

RULES OF THE CENTRAL COURT⁽¹⁾ (MATRIMONIAL CAUSES JURISDICTION).

It is hereby ordered that the general rules of the Central Court⁽²⁾ of the Territory of Papua in its Matrimonial Causes Jurisdiction made on the twenty-eighth day of March one thousand nine hundred and eleven shall be revoked after the eighth day of May instant except so far as concerns anything done thereunder prior to that day.

And it is hereby ordered that the following Rules shall, except as aforesaid, be the Rules of the Central Court⁽²⁾ of the said Territory in its Matrimonial Causes Jurisdiction and take effect on and after the 9th day of May, 1911.

GENERAL RULES UNDER *THE MATRIMONIAL CAUSES JURISDICTION ORDINANCE OF 1910.*

PETITIONS AND AFFIDAVITS IN SUPPORT.

1. Proceedings before the Court for Matrimonial Causes shall be commenced by filing a petition in the Form (No. 1) in the Appendix.

2. Every petition shall be accompanied by an affidavit made by the petitioner verifying, paragraph by paragraph, the facts of which he or she has personal cognisance, and deposing as to belief in the truth of the other facts alleged in the petition.

3. In cases where the petitioner is seeking a decree of nullity of marriage, or of judicial separation, or of dissolution of marriage, or a decree in a suit of jactitation of marriage, the petitioner's affidavit shall further state that no collusion or connivance exists between the petitioner and any other party to the cause.

4. In cases where the petitioner is seeking for a decree of restitution of conjugal rights, the petitioner's affidavit shall further state sufficient facts to satisfy a Judge that a written demand for cohabitation and restitution of conjugal rights has been made by the

(1) Particulars of these rules of Court are as follows:—

Ordinance under which made.	Date on which made by Chief Judicial Officer.	Date on which published in Papua Govt. Gaz.	Date on which took effect.
<i>The Matrimonial Causes Jurisdiction Ordinance of 1910</i>	8.5.1911	25.10.1911	9.5.1911 (Papua Govt. Gaz. of 25.10.1911)

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

petitioner upon the other party to the marriage, and that, after a reasonable opportunity for compliance therewith, such cohabitation and restitution of conjugal rights has been withheld.

5. The petitioner's affidavit and any other affidavits in support of the petition shall be filed with the petition.

CITATION AND SERVICE OF THE PETITION.

6. Every petitioner who files a petition and affidavit in support shall forthwith take to the office of the Registrar as many copies of the petition as there are parties respondent, and shall have the same duly certified as correct in the office of the Registrar, and sealed on each page with the seal of the Court, and shall have endorsed on each such copy a citation addressed to the party intended to be served therewith in the Form (No. 2) in the Appendix.

7. Every copy petition intended for service shall also have endorsed the address of the petitioner or of his or her solicitor or agent, and such address must be within one mile of the Central Court⁽²⁾ Office at Port Moresby.

8. Every citation shall be in force for six calendar months, which time may be extended by leave of a Judge.

9. The number of days after service to be allowed in citation for the appearance of a respondent shall be fourteen days where the respondent resides in the Territory of Papua and within twenty miles from Port Moresby, and an additional day for every ten miles or part thereof which the respondent lives beyond the first twenty miles from Port Moresby.

10. Where any respondent upon whom service has not been dispensed with shall, at the time of service of citation, reside in one of the states of Australia or New Zealand, the time limited shall be four calendar months, and if elsewhere outside the Territory of Papua six calendar months.

11. Service of a petition shall be effected by personally delivering a copy thereof, certified and sealed, and with a citation endorsement on it to the party cited.

12. In cases where personal service cannot be effected, application may be made, by motion founded on affidavit, to dispense with service altogether, or to substitute some other mode of service, or for leave to advertise a notice of citation in the Form (No. 3) in the Appendix.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

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13. After service has been effected, an affidavit of such service shall be returned and filed in Court.

14. Before a petitioner can proceed after having filed a petition, an appearance must have been entered by or on behalf of the respondents, or it must be shown by affidavit filed in Court that they have been duly cited (whether by personal service of the petition and citation, or, after leave of the Court obtained, by substituted service thereof, or advertisement of a notice of citation), that the time for appearance has elapsed, that the deponent has searched in the office of the Registrar, and that no appearance has been entered. In case of a citation by advertisement, a copy thereof must be annexed to the affidavit.

15. When any party respondent has been duly cited and has not entered an appearance within the time limited, no order of the Court dispensing with service of further proceeding shall be necessary; but the petitioner, upon having filed in Court an affidavit as prescribed by the preceding Rule, may proceed in the absence of the respondent, and shall not be required to serve upon him or her any further proceedings or notice thereof, provided that a Judge may at any time direct notice of any proceedings to be given to such respondent in such manner as the Judge may think fit.

