

LEGAL NOTICE NO. 220

REPUBLIC OF TRINIDAD AND TOBAGO

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

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT OF JUDICATURE ACT

THE FAMILY PROCEEDINGS (AMENDMENT) RULES, 2003

1. These Rules may be cited as the Family Proceedings Citation (Amendment) Rules, 2003.

2. (1) The Family Proceedings Rules, 1998 are hereby amended as set out in the Schedule. Amendment of the Family Proceedings Rules, 1998

(2) Column I of the Schedule sets out the Rule amended and Column II sets out the extent of the amendments to those Rules.

SCHEDULE

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
	PART 1
1.1(2)(a)	Insert the words “and are not prejudiced by their financial position” after the words “equal footing”.
	PART 2
2.1	Delete subrule (2) and substitute the following: “ (2) These Rules shall: come into force on a date in 2003 to be fixed by the Rules Committee save and except Rules 37.1 to 37.11 which shall come into force on a subsequent date to be fixed by the Rules Committee”.
2.2 (1)	Insert after the words “commenced in the”, the words “Registry of the”. Insert after the words “Supreme Court”, the words “Port-of-Spain”.
2.2 (3)	Delete the words “Matrimonial Causes Rules” and substitute the words “the relevant rules of court and other statutory provisions”.
2.2(4)(b)	Insert before the word “proceedings”, the word “relevant”.
2.2(4)(b)(ii)	Delete the words “No. 15 of 1981” and substitute the following: “Chap. 46:08”.
2.2(4)(b)(iii)	Insert after the word “Act,” and before “45:53”, the following: “Chap.”.
2.2(4)(b)(iv)	Insert after the word “Act”, and before “46:07”, the following: “Chap.”.
2.2(4)(b)(v)	Insert after the word “Act,” the following: “No. 14 of 1988”.

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
2.2(4)(b)(vi)	Insert after the word "Act," the following: "No. 30 of 1998".
2.2(4)(b)(xii) to 2.2(4)(b)(xx)	<p>Insert after "2.2(4)(b)(xi) Married Persons Act, Chap. 45:50", the following:</p> <ul style="list-style-type: none"> (xii) Children's Authority Act, No. 64 of 2000 (when proclaimed); (xiii) Children's Community Residences, Foster Homes and Nurseries Act, No. 65 of 2000 (when proclaimed); (xiv) Adoption of Children Act, No. 67 of 2000 (when proclaimed); (xv) Children Act, Chap. 46:01. (xvi) Maintenance Orders (Facilities for Enforcement) Act, No. 12 of 2000 (when proclaimed); (xvii) Part VIII Succession Act, 1981. (xviii) Administration of Estates Ordinance, Ch. 8. No.1. (xix) Orisa Marriage Act, 1999. (xx) Muslim Marriage and Divorce Act, Chap. 45:02. (xxi) Hindu Marriage Act, Chap. 45:03. (xxii) Marriage Act, Chap. 45:01. (xxiii) Habeas Corpus Act, Chap. 8:01".
2.2(7)	Insert after the words "Civil Proceedings Rules 1998" the following: "and shall be of no effect until the Civil Proceedings Rules 1998 come into force".
2.3	Insert after the definition of "applicant" the following: " "assess" in relation to costs means the taxation of costs as provided for in the Matrimonial Causes Rules and the Rules of the Supreme Court."
2.3	Insert after the definition of "defended cause", the following definition: " "decree proceedings" means proceedings in which a party is seeking a decree."
2.3	In the definition of the word "cohabitant" insert after the words "Cohabitation Relationships Act, 1998" the following: "or the meaning given to it by Part VIII of the Succession Act, 1981 or the meaning given to it by the Administration of Estates Ordinance, Ch. 8. No. 1 as the context requires;".
2.3	Insert after the definition of "guardian <i>ad litem</i> " the following: " "Marshal" includes a Deputy Marshal".
2.3	Insert in the definition of "minor" after the figure "18" the following: "years of age".
2.3	Insert after the definition of "petition" the following definition: " "practice form" means a form which the Chief Justice designates by practice direction to be a practice form".
2.3	Insert after the definition of the words "relevant child", the following definition: " "Registrar" includes the Deputy Registrar and Assistant Registrar".
2.8(5)(b)	Insert after the word "direction" the words: "; or".

