

MONTSERRAT

STATUTORY RULES AND ORDERS

S.R.O. 84 OF 2014

MATRIMONIAL PROCEEDINGS RULES 2014

ARRANGEMENT OF RULES

1	Citation.....	3
2	Interpretation.....	3
3	Application of Civil Procedure Rules.....	4
4	Forms.....	4
5	Commencement of dissolution proceedings by petition.....	4
6	Pleadings.....	4
7	Contents of petition.....	4
8	Signing and presentation of petition.....	7
9	Discontinuance of cause before service of petition.....	8
10	Allegations of adultery.....	8
11	Service.....	8
12	Substituted service.....	9
13	Service out of the jurisdiction.....	10
14	Time for service of petition.....	10
15	Acknowledgment of service.....	10
16	Consent to the grant of a divorce or annulment of marriage.....	11
17	Supplemental petition and amendment of petition.....	11
18	Answer to petition.....	12
19	Entry of cause in the special procedure list.....	13
20	Filing of reply.....	13
21	Service of pleadings.....	13
22	Contents of answer and subsequent pleadings.....	14
23	Allegation against third party in pleading.....	14
24	Supplemental answer and amendment of pleadings.....	14
25	Particulars.....	14
26	Directions for trial.....	15
27	Mode of trial.....	15
28	Disposal of causes in the special procedure list.....	15
29	Interim relief summons.....	16
30	Failure to comply with interim order.....	16
31	Application for ancillary relief.....	16
32	Right to be heard on ancillary questions.....	16
33	Notice to Attorney General.....	17
34	General provisions relating to dissolution of marriage.....	17
35	Service of order.....	17
36	Rescission of dissolution of marriage.....	17
37	Certificate of dissolution of marriage.....	18
38	Variation of order for ancillary relief.....	19
39	Contents of affidavit in support.....	19
40	Costs.....	19

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

SCHEDULE	20
FORMS FOR USE IN DISSOLUTION PROCEEDINGS	20

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

MONTSERRAT

STATUTORY RULES AND ORDERS

S.R.O. 84 OF 2014

MATRIMONIAL PROCEEDINGS RULES 2014

**THE MATRIMONIAL PROCEEDINGS RULES 2014 MADE BY THE
HONOURABLE CHIEF JUSTICE UNDER SECTION 21 OF THE
MATRIMONIAL PROCEEDINGS ACT 2012 (No. 16 OF 2012).**

1 Citation

These Rules may be cited as the Matrimonial Proceedings Rules 2014.

2 Interpretation

In these Rules—

“**Act**” means the Matrimonial Proceedings Act 2012;

“**Civil Procedure Rules**” means the Eastern Caribbean Supreme Court Civil Procedure Rules 2000;

“**co-respondent**” means a person cited in divorce proceedings as allegedly committing adultery with the respondent to the proceedings;

“**party**” means a petitioner, a respondent, an intervener or an attorney-at-law on record for a party unless any rule specifies or it is clear from the context that it relates to the client or to the attorney-at-law only;

“**petition**” means a document by which all dissolution proceedings are commenced;

“**petitioner**” means the party to a marriage who applies to the Court for a divorce, an annulment of marriage or a presumption of death of a spouse; and

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

“respondent” means the party to a marriage who defends or otherwise responds to the petitioner’s application for a divorce, an annulment of marriage or a presumption of death of a spouse, including a party who cross-petitions.

3 Application of Civil Procedure Rules

If these rules are silent on a matter under the Act the Civil Procedure Rules apply with the necessary modifications.

4 Forms

The forms prescribed in the Schedule are the Forms to be used for purposes of dissolution proceedings under these Rules.

5 Commencement of dissolution proceedings by petition

Proceedings for divorce, for nullity of marriage and for presumption of death of a spouse shall be commenced by petition in Forms 1, 2 and 3, respectively.

6 Pleadings

- (1) In dissolution proceedings, pleadings shall consist of the petition (Form 1, 2 or 3), the affidavit accompanying the petition (Form 4), the acknowledgement of service (Form 5), the answer (or) answer and cross-petition (Form 7) and the reply (Form 8), if any.
- (2) In a cross-petition, pleadings shall consist of the cross-petition (Form 7), the answer to cross-petition (Form 9) and the reply to answer to cross-petition (Form 10), if any.

7 Contents of petition

- (1) A petition for divorce shall—
 - (a) be in Form 1; and
 - (b) include—
 - (i) the names of the parties to the marriage, the place of the marriage and the marriage officer who performed the marriage;

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (ii) the date and place of birth of each of the parties;
- (iii) if the parties have lived as man and wife in the jurisdiction, the principal permanent address within the jurisdiction at which they lived;
- (iv) if it is alleged that the Court has jurisdiction based on domicile, the country in which the petitioner and the respondent respectively are domiciled;
- (v) if it is alleged that the Court has jurisdiction based on residence, the places of residence and the date on which the same commenced, of the petitioner and respondent respectively throughout the previous period of one year ending with the date of presentation of the petition;
- (vi) the occupation and residence of the petitioner and of the respondent at the time of the presentation of the petition;
- (vii) details as to whether there is any relevant child of the marriage and, if there is, the name and date of birth of each relevant child;
- (viii) details as to whether to the knowledge of the petitioner, there is any child living at the date of the presentation of the petition, being the child of the petitioner or the child of the respondent born during the marriage as a result of the union by that party with a person outside of the marriage and, if so, the name, date of birth and address of the child, or so much of this information as is known;
- (ix) if it be the case, that there is a dispute whether a child is a child of the marriage;
- (x) whether there are or have been any proceedings in any court in Montserrat or elsewhere with reference to the marriage or to any relevant child or between the petitioner and the respondent with reference to any property of either or both of them and, if so—

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (A) the nature of the proceedings;
 - (B) the date and effect of any ruling order; and
 - (C) in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the ruling or order;
 - (xi) if it be the case, that the marriage has broken down irretrievably;
 - (xii) the circumstances in which the marriage is alleged to have broken down irretrievably, including the date of separation; and
 - (xiii) whether there is a reasonable likelihood of cohabitation being resumed.
- (2)** A petition for nullity of marriage shall—
- (a) be in Form 2; and
 - (b) state—
 - (i) the matters set out in rule 7(1)(b)(i) to (x); and
 - (ii) the facts on which it is alleged that the marriage should be annulled.
- (3)** A petition for presumption of death of a spouse shall—
- (a) be in Form 3; and
 - (b) state—
 - (i) the last place at which the parties to the marriage cohabited;
 - (ii) the circumstances in which the parties ceased to cohabit;
 - (iii) the date when and place where the respondent was last seen or heard of;
 - (iv) the steps which have been taken to ascertain the location of the respondent;
 - (v) the reason for suspecting that the respondent is deceased;
 - (vi) whether there are any surviving children of the respondent and whether it is likely that they or any of them are entitled to succeed to any part

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

of or the whole of the respondent's estate,
whether by reason of a will or on intestacy; and

(vii) the full details including the names, ages and
addresses of all persons who have or are likely
to have an interest in the respondent's estate.