ENTERING APPEARANCES.

16. All appearances to citations are to be entered by or on behalf of the party cited in the office of the Registrar, in the Form (No. 4) in the Appendix.

17. An appearance may be entered before any proceeding has been taken in default, or afterwards by leave of a Judge, upon an order obtained by consent or applied for by motion founded on affidavit.

18. Every entry of appearance shall be accompanied by an address, at which address all subsequent proceedings not required by any Ordinance or these Rules to be personally served may be left, and the leaving of any proceeding shall be considered as sufficient service, and the address so given shall be within one mile of the Central Court⁽²⁾ Office at Port Moresby.

ANSWER.

19. Each respondent who has entered an appearance may thereupon, or at any time before the expiration of seven days after the time limited for entering an appearance after service of citation, file in the Court an answer to the petition in the Form (No. 5) in the Appendix.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

Rules of the Central Court (Matrimonial Causes Jurisdiction).

20. Any person requiring further time to answer may make application to a Judge by motion for that purpose, or may obtain an order by consent for such further time.

21. Each respondent shall, after filing an answer, deliver a certified copy thereof, under the seal of the Court, to the petitioner or his or her solicitor on the day on which the answer is filed.

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

FURTHER PLEADINGS.

23. Where the answer contains any allegations other than a mere denial of the statements contained in the petition, the petitioner may, within fourteen days from the service of the answer, file a reply thereto.

24. Where any reply contains allegations other than mere denials, the other party may, within fourteen days from the service thereof, file and serve a rejoinder to such allegations.

25. A copy of every reply and rejoinder shall be served on the opposite parties or their Solicitors on the day on which such pleading is filed.

26. Every reply or rejoinder which contains matter other than a simple denial of the facts stated in the preceding pleading shall be accompanied by an affidavit made by the party verifying such other or additional matter so far as he or she has personal knowledge thereof, and deposing as to his or her belief in the truth of the rest of such other or additional matter; and such affidavit shall be filed with such reply or rejoinder.

GENERAL RULES AS TO PLEADINGS.

27. A Judge may at any time, on the application of a party to a suit, amend any pleading upon such terms and conditions as he may think fit.

28. When a petition, answer, or other pleading has been ordered to be altered or amended, a Judge may also order that further service of such amended pleading be dispensed with, or that it be served and a certain time after service be allowed for answering or replying thereto.

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29. If no order is made dispensing with service of any amended pleading or fixing a time for replying or answering thereto, such amended pleading shall be delivered to the opposite parties or their solicitors within two days after the order for amendment is made; and the time for filing and delivering a copy of the next pleading shall be reckoned from the time of service of the amended pleading.

30. Where an answer or pleading has been filed and subsequently thereto the pleading to which it is an answer or reply has been amended, the party who has filed such answer or pleading shall be at liberty to amend such answer or pleading within four days or such further time as may be allowed after service of the amended pleading.

31. If the time limited for filing or serving any pleading has expired, any party desiring to file or serve any such pleading may make application to a Judge by motion founded on affidavit for leave to file or serve the same, subject to such further order as the Judge may make as to costs and short notice of trial.

32. If no answer, reply, or rejoinder be served within the time limited, the pleadings shall be deemed to be closed at the expiration of that period, and the statements of fact in the pleadings last filed shall be deemed to have been denied, and put in issue, subject to any order the Judge may think fit to make as to filing any such answer, reply, or other pleading.

TRIAL.

33. When the pleadings are complete, or the time for filing and serving any further pleading has expired, or where the time for entering an appearance has expired and no appearance has been entered by or on behalf of any party respondent, the petitioner may apply to a Judge for directions as to whether the cause or any of the matters in issue therein shall be tried by oral evidence or on affidavit.

34. If in defended cases the petitioner shall fail to apply for directions within fifteen days from the service of the last pleading, any respondent (on whose behalf any questions have been raised by the pleadings) may apply for such directions.

35. When a cause is directed to be tried upon oral evidence, the party who applied for directions shall set the case down as ready for hearing and upon the day on which it is so set down shall give notice of his or her having done so to each party for whom an appearance has been entered. And if such first-named party fail to serve such notice as aforesaid for the space of fourteen days from the day upon which such directions were given for trial upon oral evidence by the

Judge any other party may set the case down as ready for hearing and shall give similar notice of his having done so to the other parties to the cause. A copy of such notice given by any party shall be filed in the Registry.

36. The cause shall come on for hearing at a time which shall be fixed by a Judge, but so that such time shall not be until after the expiration of fourteen clear days from the day on which the cause has been set down as ready for hearing under the preceding Rule. The Registrar shall give to the petitioner and all other parties to the suit for whom an appearance has been entered notice in writing of the time so fixed by the Judge.

