GOVERNMENT NOTICE NO. 147.

TRINIDAD AND TOBAGO

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

RULES

RULES MADE BY THE COMMITTEE WITH THE APPROVAL OF THE GOVERNOR-GENERAL UNDER REGULATION 10 OF THE DIVORCE REGULATIONS CONTAINED IN PART IV OF THE SCHEDULE TO THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961.

THE DIVORCE (PROCEDURE AND PRACTICE) RULES, 1968

1. These Rules may be cited as the Divorce (Procedure and Practice) Rules, 1968.

2. In these Rules—

"Council" means a Council of Divorce appointed in accordance with the provisions of the Divorce Regulations;

"Party" or "Parties" mean husband or wife of any person against whom an allegation of adultery or sodomy is alleged;

"Petition" means an application for dissolution or annulment of marriage;

"Petitioner" means the applicant for a dissolution or annulment of marriage;

"Respondent" means the spouse against whom a petition is filed;

"Registrar General" means the Registrar General of Muslim Marriages and Divorces appointed under section 4 of the Muslim Marriage and Divorce Ordinance, 1961;

"Secretary" means the Secretary of a Council.

3. All documents filed with or issued by the Secretary shall be stamped with a seal to be approved by the Registrar General and shall bear the date of filing or issuing thereof.

4. The Secretary shall have custody of the seal.

5. Every petition for dissolution or annulment shall be made in triplicate in the form set out as Form No. 1 in the Schedule and filed with the Secretary and shall be accompanied by the relevant marriage certificate and by the receipt of the Registrar General evidencing payment of the prescribed fees. Form No. 1

6. (1) Where an intended petitioner is in any doubt as to whether the grounds on which he relies are sufficient to support a petition for dissolution or annulment of the marriage he may make an *ex-parte* application to the Council in the form set out as Form No. 2 in the Schedule. Form No. 2.

(2) The Council shall determine the application and inform the intended petitioner of its decision without requiring his attendance.

7. (1) A Copy of the petition certified by the Secretary shall be served personally on the respondent and upon every person with whom adultery or sodomy is alleged to have been committed.

(2) Service may be effected by the Secretary or by anyone deputed by him in writing so to do, but in no case be effected by the petitioner.

(3) Where the name or identity of the person with whom adultery or sodomy is alleged to have been committed is unknown or his whereabouts are unknown the Council may dispense with service upon him after being satisfied by evidence given upon oath of such facts.

8. (1) Every copy of petition for service on a respondent shall be accompanied by a notice of petition and a form of answer in duplicate in the forms set out as Forms No. 3 and 4 respectively in the Schedule.

Forms No. 3 and No. 4.

(2) Every copy of petition for service on a person charged with adultery or sodomy shall be accompanied by a notice of petition and a form of answer in duplicate in the forms set out as Forms No. 3 and No. 5 respectively in the Schedule.

Forms No. 3 and No. 5.

(3) The respondent or the person referred to in paragraph (2) may within fourteen days from the service of the petition upon him deliver an answer to the Secretary.

9. Unless otherwise directed a petition shall not proceed to be heard unless every person who is required by rule 8 to be served with a copy of the petition has—

(*a*) filed an answer to the petition; or

(*b*) is shown by affidavit in the form set out as Form No. 6 in the Schedule to have been served with the petition personally; or

Form No. 6.

(*c*) is shown to have been served by evidence given on oath to the Council of such service.

10. (1) A copy of every answer filed must be served within fourteen days of its receipt by the Secretary or by anyone deputed by him in writing so to do upon the petitioner personally accompanied by a notice in the form set out as Form No. 7 in the Schedule.

Form No. 7.

(2) Service of an answer shall be proved in the same manner as service of a petition is proved in rule 9.

11. No reply or subsequent pleading shall be filed except by leave of the Council.

12. (1) If husband and wife by mutual consent desire to terminate the marriage they shall sign the petition for dissolution in the forms set out as Forms No. 1 and No. 8 respectively in the Schedule jointly and either may set down the petition for hearing at the same time as the petition is filed.