- (4) A petition for divorce, for nullity of marriage or for presumption of death of a spouse may include a claim for maintenance, custody, education of or access to children, division of property and any other relief relating to matters concerning the marriage, the union between the parties or any relevant children.
- (5) In any case where the claim is for maintenance, custody, education of or access to children, the petition shall contain a statement in general terms of the financial resources of both parties.
- (6) If a petition for divorce, for nullity of marriage or for presumption of death of a spouse discloses that there are relevant children who are minors (or are under the age of twenty-one and are being educated in an institution of tertiary education), the petition shall be accompanied by an affidavit signed by the petitioner.
- (7) The affidavit accompanying a petition shall—
- (a) be in Form 4;
 - (b) set out particulars of the arrangements for the care, maintenance, education and upbringing of a relevant child; and
 - (c) state whether a relevant child is suffering from a disability and the nature of the disability.
- (8) A petition shall conclude with—
- (a) a summary of the relief being claimed; and
 - (b) the names and addresses of the persons to be served, indicating if any of them is a person under disability.

8 Signing and presentation of petition

- (1) A petition shall be signed by the petitioner and his or her attorney-at-law in the attorney-at-law's own name, or

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

the name of his or her firm, if the petitioner has an attorney.

- (2) A petition is presented when it is filed in the Registry.
- (3) The petitioner shall file the original and at least two copies of the petition to facilitate service.
- (4) A certificate of the marriage or of the registration of the marriage shall be filed with the petition, unless the petition states that it is impossible to obtain the certificate.
- (5) A petition must contain a certificate of truth.

9 Discontinuance of cause before service of petition

Before a petition is served on a person, the petitioner may file a notice of discontinuance and the cause shall stand dismissed.

10 Allegations of adultery

If a petition or amended petition alleges that the defendant has committed adultery, it is not necessary to set out the name of the person with whom it is alleged that the defendant committed adultery.

11 Service

- (1) Unless otherwise authorised by these rules, service of—
 - (a) a petition for divorce; or
 - (b) a petition for nullity of marriage,shall be effected personally upon the respondent.
- (2) A petition for presumption of death of a spouse shall be served on any person who has or is likely to have an interest in the respondent's estate and by two publications in consecutive weeks in a newspaper that is published in the place where the respondent is last known to reside.
- (3) If it is intended to pursue the application under subrule (1) in default, an application for the Court's order or directions in relation to the application shall be filed by the petitioner and served in the manner set out in subrule (2).

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (4) A petitioner may accompany the process server for the purpose of identifying the person to be served.
- (5) Service by a petitioner is not to be regarded as proper service.
- (6) Service is proved by an affidavit made by the person who served the document setting out—
 - (a) if service is on an individual, the name of the individual, the date, time and place of service;
 - (b) if service is on an individual, the means by which the person served was identified;
 - (c) if service is by advertisement, the date or dates of the advertisement and the newspaper in which it was published and exhibiting same;
 - (d) if service is by fax or by any other means, full particulars of the service or the manner in which it is believed that notice of the proceedings or application is likely to have come to the party intended to be served and confirmation of service; and
 - (e) any other information as is necessary to satisfy the Court that the document served is likely to have come to the attention of the party intended to be served or that there has been compliance with an order giving permission to effect service by the method adopted.
- (7) If a petition or amended petition sets out the name of a person alleged to have committed adultery with the respondent, it shall be served on the person—
 - (a) in the manner specified in subrule (1); or
 - (b) by mailing a copy to the person at his or her last known address.

12 Substituted service

- (1) An application for permission to substitute for personal service some other method of service within the jurisdiction may be made without notice.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (2) An application for permission to substitute another form of service for personal service shall be accompanied by an affidavit setting out—
- (a) the reason for seeking to adopt a form of service other than personal service;
 - (b) the attempts, if any, which have been made to effect personal service;
 - (c) if no attempts have been made to effect personal service, the reasons for declining to do so; and
 - (d) the reasons for believing that the proposed method of service is likely to cause the document to come to the attention of the person to be served.
- (3) On an application for permission to substitute another form of service for personal service within the jurisdiction, the Court may permit the applicant to effect service by—
- (a) delivering the document to be served to a relative or other person connected to the party to be served, if satisfied that the document is reasonably likely to come to the attention to the party to be served;
 - (b) advertisement in Form 6; or
 - (c) any other method which is likely to bring the existence and nature of the proceedings to the attention of the party to be served.

13 Service out of the jurisdiction

- (1) A petition may be served out of the jurisdiction without permission.
- (2) Rules 11 and 12 apply with the necessary modifications.

14 Time for service of petition

A petition shall be served within six months after it is issued.

15 Acknowledgment of service

- (1) A respondent served in Montserrat with a document commencing proceedings shall file an acknowledgment

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

of service in Form 5 within fourteen days of being served.

- (2) If a petition is served out of Montserrat, the respondent shall, after being served, file an acknowledgement of service within the following periods—
 - (a) other OECS States and Territories and States in the Caribbean outside of the OECS States, the USA and Canada, within twenty eight days;
 - (b) elsewhere, within thirty five days.
- (3) If an acknowledgement of service is returned to the Registry, the Registrar shall within fourteen days send a copy of it to the petitioner.