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
6.8 Heading	Delete the heading "Translation of petition where served out of Trinidad and Tobago" and substitute the words, "Translation of petition where party being served does not understand English."
7.6(1)(ii)	PART 7 Delete the words "or last known".
9.4	PART 9 Delete the following: " (6) An application under paragraph (5) " and substitute the following: " (5) An application under paragraph (4) ".
10.1(2)	PART 10 Delete the word "appearance" and substitute the words "acknowledgement of service".
10.5(1)	Delete the word "his" before the words "consent of the respondent" and substitute the word "the".
10.5(3)	Insert after the word "stayed" the words "if that is the only fact relied upon".
11.7(1)	PART 11 Delete the words "other proceedings" after the words "other proceedings".
11.9	Delete rule 11.9 and renumber the subsequent rules in this Part as follows: "Service of evidence 11.9. Appointment of probation officer 11.10 Evidence of probation officer 11.11 Application by probation officer for discharge or variation of supervision order 11.12
11.13	Insert after rule 11.12 the following: "Court may utilise services of other persons". 11.13 Where the court considers that it is appropriate to obtain the services of a probation officer, the court may nonetheless utilize the services of— (a) any person whose qualifications are similar to those of a probation officer and who either— (i) is a public officer; or (ii) is employed on contract by the State; or (b) with the consent of the parties and the court, a private mediator, counsellor or other professional paid by the parties; or (c) mediators paid by the State. Mediator may not be compelled to give evidence or to report.
11.14	11.14 Notwithstanding rule 11.13, where the court utilizes the services of a mediator the court may not compel a mediator to give evidence or submit a report save that a report shall be made to the court as to whether or not the mediation resulted in agreement.

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
12.1(2)(b)(i)	<p style="text-align: center;">PART 12</p> <p>Insert the words “or Part VIII of the Succession Act, 1981;” after the words “Part III of the Wills and Probate Ordinance, Ch. 8:02”.</p>
12.2(2)	<p>Insert the word “or” after the words “a matrimonial home order;” in paragraph (e), and the following paragraph: “(f) an adjustment order under the Cohabitation Relationships Act, 1998”.</p>
12.3(3)	<p>Insert after the word “spouse” the following: “, cohabitant”.</p>
12.6(3)(c)	<p>Delete paragraph (c) and substitute the following: “(c) in the case of an application— (i) to vary a maintenance agreement after the death of a spouse, former spouse or cohabitant; and (ii) for maintenance out of the estate of a spouse or former spouse or cohabitant, on the personal representatives of the spouse, former spouse or cohabitant; and”.</p>
12.6	<p>After paragraph (d) of subrule (3) insert the figure “4” in place of the figure “3”.</p>
12.9(c)	<p>Insert the words “Part VIII of the Succession Act, 1981 or” before the words “Part III of the Wills and Probate Ordinance, Ch. 8:02”</p>
14.1	<p style="text-align: center;">PART 14</p> <p>Delete the following after the word “cases”: “, this” and substitute “. This”</p>
14.1(1)	<p>Insert after the word “disputes” the words, “and when necessary, making interim orders”.</p>
15.1(5)	<p style="text-align: center;">PART 15</p> <p>Delete after the word “paragraph”, the letter “(i)” and substitute the letter “(j)”.</p>
15.3(5)	<p>Delete the words “as assessed by the court”.</p>
15.6(3)	<p>Delete the word “must” which follows the words “grant relief, the court” and substitute the words “in the exercise of its discretion may”.</p>
17.4(2)	<p style="text-align: center;">PART 17</p> <p>Delete the words “in accordance with CPR 7.8–7.10” and substitute the words “by filing an affidavit showing that service has been effected in accordance with any order made under rule 6.7”.</p>
18.1(4)	<p style="text-align: center;">PART 18</p> <p>Delete the word “filling” and substitute the word “filing”.</p>
18.8(4)	<p>Delete the figure 17.3(3) and substitute the figure 17.4(2).</p>

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19.1	<p style="text-align: center;">PART 19</p> Delete the word “and” and substitute the word “or”.
19.7	Delete the words “in the answer an address or cross-petition” and substitute the words “in the answer or cross-petition an address”.
19.11(2)	Delete the word “cross-prayer” and substitute the word “cross-petition”.
20.1(4)(b)	<p style="text-align: center;">PART 20</p> Insert the word “it” before the word “tends”.
20.6(4)	Insert after the words “Part 37” the following: “when Part 37 is in force”.
20.7(2)	Delete the words “in Form 10”.
20.7(4)(c)	Delete the word “state”. Delete the word “it”.
22.3(4)(b)	<p style="text-align: center;">PART 22</p> Delete the word “apply” and substitute the word “applies”.
22.4(4)(b)	Delete the word “apply” and substitute the word “applies”.
22.5(4)(b)	Delete the word “apply” and substitute the word “applies”.
22.6(b)	Delete the word “that”.
22.9(b)	Delete the word “apply” and substitute the word “applies”.
23.5 (1)	<p style="text-align: center;">PART 23</p> Delete the words “Commissioner for Affidavits” and substitute the words “Commissioner of Affidavits or if sworn or affirmed abroad, before a Notary Public”.
24.1(1)(b)	<p style="text-align: center;">PART 24</p> Delete the word “which”.
25.6	<p style="text-align: center;">PART 25</p> Delete the word “child” wherever it appears and substitute the word “minor”.
25.6(1)	After the word “preparing” insert the word “a”.
25.7 Heading	<p style="text-align: center;">PART 25</p> Delete the word “Court” in the heading and substitute the word “Court’s”
25.7(3)	Insert the words “by the court” after the word “appointed”.
26.9(2)(a)	<p style="text-align: center;">PART 26</p> Delete the word “or” after the word “writer” and substitute a comma (.). Insert after the word “stenographer” the words “or stenotypist or provide another approved means of recording evidence”.
26.9(2)(c)	Delete the word “or” after the word “writer” and substitute a comma. Insert after the word “stenographer” the words “or stenotypist”.