Forms No. 1 and No. 8.

(2) Where a petition for dissolution of the marriage is filed by mutual consent the Council shall not pronounce a *decree nisi* except in the presence of both parties. A petition by mutual consent need not be served on any person.

13. The petitioner shall set down the cause for hearing—

(*a*) fourteen days after service of the petition after every person entitled under these rules to be served with a copy of the petition has been served and no answer has been filed.

(*b*) after answer or any subsequent pleading has been filed even though the time for so doing has not expired.

14. (1) Every notice of setting down shall be in the form set out as Form No. 8 in the Schedule and shall be accompanied by the receipt of the prescribed fees for setting down. Form No. 8.

(2) On receipt of the notice of setting down the Secretary or anyone deputed in writing by him to do so shall within fourteen days serve on each party who has filed an answer a notice in the form set out as Form No. 9 in the Schedule specifying the date, time and place of the hearing of the petition. Form No. 9.

(3) If the petitioner fails to set the cause down for hearing a respondent who has filed an answer may, on the expiration of twenty-eight days after the service of the petition set the cause down for hearing.

15. (1) A petition or other document may be served outside the jurisdiction only with leave of the Council.

(2) Where personal service under the foregoing rules cannot be effected leave to substitute some other mode of service may be granted upon an application to the Council.

(3) The Council shall give leave to serve a petition or other document outside the jurisdiction or give leave to substitute some other mode of service in accordance with the foregoing rules in the same manner and upon such terms and conditions as leave is given under the Divorce and Matrimonial Causes Rules, 1932.

Evidence

16. (1) The standard of proof in any proceedings shall be that required under Islamic Law. Where in any matter Islamic law does not lay down any standard of proof, the standard of proof shall be required in a court of law in civil proceedings.

(2) The rules governing the admissibility of evidence shall be observed but the admission of secondary evidence with respect to documents may be allowed.

Hearing of Petition

17. (1) The Secretary shall cause subpoenas to be issued in the forms set out as Forms No. 10 and No. 11 respectively in the Schedule to such witnesses desired by any party or as the Council may consider should be heard. Forms No. 10 and No. 11.

(2) All proceedings shall be heard "in camera" and the evidence of witnesses shall be taken either on oath or on affirmation and for this purpose every oath or affirmation shall be administered by the Secretary in the presence of the Council.

(3) Any party may be represented by counsel or solicitor.

(4) If any party fails to appear at the hearing the Council may upon proof of service of the petition and of the notice of hearing proceed to determine the matter in his absence.

(5) The Council may make such order as to costs as it may think fit.

(6) The Council may of its own motion or upon the application of any party adjourn the hearing upon such terms as to costs or otherwise as to the Council shall appear just.

(7) If upon the hearing it shall appear to the Council that the allegations in the petition or answer require to be amended or added to the Council may permit such amendment or addition and may require the same to be embodied in a further petition or answer if in the judgment of the Council such amendment or addition is not within the scope of the original petition or answer.

(8) If such amendment or addition as is mentioned in paragraph (7) shall be such as to take any of the parties by surprise or prejudice the conduct of the hearing, the Council may grant an adjournment upon such terms as to costs or otherwise as to the Council shall appear just.

18. Any costs ordered by the Council to be paid by one party to another shall be deemed to be a debt due to such party.

19. The Council may dispense with any of the requirements of these Rules respecting notices, documents, affidavits, service or time in any case where it appears to the Council to be just so to do.

20. The Council may extend the time for doing anything under these Rules.

Decree Absolute

Form No. 12.

21. (1) An application may be made by either spouse to make absolute a *decree nisi* by filing with the Secretary a notice in the form set out as Form No. 12 in the Schedule after the expiration of the period prescribed for making the decree absolute, accompanied by the receipt of the Registrar General evidencing the payment of the prescribed fees.