16 Consent to the grant of a divorce or annulment of marriage

- (1) If, before the hearing of a petition the respondent wishes to indicate to the Court that he or she consents to the grant of a divorce or annulment of marriage, he or she shall do so by giving the Registrar written notice at least ten days before the hearing, to that effect signed by the respondent personally.
- (2) For the purposes of subrule (1), an acknowledgment of service containing a statement that the respondent consents to the divorce or annulment of marriage shall be treated as such a notice if the acknowledgment is signed—
 - (a) in the case of a respondent acting in person, by the respondent; or
 - (b) in the case of a respondent represented by an attorney-at-law, by the respondent as well as by the attorney-at-law.
- (3) If a notice under subrule (1) is given, the proceedings on the petition shall be stayed and the Registrar shall give notice of the stay to all parties.

17 Supplemental petition and amendment of petition

- (1) A supplemental petition may be filed only with leave.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (2) A petition may be amended without leave before it is served but only with leave after it has been served.
- (3) Subject to subrule (4), an application for leave under this rule—
 - (a) may, if every opposite party consents in writing to the supplemental petition being filed or the petition being amended, be made *ex parte* by lodging in the Registry the supplemental petition or a copy of the petition as proposed to be amended; and
 - (b) shall, in any other case, be made on notice, to be served, unless otherwise directed, on every opposite party.
- (4) The Court may, if it thinks fit, require an application for leave to be supported by an affidavit.
- (5) An order granting leave shall fix the time within which the party's answer shall be filed or amended.
- (6) If the order granting leave is made after directions for trial have been given, it shall provide for a stay of the hearing until after the directions have been renewed.
- (7) An amendment authorised under this rule shall be made by filing a copy of the amended petition.
- (8) Rule 8 applies to a supplemental or amended petition as it applies to the original petition.
- (9) Unless otherwise directed, a copy of a supplemental or amended petition, together with a copy of any order made under this rule shall be served on every respondent and co-respondent named in the original petition or in the supplemental or amended petition.
- (10) The petitioner shall file the documents required by subrule (9) to be served on any person and unless otherwise directed, rule 11 applies in relation to that person as it applies in relation to a person required to be served with an original petition.

18 Answer to petition

- (1) The respondent in any dissolution proceeding may answer or defend the petition by filing and delivering to

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

the petitioner an answer or an answer and cross-petition in Form 7, in response to a petition.

- (2) The time for filing an answer or an answer and cross-petition in subrule (1)—
- (a) in Montserrat is twenty eight days;
 - (b) in the other OECS States and territories and States in the Caribbean outside of the OECS States, the USA and Canada is forty two days;
 - (c) elsewhere is fifty six days,
- of being served with the petition.

19 Entry of cause in the special procedure list

If a respondent—

- (a) fails to file an acknowledgement of service;
- (b) fails to file an answer;
- (c) gives notice under rule 16(1); or
- (d) files an answer indicating that he does not intend to defend the petition,

the petitioner may apply to the Registrar to have the cause entered in the special procedure list to be dealt with under rule 28.

20 Filing of reply

- (1) A petitioner may file a reply to an answer in Form 8 within fourteen days after he or she has received a copy of the answer.
- (2) If the petitioner does not file a reply to an answer, he or she shall, unless the answer prays for divorce, annulment or presumption of death of a spouse, be deemed, on making a request for directions for trial, to have denied every material allegation of fact made in the answer.

21 Service of pleadings

A party who files an answer, reply or subsequent pleading shall at the same time file a copy for service on every opposite party.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

22 Contents of answer and subsequent pleadings

If an answer, reply or subsequent pleading in Form 9 or 10 contains more than a simple denial of the facts stated in the petition, answer or reply, as the case may be, the pleading shall set out with sufficient particularity the facts relied on.

23 Allegation against third party in pleading

- (1) Rules 10, 11, 12 and 13 shall apply with the necessary modifications to a pleading other than a petition as they apply to a petition, so that for a reference in those rules to a respondent there shall be substituted a reference to a party cited.
- (2) Rule 18 shall apply with the necessary modifications to a party cited in a pleading as it applies to a respondent or co-respondent to a petition.

24 Supplemental answer and amendment of pleadings

Rule 17 shall apply with the necessary modifications to the filing of a supplemental answer and the amendment of a pleading or other document not being a petition, as they apply to the filing of a supplemental petition and the amendment of a petition.

25 Particulars

- (1) A party on whom a pleading has been served may in writing request the party whose pleading it is to give particulars of any allegation or other matter pleaded and, if that party fails to give the particulars within a reasonable time, the party requiring them may apply for an order that the particulars be given.
- (2) The request or order in pursuance of which particulars are given shall be incorporated with the particulars, each item of the particulars following immediately after the corresponding item of the request or order.
- (3) A party giving particulars, whether in pursuance of an order or otherwise, shall at the same time file a copy of the particulars.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

26 Directions for trial

- (1) In any case where an answer is filed in response to a petition, the Registrar shall schedule a hearing in accordance with Rule 2.7 of the Civil Procedure Rules.
- (2) Notice of the hearing at the scheduled place shall be given to all parties.

27 Mode of trial

Subject to rule 28, every cause and any issue arising in the cause shall be tried by a judge.

28 Disposal of causes in the special procedure list

- (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—
 - (a) if the Registrar is satisfied that the petitioner has sufficiently proved the contents of the petition and is entitled to a divorce, annulment of marriage or presumption of death of a spouse and any costs for which he or she prays and that there are no children of the marriage, the Registrar shall make and file a certificate to that effect; or
 - (b) if he or she is not so satisfied, he or she may give the petitioner an opportunity to file further evidence or remove the cause from the special procedure list.
- (2) On the filing of a certificate by the Registrar under subrule (1), a day shall be fixed for the pronouncement of a divorce, annulment of marriage or presumption of death of a spouse, by a judge in open court and the Registrar shall send to each party notice of the day and place so fixed and a copy of the certificate but it shall not be necessary for either party to appear on that day.
- (3) Within sixty days after the pronouncement of a divorce, annulment of marriage or presumption of death of a spouse in accordance with a certificate under subrule (1), a person may inspect the certificate and the evidence filed and may request copies on payment of the fee prescribed by the Attorney General under section 22 of the Act.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

29 Interim relief summons

An application for interim relief shall set out the precise relief sought, including the amount of support claimed for each dependant.

30 Failure to comply with interim order

If a party fails to comply with an order for interim relief and the Court is satisfied that the party is able to comply with the order, the Court may postpone the trial of the action or strike out any pleading or affidavit of the party in default.