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28.4	<p style="text-align: center;">PART 28</p> <p>Delete the word “the” before the word “Appendix”. Insert the letter “A” after the word “Appendix”.</p>
30.11(3)(d)	<p style="text-align: center;">PART 30</p> <p>Delete the figure “30.5” and substitute the figure “30.8”.</p>
31.3(1)	<p style="text-align: center;">PART 31</p> <p>Delete rule 31.3(1) and substitute the following rule: “(1) To discontinue proceedings or any part of proceedings a party shall— (a) file a notice of discontinuance; and (b) serve a copy on every other party. (2) The party discontinuing shall file a certificate stating that the notice of discontinuance has been served on every other party and the particulars of service in accordance with Part 7.”</p>
31.5	<p>Insert the words “when Part 37 is in force” after the words “under rule 37.7”.</p>
34.2	<p style="text-align: center;">PART 34</p> <p>In the heading, insert after the word “minor” the word “a”.</p>
34.2(1)	<p>Delete the words “by issuing a fixed date claim in accordance with CPR 8.1 and 2” and substitute the words “in the appropriate practice form”.</p>
34.2(2)	<p>Delete the words “fixed date claim may be issued” and substitute the words “application may be made”.</p>
34.2(3)	<p>Delete the words “fixed date claim” and substitute the words “appropriate application” and insert a full stop after the word “evidence.” Delete the words “but the claimant need not file a statement of case”.</p>
34.2(4)(b)	<p>Delete the word “child” and substitute the word “minor”.</p>
34.2(6)	<p>Delete the words “fixed date claim” and substitute the words “appropriate application”.</p>
34.7(1)(b)(ii)	<p>Delete the word “defendant” and substitute the word “minor”.</p>
35.1	<p style="text-align: center;">PART 35</p> <p>Delete the figure “1981” and substitute the words “Chap. 46:08”.</p>
36.2	<p style="text-align: center;">PART 36</p> <p>Delete the word “In” and substitute the words “When Part 37 is in force, in” and renumber this as subrule 36.2(1).</p>
36.2(2)	<p>Insert the following: “36.2(2) When Part 37 is not in force, unless the context otherwise requires— “costs” include fees, charges, disbursements, expenses and remuneration.”</p>
36.6	<p>Insert the words “When Part 37 is in force,” before the words “Rule 37.6 sets out the way”.</p>

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36.11 to 36.14	<p>Insert after 36.10 the following:</p> <p>“Order 62 of the Rules of the Supreme Court to apply:</p> <p>36.11 When Part 37 is not in force Order 62 of the Rules of the Supreme Court is to apply <i>mutatis mutandis</i>.</p> <p>Court Fees:</p> <p>36.12 (1) The fees specified in Appendix B to these rules shall be taken in all family proceedings.</p> <p>(2) The same fees as in actions and other proceedings under the Rules of the Supreme Court for the time being in force shall be taken for any other act or matter not provided for in Appendix B.</p> <p>Registrar to fix costs of family proceedings in certain circumstances:</p> <p>36.13 (1) Subject to rules 36.14(1) and 36.14(3) the costs of family proceedings shall be fixed by the Registrar by analogy to the scale of costs for the time being in force under the Rules of the Supreme Court.</p> <p>(2) The Court may, if it thinks fit, allow to one party attorney client costs to be taxed.</p> <p>Costs in decree proceedings may be fixed:</p> <p>36.14 (1) Where the petitioner is granted a decree with costs in any undefended decree proceedings the costs shall, if his attorney so elects, be fixed in accordance with this rule.</p> <p>(2) Where costs are fixed there shall be allowed as between party and party such of the following items as are applicable:</p> <p>(a) in respect of instructing attorney’s charges—</p> <p>(i) \$1,500.00 or, in a higher rate case, \$1,800.00;</p> <p>(ii) if the petitioner’s attorney so requests, \$220.00 in respect of any ancillary application on which a consent order for maintenance has been made;</p> <p>(iii) \$75.00 in respect of any statement as to the arrangements for the children filed under rule 9.6(1);</p> <p>(iv) where an affidavit of means has been filed under rule 12.3(2), \$100.00; and</p> <p>(v) \$35.00 in respect of any certificate as to reconciliation filed under rule 9.1(4)(d);</p> <p>(b) in respect of counsel’s fees—</p> <p>(i) for settling the petition, \$200.00 or, in a higher rate case, \$250.00;</p> <p>(ii) for settling an affidavit of means filed under rule 12.3(2) \$250.00;</p> <p>(iii) for giving written advice on evidence \$175.00;</p> <p>(iv) with brief on hearing \$1,000.00; and</p> <p>(v) on conference, \$125.00;</p> <p>(c) in respect of other disbursements—</p> <p>(i) the court fees paid on the petitioner’s behalf; and</p> <p>(ii) such sums in respect of witnesses’ allowances, medical reports and the other disbursements as would have been allowed if the costs had been taxed, not exceeding, in the case of inquiry agents’ fees the sum of \$1,000.00”.</p> <p>(3) A petitioner’s attorney who elects to have his costs fixed under subrule (1) shall give notice to that effect to the Registrar, stating the sums which he claims should be allowed.”</p>