37. The hearing of a cause upon oral evidence shall be conducted in Court, unless a Judge shall otherwise order.

38. The finding and decree of the Judge shall be entered by the Registrar on the record, and the Registrar shall sign the same.

39. After the hearing, any party who has entered an appearance may be heard in respect of any questions as to costs of suit, and a respondent who is husband or wife of the petitioner may be also heard, upon affidavits as to the custody of children and as to the settlement of property, without having filed an answer to the petition in the principal cause, unless the Judge shall direct such matters to be separately disposed of.

40. On such an application, no affidavits touching matters in issue in the principal cause shall be filed; and no such affidavits can be read or made use of on the hearing of any such questions, except by leave of the Judge.

41. The practice and procedure as to summoning and attendance of witnesses, issuing and serving subpoenas, orders made or commissions issued for the examination of witnesses, admission of documents, hearing and addresses of counsel, and all other proceedings with reference to the hearing or to the trial of any issue shall, unless otherwise provided for by these Rules, be as nearly as may be according to the practice for the time being of the Central Court⁽²⁾ in its civil procedure.

EVIDENCE ON AFFIDAVIT.

42. When in defended cases a Judge has directed that the cause or any of the matters in issue therein shall be tried upon affidavit, all affidavits in proof of the matters alleged in the petition, or of such of them as are directed to be tried on affidavit, shall be filed in Court

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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within eight days from the time when such direction was given, unless a Judge shall otherwise order.

43. In undefended cases such affidavits may be filed at any time.

44. Counter affidavits as to any facts to be proved by affidavit shall be filed within eight days from the filing of the affidavits which they are intended to answer, and all affidavits (if any) in reply within four days from the filing of the affidavits in answer.

45. Copies of all such affidavits, counter affidavits, and affidavits in reply shall, on the day the same are filed, be delivered to the other parties to be heard on the trial or hearing of the cause or to their solicitors.

46. Affidavits in reply to counter affidavits may be filed by permission of a Judge granted on motion or summons, but not otherwise.

47. Application for an order for the attendance of a deponent for the purpose of being cross-examined shall be made to a Judge on summons.

INTERVENERS.

48. Application may be made for leave to appear and intervene at any period of the cause by motion supported by affidavit.

49. Every party intervening must join in the proceedings at the stage in which he finds them, unless it is otherwise ordered by a Judge.

SHOWING CAUSE AGAINST A DECREE.

50. Any person wishing to show cause against making absolute a decree *nisi* or⁽³⁾ dissolution of marriage or nullity of marriage shall enter an appearance in the cause in which such decree *nisi* has been pronounced, giving notice thereof to all the parties.

51. Every such person shall, at the time of entering an appearance or within four days thereafter, file affidavits setting forth the facts upon which he relies.

52. Upon the same day upon which such person files his affidavits, he shall deliver a copy of the same to the party in the cause in whose favour the decree *nisi* has been pronounced.

53. The party in whose favour the decree *nisi* has been pronounced may, within eight days after the delivery of the affidavits, file affidavits in answer, and shall upon the day on which such affidavits are filed deliver a copy thereof to the person showing cause against the decree being made absolute.

(3) The word "or" appeared in the rules as published in the *Papua Govt. Gaz. Semble*, "for" was intended.

54. The person showing cause against the decree *nisi* being made absolute, may, within four days, file affidavits in reply, and shall upon the same day deliver copies thereof to the party supporting the decree *nisi*.

55. The questions raised on such affidavits shall be argued in such manner and at such time as a Judge shall, on application on motion, direct; and, if he thinks fit, he may direct any controverted questions of fact to be tried orally, whereupon the same shall be tried in the same manner and subject to the same rules as any other question of fact is tried on oral evidence in the Court.

DECREE NISI.

56. The Registrar shall endorse on every copy of a decree *nisi* for dissolution of marriage a notice in the Form (No. 6) in the Appendix.

DECREE ABSOLUTE.

57. After the time limited in that behalf, a decree *nisi* for dissolution of marriage may be made absolute on the request in writing of the petitioner being filed in Court by the petitioner or his solicitor, and upon a certificate from the Registrar that no matter in opposition to the final decree is then pending.

58. On any application, either by request or motion, to make absolute a decree *nisi* for dissolution of marriage, it must be shown by affidavit filed that a copy of the decree *nisi* has been duly served on all other parties to the cause entitled thereto.

59. Applications by a respondent for a decree absolute, on failure of the petitioner to apply at the expiration of the time prescribed in the decree, shall be made to the Court by motion. In support of such application it must be shown by certificate from the Registrar that no matter in opposition to the final decree is pending.

60. Applications to make absolute a decree *nisi* for nullity of marriage shall be made to the Court by motion. In support of such application it must be shown by affidavit that a copy of the decree *nisi* has been served on all parties entitled thereto or their solicitors, and by a certificate from the Registrar that no matter in opposition to the final decree is then pending.