31 Application for ancillary relief

- (1) A person who wishes to obtain an order for support, custody or access under section 15 or 16 of the Act shall file an application in accordance with rule 11 of the Civil Procedure Rules which shall apply with the necessary modifications.
- (2) An affidavit in support of an application made under subrule (1) shall include—
 - (a) the place or ordinary residence of the parties and the children of the marriage; and
 - (b) the current marital status of the parties.

32 Right to be heard on ancillary questions

- (1) A respondent may, without filing an answer, be heard on—
 - (a) any question of custody of, or access to, any child of the marriage; and
 - (b) any question of ancillary relief.
- (2) A respondent, co-respondent or party cited may, without filing an answer, be heard on any question as to costs but an allegation shall be made against a party claiming costs only if the party making the allegation has filed an answer.
- (3) A party shall be entitled to be heard on any question under subrule (1) or (2) whether or not he or she has

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

returned to the Registry an acknowledgment of service stating his or her wish to be heard on that question.

33 Notice to Attorney General

- (1) The judge trying dissolution proceedings may adjourn the trial for any reason to a time and place as are just and, in a proper case, may direct that the Registrar immediately give notice to the Attorney General of the proceeding, and state the reasons of the judge for direction that notice be given.
- (2) If notice is given, the Attorney General may appear by counsel at the adjourned trial and make submissions and otherwise participate in the proceeding to the extent that the judge allows.

34 General provisions relating to dissolution of marriage

- (1) A dissolution of marriage granted by the Court takes effect, as provided by section 13(1) or (2) of the Act.
- (2) The death of a party to a marriage after the grant of a divorce or annulment of marriage, but before the expiration of the period set out in section 13(1) or (2) of the Act operates to finalise the dissolution of the marriage and, upon receiving satisfactory affidavit evidence of the fact of the death of the party, the Registrar shall endorse the records to that effect.

35 Service of order

- (1) If an order made in dissolution proceedings has been drawn up, the Registrar shall, unless otherwise directed, issue a copy of the order to each party affected by it.
- (2) If a party against whom the order is made is acting by an attorney-at-law, a copy may, if the Registrar thinks fit, be sent to that party as if he or she were acting in person, as well as to his or her attorney-at-law.

36 Rescission of dissolution of marriage

- (1) If, after a divorce or annulment of marriage has been granted but before the expiration of the period set out in section 13(1) or (2) of the Act, a reconciliation has been effected between the petitioner and the respondent

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

spouse, either party may apply for an order rescinding the divorce or annulment of marriage by consent.

- (2) An application under this rule may be made by the parties to the marriage jointly, in which event service of notice of the application is not required.
- (3) If the application is being made by one party to the marriage, the applicant shall give seven days' notice of the application to the respondent.
- (4) An application made under this rule shall be served on any other person affected by the divorce or annulment of marriage.
- (5) If, at the hearing of an application, it appears that the question for decision is likely to involve a substantial dispute of fact, the Court may make an order or give directions for the future conduct of the proceedings as may seem fit.

37 Certificate of dissolution of marriage

- (1) A certificate of—
 - (a) divorce is in Form 12;
 - (b) annulment of marriage is in Form 13; and
 - (c) dissolution of marriage on the presumption of the death of a spouse is in Form 14.
- (2) If a marriage is dissolved, the Registrar shall complete a certificate in subrule (1), stating the date at which the dissolution of marriage became effective.
- (3) On the dissolution of a marriage, the Registrar shall issue to the petitioner and the respondent, a certificate in subrule (1), authenticated by the seal of the Court from which it is issued.
- (4) A register of certificates in subrule (1) shall be kept at the Registry and a person is entitled to—
 - (a) require a search to be made in the register; and
 - (b) be furnished with a certificate of the result of the search,

on payment of the fee prescribed by the Governor acting on the advice of Cabinet under section 22 of the Act.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

- (5) A certificate in subrule (1) shall be issued to a person requiring it on payment of the fee prescribed by the Governor acting on the advice of Cabinet under section 22 of the Act.

38 Variation of order for ancillary relief

A person who wishes to vary, suspend or rescind a final order for support, custody or access under section 17 of the Act or to obtain such an order after dissolution or annulment of a marriage shall do so by application made under rule 11 of the Civil Procedure Rules which shall apply with the necessary modifications.

39 Contents of affidavit in support

An affidavit in support of the application in rule 38 shall set out—

- (a) the place or ordinary residence of the parties and the children of the marriage;
- (b) the current marital status of the parties;
- (c) particulars of the change in circumstances relied on;
- (d) particulars of current custody and access arrangements and of any proposed change;
- (e) particulars of current support arrangements and any proposed change;
- (f) particulars of any arrears of support under an order or agreement; and
- (g) particulars of any efforts made to mediate the matters in issue or of any assessment made in relation to custody or access.

40 Costs

The costs of dissolution proceedings shall be assessed under Parts 64 and 65 of the Civil Procedure Rules, unless a judge orders otherwise.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

SCHEDULE

(Rule 4)

FORMS FOR USE IN DISSOLUTION PROCEEDINGS

- Form 1: *Petition for Divorce*
- Form 2: *Petition for Annulment of Marriage*
- Form 3: *Petition for Presumption of Death of a Spouse*
- Form 4: *Affidavit Accompanying Petition*
- Form 5: *Acknowledgement of Service in Dissolution Proceedings*
- Form 6: *Advertisement*
- Form 7: *Answer [or] Answer and Cross-Petition*
- Form 8: *Reply*
- Form 9: *Answer to Cross-Petition*
- Form 10: *Reply to Answer to Cross-Petition*
- Form 11: *Financial Statement*
- Form 12: *Certificate of Divorce*
- Form 13: *Certificate of Annulment of Marriage*
- Form 14: *Certificate of Dissolution of Marriage on the Presumption of Death of a Spouse*

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 1

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTserrat

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

PETITION FOR DIVORCE

THE PETITION OF [name of the Petitioner] (hereafter called “**the Petitioner**”) SHOWS THAT:

DETAILS OF THE MARRIAGE

1. On the day of (*month and year*) the Petitioner (*name of Petitioner*) was lawfully married to (*name of Respondent*) (hereafter called “**the Respondent**”) at (*place of marriage*) by (*name of the marriage officer*) a marriage officer of (*state place*).
2. (a) [] A certificate of the marriage
 [] The registration of the marriage of the spouses has been filed with the Court.
 (b) [] It is impossible to obtain a certificate of the marriage or its registration because:.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

(c) [] A certificate of the marriage or its registration will be filed before this action is set down for trial or a motion is made for judgment.