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38.3 Heading	<p style="text-align: center;">PART 38</p> <p>In the heading, delete the words “under the Civil Proceedings Rules”.</p>																																							
38.3	<p>Delete the words “Civil Proceedings Rules” and substitute the words “Rules of the Supreme Court 1975”.</p> <p>Delete the words “Debtors Rules” and substitute the words “Debtors Act, Chap. 8:07”.</p>																																							
Appendix B	<p>Insert after Appendix A the following:</p> <p style="text-align: center;">APPENDIX B</p> <p>“APPENDIX B Court Fees</p> <table border="0"> <tr> <td>1. On filing an application under Part 34</td> <td>... ..</td> <td>\$35.00</td> </tr> <tr> <td>2. On filing a petition (including sealing and copying)</td> <td></td> <td>\$50.00</td> </tr> <tr> <td>3. On filing an answer or reply (including sealing and copying)</td> <td></td> <td>\$35.00</td> </tr> <tr> <td>4. On filing a supplemental petition or amended petition (including sealing and copying)</td> <td></td> <td>\$10.00</td> </tr> <tr> <td>5. On filing an application</td> <td>... ..</td> <td>\$10.00</td> </tr> <tr> <td>6. On filing an affidavit</td> <td>... ..</td> <td>\$10.00</td> </tr> <tr> <td>7. On filing a certificate, request in writing or any other document</td> <td></td> <td>\$5.00</td> </tr> <tr> <td>8. Copy of a medical report filed under Part 18.5(5) per page or part thereof</td> <td></td> <td>\$1.25</td> </tr> <tr> <td>9. Copy of a report filed under Part 11</td> <td>... ..</td> <td>\$1.25</td> </tr> <tr> <td>10. Sealed or office or photographic copy of a decree or order under Part 30.8</td> <td></td> <td>\$10.00</td> </tr> <tr> <td>11. On search in the index of decrees absolute kept under Part 30.15(2)</td> <td></td> <td>\$5.00</td> </tr> <tr> <td>12. Copy of decree absolute under Part 30.15(3)</td> <td>... ..</td> <td>\$10.00</td> </tr> <tr> <td>13. Any certificate under the hand of a Judge, Master or Registrar.</td> <td></td> <td>\$10.00”</td> </tr> </table>	1. On filing an application under Part 34	\$35.00	2. On filing a petition (including sealing and copying)		\$50.00	3. On filing an answer or reply (including sealing and copying)		\$35.00	4. On filing a supplemental petition or amended petition (including sealing and copying)		\$10.00	5. On filing an application	\$10.00	6. On filing an affidavit	\$10.00	7. On filing a certificate, request in writing or any other document		\$5.00	8. Copy of a medical report filed under Part 18.5(5) per page or part thereof		\$1.25	9. Copy of a report filed under Part 11	\$1.25	10. Sealed or office or photographic copy of a decree or order under Part 30.8		\$10.00	11. On search in the index of decrees absolute kept under Part 30.15(2)		\$5.00	12. Copy of decree absolute under Part 30.15(3)	\$10.00	13. Any certificate under the hand of a Judge, Master or Registrar.		\$10.00”
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Made by the Rules Committee this 25th day of June, 2003.

S. SHARMA
Chief Justice

R. HAMEL-SMITH
Judge of the Court of Appeal

P. JAMADAR
Judge of the High Court

GLEND A MOREAN
Attorney General

R. M. DOYLE
Master of the High Court

A. K. FITZPATRICK
Attorney-at-law

E. A. PETERSEN
Registrar of the Supreme Court

Laid in the House of Representatives this 6th day of October, 2003.

J. SAMPSON-JACENT
Clerk of the House

Laid in the Senate this 26th day of November, 2003.

D. DOLLY
Clerk of the Senate