.00

### ENTERING DECREE OR ORDER

18. Entering final decree in a cause, to be paid by the successful party.. .. 7.00

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19. Entering order for examination of witness or witnesses, or decree or order for alimony, or order directing how damages shall be applied, or order providing for custody, maintenance or education of children, or any order made under rule 43 .. .. 5.00
20. If any of the above orders exceed 5 folios, for every additional folio or part of a folio ... .. 2.00
21. Entering any minute, order, or decree in the cause book other than minutes, orders, or decrees specified .... .. 4.00

**MOTION AND SUMMONSES**

22. Filing notice of motion.. .. 3.00
23. Filing summons .. .. 3.00
24. Entering minute or order on motion or summons, other than orders specified .. .. 3.00
25. If a final order in a cause .. .. 7.00

**TAKING EVIDENCE**

26. For taking the evidence of one or more witnesses before the Registrar or Commissioner, and within three miles of the Supreme Court, for each day .. . 40.00
27. If beyond that distance, for each day, in addition to travelling expenses .. .. 40.00
28. If for part of a day only, such smaller fee as the Registrar shall in his discretion think proper.

**REFERENCES TO REGISTRAR**

- 29. On each reference for any inquiry before the Registrar  
.. 7.00
- 30. For every hour or part of an hour after the first hour  
.. 5.00
- 31. For Registrar's report, if 5 folios or under .. 5.00
- 32. If exceeding folios, for every additional folio or part of a folio .. .. .. .. 2.00

**WRITS**

- 33. Writ of attachment .. .. 7.00
- 34. Writ of sequestration or fieri facias .... .. 5.00
- 35. Other and additional fees for process in any execution to be as taken under the Rules of the High Court.

**CERTIFICATE**

- 36. For every certificate under the hand of Registrar . ... .. 10.00
- 37. Filing every affidavit or other document brought into Court or deposited in the registry, for filing which no fee is before specified .. .. .3.00

**SEARCHES**

- 38. Search in each court book, if within the last five years  
.. 3.00



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39. If at an earlier period than within the last five years  
.. 5.00

**OFFICE COPIES AND EXTRACTS**

40. For every office copy or extract of a minute, order, or decree entered in a cause, or of any document filed in a cause or deposited in the registry:

If 5 folios .. .. . 5.00

If exceeding 5 folios, per folio .. . 2.00

41. For the seal of the Court affixed to any minute, order or decree or to any office copy .. . 3.00

**OATHS**

42. For administering an oath to each deponent .. 3.00

43. For making every exhibit .. .. 1.00

**TAXING COSTS**

44. Taxing every bill of costs, where the amount allowed does not exceed \$20.00 .. .. 3.00

45. Where the amount exceeds \$20.00. for every \$10.00 allowed or a fraction thereof .. 1.00

These fees, unless otherwise provided, shall be taken on signing the certificate, or on the allowance of the bill of costs as taxed; but the fees shall be due and payable, if no certificate or allocation is required, on the amount of the bill as taxed, or on the amount of such part thereof as may be taxed.

The taxing officer may require a deposit on account of

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fees before taxation not exceeding the fees on the full amount of the costs as submitted for taxation, and the officer on taking that deposit shall make a memorandum thereof on the bill of costs.

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