(Check (a), (b) or (c) and complete as required)

3. The Petitioner was born on the day of *(month and year)* at [state place of birth] and the Respondent was born on the day of *(month and year)* at *(state place of birth)*.

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat.

(or)

The Petitioner is ordinarily resident in *(state place)* and the Respondent is ordinarily resident in *(state place)*.

5. *(If applicable)* The Petitioner and the Respondent have lived as man and wife in Montserrat at *(principal place of residence)*.

(or)

The Petitioner and the Respondent lived at the following place(s) for the period of one year immediately preceding the commencement of divorce proceedings:

Place of residence	Date of commencement of residence
.....

6. The Petitioner is a *(state occupation)* and lives at *(state address)* and the Respondent is a *(state occupation)* and lives at *(state address)*.

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child	Child's date of birth
.....
.....

(or)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Full name of child	Child's date of birth
.....
.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, (*name and date of birth of child*) is a child of the marriage. The nature of the dispute is:

(Briefly state nature of dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the (*state which court*) with reference to (*state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them*) as follows:

(State the nature of the proceedings)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

(State the date and effect of any decree or order)

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent have entered into the following domestic contracts and other written or oral financial agreements: *(Indicate whether the contract or arrangement is now in effect, and if support payments are not being paid in full, state the amount that has not been paid.)*

Date	Nature of Contract or arrangement	Status
.....

GROUND FOR DIVORCE

14. The marriage between the Petitioner and the Respondent has broken down.
15. The following are the circumstances in which the Petitioner considers the marriage to have broken down:

(Set out the circumstances.)

RECONCILIATION

16. There is no possibility of reconciliation of the spouses.
17. The following efforts to reconcile have been made:

.....
.....

(Give details. If no efforts have been made, state "None")

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

COLLUSION, CONDONATION AND CONNIVANCE

18. There has been no collusion in relation to this divorce proceeding.
19. There has been no condonation or connivance on the grounds for divorce in this proceeding.

(If there has been condonation or connivance, strike out the previous sentence. Give details and set out the facts relied on to justify a divorce in the circumstances.)

RELIEF SOUGHT

20. The Petitioner seeks the following relief:

(Set out the relief being claimed)

The following is the person to be served with this Petition and who is not under disability:

The Respondent

(Name of Respondent)

(Address of Respondent)

DECLARATION OF PETITIONER

I have read and understand this petition for divorce. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....
Signature of Petitioner

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

(Strike out this paragraph if you do not have an Attorney.)

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the
Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for
service is Telephone no.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

NOTICE TO THE RESPONDENT

DIVORCE PROCEEDINGS HAVE BEEN COMMENCED AGAINST YOU by the petitioner. The claim made against you appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat,
- (b) twenty eight days if in the other OECS States and Territories and states in the Caribbean outside of the OECS States, USA and Canada,
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An acknowledgment of service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default against you.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you,
- (b) other OECS States and Territories and states in the Caribbean outside of the OECS , the USA or Canada, the period for serving and filing your answer is forty two days after this petition is served on you,
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

If this petition contains a claim for support or a division of property, you must serve and file a financial statement in Form 11 within the time set out above for serving and filing your answer, whether or not you wish to defend this proceeding. If you serve and file an answer, your financial statement must accompany your answer.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DIVORCE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Mondays to Fridays, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 2

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

PETITION FOR ANNULMENT OF MARRIAGE

THE PETITION OF (*name of the Petitioner*) (hereafter called “**the Petitioner**”) SHOWS THAT:

DETAILS OF THE MARRIAGE

1. The Petitioner (*name of Petitioner*) went through a ceremony of marriage on the day of (*month and year*) to (*name of Respondent*) (hereafter called “**the Respondent**”) at (*place where ceremony was conducted*) by (*name of the marriage officer*) a marriage officer of (*state place*).
2. (a) A certificate of the marriage.
 The registration of the marriage of the spouses has been filed with the Court.
(b) It is impossible to obtain a certificate of the marriage or its registration because:.....
(c) A certificate of the marriage or its registration will be filed before this action is set down for trial or a motion is made for judgment.

(*Check (a), (b) or (c) and complete as required*)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

3. The Petitioner was born on the day of *(month and year)* at *(state place of birth)* and the Respondent was born on the day of *(month and year)* at *(state place of birth)*.

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat

(or)

The Petitioner is ordinarily resident in *(state place)* and the Respondent is ordinarily resident in *(state place)*.

5. [If applicable] The Petitioner and the Respondent have lived as man and wife in Montserrat at *(principal place of residence)*

(or)

The Petitioner and the Respondent lived at the following place(s) for the period of one year immediately prior to the date of presentation of the petition:

Place of residence	Date of commencement of residence
--------------------	-----------------------------------

.....
-------	-------

6. The Petitioner is a *(state occupation)* and lives at *(state address)* and the Respondent is a *(state occupation)* and lives at *(state address)*.

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child	Child's date of birth
--------------------	-----------------------

.....
-------	-------

.....
-------	-------

(or)

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Full name of child	Child's date of birth
.....
.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, (*name and date of birth of child*) is a child of the marriage. The nature of the dispute is:

(Briefly state the nature of the dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the (*state which court*) with reference to [*state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them*] as follows:

(State the nature of the proceedings)

(State the date and effect of any decree or order)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent have entered into the following domestic contracts and other written or oral financial agreements: *(Indicate whether the contract or arrangement is now in effect, and if support payments are not being paid in full, state the amount that has not been paid.)*

Date	Nature of Contract or arrangement	Status
.....

GROUND FOR ANNULMENT OF MARRIAGE

14. The marriage is void because [set out the grounds for alleging that the marriage is void].
15. The following are the facts being relied upon by the Petitioner in support of the claim that the marriage should be annulled:
(Set out facts)

COLLUSION, CONDONATION AND CONNIVANCE

16. There has been no collusion in relation to this annulment proceeding.
17. There has been no condonation or connivance on the grounds for annulment in this proceeding.
(If there has been condonation or connivance, strike out the previous sentence. Give details and set out the facts relied on to justify an annulment in the circumstances.)