(2) If no appeal is pending or no cause is shown by or on behalf of any person against the decree being made absolute or there is no impediment under Islamic law, the Council shall pronounce the decree absolute.

22. Subject to the rules herein which require personal service, service of any notice or document required by these Rules to be served may be effected—

(*a*) personally; or

(*b*) by delivery at such address as a party may give to the Secretary as an address for service; or

(*c*) by registered post addressed to the last known place of abode or business of the person to be served and proof that the letter was so addressed and posted shall be proof of such service.

23. (1) The Secretary or anyone deputed by him in writing shall be entitled to the sum of two dollars for the service of each document required to be served by him.

(2) All sums of money for the purpose of service or documents shall be deposited with the Secretary and he shall issue receipts therefor.

24. If any party is unable to prepare his petition or answer or any application required to be made to the Council, he may request the Secretary to assist him in so doing and the Secretary shall comply with such request. Where the applicant is unable to read or write, the Secretary shall cause any document so prepared to be read over and explained to the applicant who shall affix his mark (or if he is unable to sign his name, his signature) thereto in the presence of the Secretary who shall attest same.

SCHEDULE

FORM 1

TRINIDAD AND TOBAGO

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Application for Dissolution/Annulment of Marriage* (Affidavit)

I,..... of.....the petitioner herein, do hereby solemnly and sincerely declare as follows:—

1. That on the.....day of.....19....., I was lawfully married at.....in the Island of Trinidad/Tobago to C.B. then C.D. spinster/widow/divorcee* (hereinafter called the respondent).

2. That the said marriage was in accordance with the Islamic Law of Marriage and was on the.....day of....., 19....., registered under the provisions of the Muslim Marriage and Divorce Ordinance.

3. That after the said marriage the respondent and I lived and cohabited together at.....and finally at..... that there is issue of the said marriage now living namely V.B. born on the..... .....day of.....19....., (&c.) (or there is no issue of the said marriage now living).

4. That the said marriage is still subsisting according to the Islamic Law of Marriage at the date hereunder written.

5. That at the date of this application I am domiciled in Trinidad and Tobago.

6. That the grounds on which dissolution/annulment* of the said marriage are sought are as follows:

7. That the respondent is living at..... (or the address of the respondent is unknown to the petitioner).

8. (That I have not previously made an application for dissolution/annulment of any Muslim body) or that (I have previously made the following application for dissolution/annulment to the following bodies:

..... *Commissioner of Affidavits*

..... *Signature or mark of Petitioner*

*Delete what is inapplicable.

FORM 2

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

In the Matter of an Intended Petition for Dissolution/Nullity of Marriage

I,.....of.....
(*Name of Petitioner*) (*Address*)

do hereby make application to the Council to determine whether the following grounds are sufficient to support a petition for divorce/nullity:

(here state grounds briefly)

.....
Signature or Mark of Intended Petitioner

To: The Secretary, Divorce Council

(Name of Body)

FORM 3

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Notice of Petition

Take Notice that a Petition has been presented to the Divorce Council of.....

.....
(*Name of Body*)

A copy of it is delivered with this Notice.

If you do not intend to answer the charges and if you do not wish to make any application on your own account, you need not do anything more. The Council may then, without further notice to you, proceed to hear the petition and pronounce judgment notwithstanding your absence.

If you wish to be heard on any matter in connection with the Petition you must complete the accompanying Answer in duplicate and send or deliver both copies so as to reach the Secretary at.....
(*address*)
within fourteen days after you receive this Notice.

You will then receive notice of the case being set down for hearing. When the case is heard you must attend the hearing.

If you wish witnesses to give evidence on your behalf you must also include on the Answer the names of the witnesses and their addresses. The Secretary will then deliver to you subpoenas for service on such witnesses at the time you are served with notice of the case being set down for hearing.

.....
Secretary, Divorce Council
(*Name of Body*)

FORM 4

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

I, ..., the Respondent, in answer to the Petition say:

1. *That I am not guilty of the allegations stated in the Petition and/or

2. †

.....
Signature or Mark of Respondent

To: The Secretary, Divorce Council
(name of body)

*Delete 1 if not applicable.

