

LEGAL NOTICE No. 71

REPUBLIC OF TRINIDAD AND TOBAGO

THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTIONS 77 TO 81 OF THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 1991

1. These Rules may be cited as the Matrimonial Causes (Amendment) Rules, 1991, and shall be read as one with the Matrimonial Causes Rules. Citation
Chap. 45:51
2. The Matrimonial Causes Rules are amended as follows: Amendment
Chap. 45:51
 - (a) in rule 2, immediately after the definition of "settlement of property order", insert the following new definition:

"Special procedure list" has the meaning assigned to it by rule 28A;"
 - (b) in rule 4(1), for the words, "three years", substitute the words "one year";
 - (c) immediately after rule 28, insert the following as rule 28A: Rule 28A

"Directions and setting down for trial 28A. (1) Where the cause is an undefended cause for divorce or judicial separation and, in a case to which section 4(1)(d) of the Act applies, the respondent has given the Registrar the requisite notice by Form 7 that he consents to the grant of a decree, then, unless otherwise directed—

 - (i) there shall be filed with the request for directions for trial in Form 7A an affidavit by the petitioner containing the information required by Form 7B, 7C, 7D, 7E or 7F (whichever is appropriate), as near as may be in the order there set out, together with any corroborative evidence on which the petitioner intends to rely; and
 - (ii) the Registrar shall give directions for hearing by entering the cause in a list to be known as the Special procedure list.

(2) In the case of an undefended cause proceeding on the respondent's answer, subrule (1) shall have effect as if for the references to the petitioner and the respondent there were substituted references to the respondent and the petitioner respectively.";
 - (d) immediately after rule 35, insert the following as rule 35A: Rule 35A

"Disposal of causes in the Special procedure list 35A. (1) As soon as practicable after a cause has been entered in the Special procedure list, the Registrar shall consider the evidence filed by the petitioner and—

 - (i) if he is satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a decree, the Registrar shall make and file a Certificate in Form 7G;

(ii) if he is not so satisfied he may either give the petitioner an opportunity of filing further evidence or remove the cause from the Special procedure list whereupon rule 28A shall cease to apply and rule 28 shall apply.

(2) On the filing of a Certificate under subrule (1), a day shall be fixed for the pronouncement of a decree by a Judge in open court and in such event the Registrar shall send to each party a notice of the time and place so fixed together with a copy of the Certificate whereupon the party seeking the decree shall appear on the day so fixed.

(3) Within 14 days after the pronouncement of a decree in accordance with a Certificate under subrule (1), any person may inspect the Certificate and the evidence filed under rule 28A and may request copies on payment of the prescribed fee.”;

(e) in the First Schedule, insert immediately after Form 7, the forms set out in the Schedule to these Rules as Forms 7A, 7B, 7C, 7D, 7E, 7F and 7G.

L.N. Nos. 108 and 131 of 1989 revoked

3. The Matrimonial Causes (Amendment) Rules, 1988 (Legal Notice 108 of 1989) and Legal Notice 131 of 1989 are hereby revoked.

SCHEDULE

FORM 7A

Rule 28A

IN THE HIGH COURT OF JUSTICE (Matrimonial)

No.

REQUEST FOR DIRECTIONS FOR TRIAL

Between

Petitioner

And

Respondent

The above-named Petitioner hereby applies to the Registrar for directions for trial of this undefended cause by entering it in the Special procedure list. The Petitioner's affidavit of evidence is lodged herewith, and marked "A".

Dated this day of , 19 .

Attorney-at-law for the Petitioner

DIRECTIONS FOR TRIAL

I am satisfied that the requirements of Rule 28A(1) of the Matrimonial Causes Rules have been complied with, and I direct that the cause be heard as undefended at the High Court,.....

Dated this day of , 19 .

Registrar, Supreme Court

FORM 7D

Rule 28A

IN THE HIGH COURT OF JUSTICE
(Matrimonial)

No.

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER
SECTION 4(1)(c) OF THE MATRIMONIAL PROCEEDINGS AND PROPERTY ACT

[Heading as in Form 2]

Question

Answer

1. Have you read the petition filed in this case?
2. Do you wish to alter or add to any statement in the petition? If so, state the alterations or additions.
3. Subject to these alterations and additions (if any), is everything stated in your petition true? If any statement is not within your own knowledge indicate this and say whether it is true to the best of your information and belief.
4. State the date on which you and the Respondent separated, and, if different, the date on which the alleged desertion began. Did you agree to the separation?
5. State briefly the facts you rely on in support of the allegation that the Respondent deserted you, and your reason for saying that the desertion continued up to the presentation of the petition.
6. Did the Respondent ever offer to resume cohabitation?
7. State as far as you know the various addresses at which you and the Respondent have respectively lived since the last date given in the answer to Question 4, and the periods of residence at each address—

Petitioner's Address

Respondent's Address

From

From

To

To

Question

Answer

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

I,
 (full name)
 of
 (full residential address)

 (occupation)

make oath and say as follows:

1. I am the Petitioner in this cause.
2. The answers to Questions 1 to 8 above are true.
3. (1)* I identify the signature.....
 (2)* appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the Respondent in this cause.
4. (3)*.
5. I ask the Court to grant a decree dissolving my marriage with the Respondent (4)* on the grounds stated in my petition [and to order the Respondent to pay the costs of this suit] (5)*.