RELIEF SOUGHT

18. The Petitioner seeks the following relief:
(Set out the relief being claimed.)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

The following is the person to be served with this Petition and who is not under disability:

The Respondent

(Name of Respondent)

(Address of Respondent)

DECLARATION OF PETITIONER

I have read and understand this petition for annulment of marriage. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....

Signature of Petitioner

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

(Strike out this paragraph if you do not have an attorney)

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the
Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for
service is Telephone no.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

NOTICE TO THE RESPONDENT

PROCEEDINGS FOR ANNULMENT OF MARRIAGE HAVE BEEN COMMENCED AGAINST YOU by the petitioner. The claim made against you appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat;
- (b) twenty eight days if in other OECS States and Territories and states in the Caribbean outside of the OECS States, the USA and Canada;
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An acknowledgment of service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default against you.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you;
- (b) other OECS States and Territories and states in the Caribbean outside of the OECS, the USA or Canada, the period for serving and filing your answer is forty two days after this petition is served on you;
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

If this petition contains a claim for support or a division of property, you must serve and file a financial statement in Form 11 within the time set

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

out above for serving and filing your answer, whether or not you wish to defend this proceeding. If you serve and file an answer, your financial statement must accompany your answer.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, AN ANNULMENT OF MARRIAGE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Monday to Friday, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 3

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

PETITION FOR PRESUMPTION OF DEATH OF A SPOUSE

THE PETITION OF (*name of the Petitioner*) (hereafter called “the Petitioner”) SHOWS THAT:

DETAILS OF THE MARRIAGE

1. On the day of (*month and year*) the Petitioner (*name of Petitioner*) (hereafter called “**the Respondent**”) was lawfully married to (*name of Respondent*) at (*state place of marriage*) by (*name of the marriage officer*) a marriage officer of (*state place*).
2. (a) A certificate of the marriage
 The registration of the marriage of the spouses has been filed with the Court.
(b) It is impossible to obtain a certificate of the marriage or its registration because:.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

(c) [] A certificate of the marriage or its registration will be filed before this action is set down for trial or a motion is made for judgment.

(Check (a), (b) or (c) and complete as required)

3. The Petitioner was born on the day of *(month and year)* at *(state place of birth)* and the Respondent was born on the day of *(month and year)* at *(state place of birth)*.

RESIDENCE

4. The Petitioner and the Respondent are ordinarily resident in Montserrat.

(or)

The Petitioner is ordinarily resident in *(state place)* and the Respondent is ordinarily resident in *(state place)*.

5. [If applicable] The Petitioner and the Respondent have lived as man and wife in Montserrat at *(principal place of residence)*:

Place of residence	Date of commencement of residence
.....

6. The Petitioner is a *(state occupation)* and resides at *(state address)* and the Respondent is a *(state occupation)* and was last known by your Petitioner to be residing at *(state address)*.

CHILDREN

7. The following are the relevant children of the marriage:

Full name of child	Child's date of birth
.....
.....

(or)

There is no relevant child of the marriage.

8. To the knowledge of the Petitioner, the following are the particulars relating to a child [or children] born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner:

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Full name of child	Child's date of birth
.....
.....

(or)

To the knowledge of the Petitioner, there is no child living at the date of the Petition born to the Respondent during the marriage as a result of a union between the Respondent and a person other than the Petitioner.

9. There is a dispute between the Petitioner and the Respondent as to whether a child, *(name and date of birth of child)* is a child of the marriage. The nature of the dispute is:

(Briefly state nature of dispute).

(or)

There is no dispute between the Petitioner and the Respondent as to whether any child is a child of the marriage.

FINANCIAL RESOURCES OF THE PARTIES

10. The financial resources of the Petitioner are as follows:

(Give particulars of Petitioner's financial resources)

11. The financial resources of the Respondent are as follows:

(Give particulars of Respondent's financial resources)

OTHER PROCEEDINGS RELATING TO THE MARRIAGE

12. There have been proceedings in the *(state which court)* with reference to *(state whether relating to the marriage, the relevant child or children of the marriage and/or to property of either the Petitioner or the Respondent or both of them)* as follows:

(State the nature of the proceedings)

(State the date and effect of any decree or order)

(In the case of proceedings with reference to the marriage, state whether there has been any resumption of cohabitation since the making of the decree or order)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

13. The Petitioner and the Respondent have entered into the following domestic contracts and other written or oral financial agreements: *(Indicate whether the contract or arrangement is now in effect, and if support payments are not being paid in full, state the amount that has not been paid.)*

Date	Nature of Contract or arrangement	Status
------	--------------------------------------	--------

.....

GROUND FOR PRESUMPTION OF DEATH OF A SPOUSE

14. The Petitioner has reasonable grounds for believing that the Respondent is deceased.
15. The Respondent was last seen [or heard of] by the Petitioner on the *(state the date)* at *(state the place)* and, since that date, the Petitioner has taken the following steps to locate him:
(Set out steps taken to ascertain location of Respondent)
16. The Petitioner believes that the Respondent is deceased because: *(state the reasons)*.

ENTITLEMENT TO RESPONDENT'S ESTATE

17. The Respondent has *(state number of surviving children)* all of whom are likely to be entitled to succeed to the whole of or a part of his or her estate by reason of his or her Will [or by reason of intestacy].

[or]

The Respondent has no surviving children.

18. The following are the details of all persons who are known by the Petitioner to have an interest in the Respondent's estate:
(Set out full details including names, ages and addresses of all the persons.)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

COLLUSION, CONDONATION AND CONNIVANCE

- 19. There has been no collusion in relation to this proceeding for presumption of the death of a spouse.
- 20. There has been no condonation or connivance on the grounds for presumption of the death of a spouse in this proceeding.

(Where there has been condonation or connivance, strike out the previous sentence. Give details and set out the facts relied on to justify a dissolution of marriage in the circumstances.)

RELIEF SOUGHT

- 21. The Petitioner seeks the following relief:

(Set out the relief being claimed.)

The following person(s) to be served with this Petition is/are not under disability [or is/are under disability]:

(Set out full details including names and addresses of all the persons.)

DECLARATION OF PETITIONER

I have read and understand this petition for presumption of death of a spouse. The statements in it are true, to the best of my knowledge, information and belief.