†Set out here such facts as you believe would prevent a decree in spite of the petitioner proving the charges in the Petition and/or such grounds which would entitle you to a decree.

I wish to summon the undermentioned witness to give evidence on my behalf:

Names *Addresses*

.....
Signature or Mark of Respondent

FORM 5

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

I, ...of .....
(*Name*) (*Address*)

do hereby deny the allegations made against me in the above-mentioned petition and/or*

.....
Signature or Mark of above-mentioned

To: The Secretary, Divorce Council
(name of body)

*Set out here briefly any facts which you wish to bring to the attention of the Council.

I wish to summon the under-mentioned witnesses to give evidence on my behalf:

Names	*Addresses*

.....
Signature or Mark

FORM 6

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

I,.....of.....
(*name*) (*address*)

make oath and say as follows:

1. That a copy of the Petition bearing date the.....day of.....19....., filed with the Secretary of the Divorce Council of.....together with Notice of Petition
(*name of body*)
and forms of Answer was duly served by me on the.....day of.....19..... by delivering the said.....
(*name of person served*)
personally a copy thereof.

2. *

Sworn to by the within-named
.....at
.....
this.....day of.....

Before me,

Commissioner of Affidavits

* Means of knowledge of identity of the person served must be inserted here.

FORM 7

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

Take Notice that an Answer has been filed to your Petition in the above-mentioned matter. A copy of it is delivered with this Notice.

You may not file any reply to such Answer or any other document except with leave of the Divorce Council.

Secretary, Divorce Council
(name of body)

To:

FORM 8

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

The Petitioner sets this matter down for hearing. The Petitioner is contested/uncontested.*

Signature or Mark of Petitioner

*Strike out whichever does not apply. This document must be accompanied by the receipt of the Registrar General evidencing payment of the prescribed fees for setting down.

FORM 9

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

Take Notice that the Petition for Divorce/Nullity in the above-mentioned matter will be heard at.....on..... day of.....19..... at the hour of.....o'clock in the.....noon.

Secretary, Divorce Council
(*name of body*)

To:

FORM 10

SUBPOENA AD TESTIFICANDUM

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

The Divorce Council of.....
(*name of body*)

constituted under the Muslim Marriage and Divorce Ordinance, 1961 command you to attend at.....on..... the.....day of.....19....., at the hour of .....o'clock in the.....noon and so from day to day until the petition in the above matter is heard, to give evidence on behalf of .....

Secretary, Divorce Council
(*name of body*)

To:

FORM 11

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

The Divorce Council of.....
(*name of body*)

constituted under the Muslim Marriage and Divorce Ordinance, 1961 command you to attend at.....on the..... day of.....19..... at the hour of.....o'clock in the.....noon and so from day to day until the petition in the above matter is heard to give evidence on behalf of..... and to bring with you and produce at the time and place aforesaid (specify documents to be produced):

Secretary, Divorce Council
(*name of body*)

To:

FORM 12

THE MUSLIM MARRIAGE AND DIVORCE ORDINANCE, 1961

Between

Petitioner.

and

Respondent.

I,.....of.....
the.....give notice that the *decree nisi*
(*petitioner or respondent*)

pronounced in this cause on the.....day of.....19..... be made absolute.

Dated this.....day of....., 19.....

Petitioner/Respondent

To: THE SECRETARY, DIVORCE COUNCIL
(*name of body*)

(This document must be accompanied by the Receipt of the Registrar General evidencing payment of the prescribed fees.)

Made by the Committee this 17th day of July, 1968.

ZOOL DEEN
Member, Trinidad Muslim League

JACOOB ALI
Member, Anjuman Sunnat-Ul-Jamaat Association

SHAM MOHAMMED
Member, Tackveeyatul Islamic Association of Trinidad

Approved by the Governor-General on the 25th July, 1968.

ANNETTE M. GUY
Acting Secretary to the Cabinet

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