Sworn at

this day of , 19 .

Before me,

Commissioner of Affidavits

*See instructions below.

- (1)* Delete if the acknowledgment is signed by an Attorney-at-law.
- (2)* Insert name.
- (3)* Exhibit any other documents on which the Petitioner wishes to rely.
- (4)* If the Petitioner seeks a judicial separation, amend accordingly.
- (5)* Delete if costs are not sought.

FORM 7E

Rule 28A

IN THE HIGH COURT OF JUSTICE
(Matrimonial)

No.

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER
SECTION 4(1)(d) OF THE MATRIMONIAL PROCEEDINGS AND PROPERTY ACT

[Heading as in Form 2]

Question

Answer

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

Petitioner's Address

Respondent's Address

From

From

To

To

Question

Answer

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

I,
(full name)

of
(full residential address)

.....
(occupation)

make oath and say as follows:

1. I am the Petitioner in this cause.
2. The answers to Questions 1 to 8 above are true.
3. (1)* I identify the signature.....
(2)* appearing on the copy acknowledgment of service now produced to me and marked "A" as the signature of my husband/wife, the Respondent in this cause.
4. (3)*
5. I ask the Court to grant a decree dissolving my marriage with the Respondent (4)* on the grounds stated in my petition [and to order the Respondent to pay the costs of this suit] (5)*.

Sworn at

this day of , 19 .

Before me,

Commissioner of Affidavits

*See instructions below.

- (1)* Delete if the acknowledgement is signed by an Attorney-at-law.
- (2)* Insert name.
- (3)* Exhibit any other documents on which the Petitioner wishes to rely.
- (4)* If the Petitioner seeks a judicial separation, amend accordingly.
- (5)* Delete if costs are not sought.

FORM 7F

Rule 28A

IN THE HIGH COURT OF JUSTICE
(Matrimonial)

No.

AFFIDAVIT BY PETITIONER IN SUPPORT OF PETITION UNDER
SECTION 4(1)(e) OF THE MATRIMONIAL PROCEEDINGS AND PROPERTY ACT

[Heading as in Form 2]

Question

Answer

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

Petitioner's Address

Respondent's Address

From

From

To

To

Question

Answer

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

I,
(full name)

of
(full residential address)

.....
(occupation)

make oath and say as follows:

1. I am the Petitioner in this case.
2. The answers to Questions 1 to 8 above are true.
3. (1)* I identify the signature.....
(2)* appearing on the copy acknowledgement of service now produced to me and marked "A" as the signature of my husband/wife, the Respondent in this cause.
4. (3)*
5. I ask the Court to grant a decree dissolving my marriage with the Respondent (4)* on the grounds stated in my petition [and to order the Respondent to pay the costs of this suit] (5)*.

Sworn at

this day of

, 19

Before me,

Commissioner of Affidavits

*See instructions below-

- (1)* Delete if the acknowledgment is signed by an Attorney-at-law.
- (2)* Insert name.
- (3)* Exhibit any other documents on which the Petitioner wishes to rely.
- (4)* If the Petitioner seeks a judicial separation amend accordingly.
- (5)* Delete if costs are not sought.

FORM 7G

Rule 35A(1)

IN THE HIGH COURT OF JUSTICE
(Matrimonial)

No.

REGISTRAR'S CERTIFICATE

Between

Petitioner

And

Respondent

I.....Registrar of the Supreme Court
certify that the above-named Petitioner has sufficiently proved the contents of the petition
filed herein for a decree of divorce/judicial separation on the following facts*:

- (a)* that the Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent;
- (b)* that the Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent;
- (c)* that the Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of the petition;
- (d)* that the parties to the marriage have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to a decree being granted;
- (e)* that the parties to the marriage have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition.

I further certify that—

- (i) There are no children of the family to whom section 47 of the Matrimonial Proceedings and Property Act applies; or
- (ii) There are children of the family to whom section 47 of the Matrimonial Proceedings and Property Act applies. [Upon the pronouncement of the decree the Registrar will fix a date for the hearing of ancillary matters].

Registrar, Supreme Court

To:

To:

To:

*Delete whichever is not applicable.

Made by the Rules Committee the 29th day of April, 1991.

C. BERNARD

Chief Justice

R. HAMEL-SMITH

Judge of the Court of Appeal

C. BEST

Judge of the High Court

A. I. SMART

Attorney General

B. F. PARAY

Registrar, Supreme Court

R. MARTINEAU

Attorney-at-Law

D. FITZWILLIAM

Attorney-at-Law

Laid in the House of Representatives the 10th day of May, 1991.

N. COX

Acting Clerk of the House

Laid in the Senate the 28th day of May, 1991.

R. CUMBERBATCH

Acting Clerk of the Senate