Date

.....
Signature of Petitioner

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

STATEMENT OF ATTORNEY-AT-LAW

I,, Attorney-at-Law for the petitioner, certify to this Court that I have complied with the requirements of section 10 of the Matrimonial Proceedings Act.

(Strike out this paragraph if you do not have an attorney.)

(Where in the circumstances it would clearly not be appropriate to discuss the matters in section 10 with the applicant, set out the circumstances.)

Date

(Signature of Attorney-at-Law/Petitioner)*

.....

(Name of Attorney-at-Law/Petitioner)*

Legal Representative for the
Petitioner/Petitioner*

This petition was filed by..... on behalf of the
Petitioner/by....., the Petitioner*, whose address for
service is Telephone no.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

NOTICE TO PERSON(S) BEING SERVED

PROCEEDINGS FOR PRESUMPTION OF DEATH OF A SPOUSE HAVE BEEN COMMENCED by the petitioner. The claim made against the respondent appears on the previous pages.

This petition must be personally served on you unless otherwise permitted by an order of the Court.

You are required to file an acknowledgment of service within:

- (a) fourteen days if in Montserrat,
- (b) twenty eight days if in the other OECS States and Territories and states in the Caribbean outside of the OECS States, the USA and Canada,
- (c) thirty five days if elsewhere,

of being served with the petition, if you wish to respond to the petition. An Acknowledgment of Service is set out as Form 5.

If you do not complete the form of acknowledgment of service and deliver or send it to the Registry (address below) so that it is received within the specified time after being served with the petition, the petitioner will be entitled to proceed in default.

The form of acknowledgment of service may be completed by you or an attorney-at-law acting for you.

IF YOU WISH TO DEFEND THESE PROCEEDINGS, you or an attorney-at-law acting for you must prepare an answer in Form 7, serve it on the petitioner's attorney-at-law or where the petitioner does not have an attorney-at-law, serve it on the petitioner, and file it, with proof of service, in the Registry.

If you are served in:

- (a) Montserrat, the period for serving and filing your answer is twenty eight days after this petition is served on you;
- (b) Other OECS States and territories and states in the Caribbean outside of the OECS States, the period for serving and filing your answer is forty two days after this petition is served on you;
- (c) elsewhere, the period for serving and filing your answer is fifty six days after this petition is served on you.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DISSOLUTION OF MARRIAGE ON THE PRESUMPTION OF DEATH OF A SPOUSE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGMENT MAY BE GRANTED IN THE PETITIONER'S FAVOUR ON ANY OTHER CLAIM IN THIS PETITION.

You should consider obtaining legal advice with regard to the claim contained in the petition.

Dated

[SEAL]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat, telephone numbers 491-2129, fax 491-8866. The office is open between 9:00 a.m. and 3:30 p.m. Monday to Friday, except public holidays.

The Petitioner's address for service is [state address]/or is that of his/her Attorney-at-Law [specify the name, address and telephone and fax numbers of Petitioner's Attorney-at-Law].

Filed by [specify name, address and telephone and fax numbers of Attorney-at-Law filing the Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 4

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTserrat

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

AFFIDAVIT ACCOMPANYING PETITION

I, *(full name of deponent)* being duly sworn, make oath and say as follows:

1. I reside and have my true place of abode and postal address at *(state full address)* and I am a *(occupation)* and I am the Petitioner.
2. The following are the particulars of the arrangements for the care, maintenance, education and upbringing of the relevant child of the marriage *(or children or for any child under 18 years of age who is being educated in an institution of tertiary education)*:

A. Residence

The following are the particulars of current living circumstances

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Full name of child	Residence	Person with whom child resides	Length of time child has lived at the residence
.....
.....

B. Education

The following are the current educational arrangements for the children of the marriage:

Full name of child	Date of Birth of Child	Age of Child	School and grade or year
.....
.....

(Set out details of future education prospects.)

The education needs of the children

are being met.

are not being met.

(If not being met, give particulars.)

.....

C. Financial Provision

The arrangements for maintenance of the children are as follows:

Amount paid	Time period (weekly, monthly, etc.)	Paid by (husband or wife)	Paid for (name of child)
.....
.....

(set out any additional details, as necessary)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

D. Custody and Access

The following are the arrangements which are in place for custody of the children:

.....

The following are the arrangements which are in place for access of the children:

.....

(Give details such as days of the week, hours of visit and place of access.)

E. Health

The following are the particulars of the children's general state of health

.....

The said children are not suffering from any disabilities.

(or)

(Name of child) suffers from (state disability) and is being treated by (give full details of the treatment and general care relating to the disability).

SWORN to at the *(state place and address)*

this day of 20

.....
(name of Petitioner)

Before me:

.....

Registrar

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 5

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

ACKNOWLEDGEMENT OF SERVICE IN DISSOLUTION PROCEEDINGS

WARNING: If this form is not fully completed and returned to the Registry at the address below within the time specified by the Matrimonial Proceedings Rules 2014 or a longer time as is permitted by an order or any other rule, the Petitioner will be entitled to apply to proceed in default against you. If the Petitioner does so, you will have no right to be heard by the Court unless you are applying to set aside any order it may have made.

1. I, am the Respondent named in this petition.

(or)

I, am the Attorney-at-Law for the Respondent named in this petition.

(Strike out the paragraph which does not apply)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

2. Have you received the Petition with the above claim number? YES/NO

3. If so, give the date on which it was served ___/___/___

4. Are your names correctly stated on the Petition? YES/NO
If not, what are your full names?

5. Do you intend to answer the petition? YES/NO
If yes, you must file an Answer, within the time specified by the Matrimonial Proceedings Rules 2014 for filing an answer, unless a longer time is permitted by an order or any other rule.

6. Do you admit to the whole of the claim? YES/NO

7. Do you admit any part of the claim? YES/NO
If you do, please set out below the parts of the claim to which you admit:

(a)

(b)

(c)

(d)

(e)

8. What is your address?
.....
.....
.....
.....

9. What is your address for service?
(If you are acting in person you must give an address to which documents may be sent either from the other parties or from the Court. You should also give your telephone number and fax number, if any.)
.....
.....

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

FORM 6

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

ADVERTISEMENT FOR DISSOLUTION OF MARRIAGE

(NOTICE TO (NAME OF RESPONDENT))

Legal proceedings for [divorce/annulment of marriage] have been commenced in this Court by *(name of petitioner)*. *(Where applicable add: The petitioner also claims support, custody of the child (name) or as may be.)* You may obtain a copy of the petition by mail from the Registry at *(address)*.

If you wish to defend these proceedings or seek other relief from the Court, you must do so in accordance with the Matrimonial Proceedings Rules 2014. If you fail to serve and file an answer, a [divorce/annulment of marriage] may be granted and judgment may be given against you in your absence and without further notice to you.

Dated

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Signed

TO: *(Name and address of Petitioner's Attorney-at-Law or
Petitioner)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 7

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

ANSWER [OR] ANSWER AND CROSS-PETITION

The Respondent, (*name of the Respondent*), in answer to the Petition, says that:

1. He/she admits the allegation(s) made in paragraph(s) of the Petition.
2. He/she denies the allegation(s) set out in paragraph(s) of the Petition because (*state the reason for denying the allegations*).
3. He/she has no knowledge in respect of the allegation(s) made in paragraph(s) of the Petition.
4. He/she does not admit the allegations made in paragraph(s) of the Petition because: (*state the reasons for not admitting the allegations*).
5. With respect to the Petitioner's claim for (*state claim*), the Respondent says that the Petitioner is not entitled to same because:

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Signed

[Respondent]

(or)

[Respondent's Attorney-at-Law]

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 8

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

REPLY

1. The Petitioner admits the allegation(s) contained in paragraph(s) of the Answer.
2. The Petitioner denies the allegation(s) contained in paragraph(s)of the Answer.
3. The Petitioner has no knowledge in respect of the allegation(s) contained in paragraph(s) of the Answer.
4. (*Set out in separate, consecutively numbered paragraph(s) each allegation of material fact relied on by way of Answer.*)

Dated this day of , 20

Signed

[Petitioner]

(or)

[Petitioner's Attorney-at-law]

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

TO: *(Name and address of Respondent's Attorney-at-Law or Respondent)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 9

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

ANSWER TO CROSS-PETITION

(A Petitioner who delivers a reply in the main action must include the Answer to Cross-Petition in the same document as the Reply, and the document is to be entitled REPLY AND ANSWER TO CROSS-PETITION. The Answer to Cross-Petition is to follow immediately after the last paragraph of the Reply and the paragraphs are to be numbered in sequence commencing with the number following the number of the last paragraph of the Reply.)

1. The Petitioner [*or Respondent to the Cross-Petition*] admits the allegation(s) contained in paragraph(s) of the Cross-Petition.
2. The Petitioner (*or Respondent to the Cross-Petition*) denies the allegation(s) contained in paragraph(s)of the Cross-Petition.
3. The Petitioner (*or Respondent to the Cross-Petition*) has no knowledge in respect of the allegation(s) contained in paragraph(s).....of the Cross-Petition.

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

4. *(Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of Answer to the Cross-Petition.)*

Dated this day of , 20

Signed

[Petitioner]

(or)

[Petitioner's Attorney-at-Law]

TO: *(Name and address of Respondent's Attorney-at-Law or Respondent)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 10

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTserrat

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

REPLY TO ANSWER TO CROSS-PETITION

1. The Respondent (*name if more than one Respondent*) admits the allegation(s) contained in paragraph(s) of the Answer to Cross-Petition.
2. The Respondent denies the allegation(s) contained in paragraph(s).....of the Answer to Cross-Petition.
3. The Respondent has no knowledge in respect of the allegation(s) contained in paragraph(s)..... of the Answer to Cross-Petition.
4. (*Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on by way of Answer to the Cross-Petition.*)

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 11

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

FINANCIAL STATEMENT

I,..... (*full name of deponent*), (*occupation*) of (*address*) MAKE OATH AND SAY [OR AFFIRM]:

1. Particulars of my financial situation and of all my property are accurately set out below and are true to the best of my knowledge, information and belief.

Dated this day of , 20

Signed

[Respondent]

(or)

[Respondent's Attorney-at-law]

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

TO: *(Name and address of Petitioner's Attorney-at-Law or
Petitioner)*

The Registry is at The High Court, Government Headquarters, Brades, Montserrat. The office is open between 9:00 a.m. and 4:00 p.m. Monday to Friday, except public holidays.

Filed by [specify name, address, telephone numbers and fax number of Attorney-at-Law filing the Answer [or] Answer and Cross-Petition].

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 12

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

CERTIFICATE OF DIVORCE

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the day of *(month and year)* at *(state place)* between *(Petitioner's full name)* and *(Respondent's full name)* was dissolved by divorce by a judgment of this Court dated the day of *(month and year)*, which became effective on the day of *(month and year)*.

DATED this day of , 20.

.....
Registrar

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 13

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

CERTIFICATE OF ANNULMENT OF MARRIAGE

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the day of *(month and year)* at *(state place)* between *(Petitioner's full name)* and *(Respondent's full name)* was annulled by a judgment of this Court dated the day of *(month and year)*, which became effective on the day of *(month and year)*.

DATED this day of , 20 .

.....
Registrar

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Form 14

THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT

MONTSERRAT

CLAIM NO.

BETWEEN

PETITIONER

AND

RESPONDENT

CERTIFICATE OF DISSOLUTION OF MARRIAGE ON
THE PRESUMPTION OF DEATH OF A SPOUSE

(Court Seal)

Court File No.:

This is to certify that the marriage solemnised or celebrated on the
.... day of *(month and year)* at *(state place)* between *(Petitioner's*
full name) and *(Respondent's full name)* was dissolved by virtue of
the presumption of the death of *(Respondent's full name)* by a
judgment of this Court dated the day of *(month and year)*,
which became effective on the day of *(month and year)*.

DATED this day of , 20 .

.....
Registrar

Montserrat
Matrimonial Proceedings Rules 2014
S.R.O. 84 of 2014

Made by the Honourable Chief Justice this 3rd day of November, 2014.

(Sgd.) Dame Janice M. Pereira
Honourable Chief Justice

Published by exhibition by the Cabinet Secretary at the Office of the
Legislature, Farara Plaza, Brades this 19th day of November, 2014.

(Sgd.) Angela Greenaway
CABINET SECRETARY