REVERSAL OF DECREE FOR JUDICIAL SEPARATION.

61. Petitions for the reversal of a decree of judicial separation may be presented at any time, and must set out the grounds upon which the petitioner relies; such petition shall be in Form (No. 7) in the Appendix.

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62. Before such petition can be filed, an appearance on behalf of the party praying for a reversal of the decree of judicial separation must be entered in the cause in which the decree has been pronounced.

63. A certified copy of such petition under seal of the Court shall be delivered personally to the party in the cause in whose favour the decree has been made, who may, within fourteen days, file an answer thereto in the Registrar's office, and shall, on the day on which the answer is filed, deliver a copy thereof to the other party to the cause or to his or her solicitor.

64. All subsequent pleadings and proceedings arising from such petition and answer shall be filed and carried on in the same manner as directed in respect of an original petition for judicial separation and answer thereto, so far as such directions are applicable.

ALIMONY PENDENTE LITE.

65. The wife being petitioner in a cause may file her petition in the Form (No. 8) given in the Appendix for Alimony pending suit at any time after the citation has been duly served on the husband, or after order has been made by the Judge to dispense with such service, provided the fact of marriage between the parties is established by affidavit previously filed.

66. The wife being respondent in a cause, after having entered an appearance, may also file her petition for alimony pending suit.

67. A copy of every petition for alimony and all affidavits must be served on the husband or his solicitor. The husband shall, within eight days after service of the petition for alimony, file his answer thereto, which shall be verified, paragraph by paragraph, by affidavit made by the husband.

68. The husband being respondent in the cause must enter an appearance before he can file an answer to a petition for alimony.

69. The wife, if not satisfied with the husband's answer, may object to same as insufficient, and apply to the Judge on motion to order him to give a further and fuller answer.

70. If the wife is alleged by the husband's answer to have separate property, she shall have eight days from the service thereof to file her reply thereto, which shall be verified, paragraph by paragraph, by affidavit made by the wife.

71. A copy of every answer and reply and all affidavits in support thereof must be served on the opposite party or his or her solicitor on the day the same are filed.

72. When the pleadings are complete, the wife may bring the matter on for hearing by serving the husband or his solicitor with four clear days' notice of motion, and in such notice of motion may give the husband notice to produce documents and books, and may also require him to attend for the purpose of being examined or cross-examined, and the husband may also give notice to the wife that he requires her to produce documents or books or to attend for the purpose of being examined or cross-examined.

73. When either of the parties intends to examine witnesses on the hearing of the motion, written notice thereof must be given to the opposite party; but if no such notice be given by the wife four clear days or by the husband two clear days before the hearing of the motion, the matter shall be heard on affidavits filed as above, and no fresh affidavits shall be made or used except by special leave of a Judge.

PERMANENT ALIMONY, MAINTENANCE, AND SETTLEMENTS.

74. A wife who has obtained a decree of judicial separation or a wife who has obtained a decree for restitution of conjugal rights (and which last-mentioned decree the respondent has failed to comply with) on such decree being affirmed on appeal or after the expiration of the time for appealing against the decree if no appeal be then pending, if she has previously thereto filed a petition for alimony pending suit, may apply for an allotment of permanent alimony, provided that she shall, eight days at least before making such application, give notice to the husband or his solicitor of her intention so to do.

75. In such cases where no petition for alimony pending suit has been filed, the wife may file a petition for permanent alimony, and shall serve the husband or his solicitor with such petition, and the preceding Rules relating to applications for alimony pending suit shall so far as the same are applicable, be observed in respect to the proceedings upon such applications for permanent alimony.

76. A wife may at any time after alimony has been allotted to her, whether alimony *pendente lite* or permanent alimony, apply for an increase of the alimony allotted by reason of the increased means of the husband; or the husband may apply for a diminution of the alimony allotted by reason of reduced means; and the course of proceedings in such cases shall be the same as required by these Rules in respect to the original application for alimony and the allotment thereof, so far as the same are applicable.

77. Permanent alimony shall, unless otherwise ordered, commence and be computed from the date of the final decree of the Court.

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78. Alimony *pendente lite* and also permanent alimony shall be paid into Court unless the Court shall otherwise order.

79. On a reference to the Registrar to report on alimony applications, the Registrar shall have power to require the attendance of the husband and wife, or either of them, or of any other witness for the purpose of being examined or cross-examined, and to issue subpoenas for and take oral evidence of such witnesses, and to require the production of any documents, or to call for affidavits.

80. Applications to the Court to exercise the powers conferred by the 24th, 25th, and 49th sections of the Ordinance may be made by petition supported by affidavits.

81. In applications under sections 24 and 25 the petition may be filed as soon as a decree *nisi* has been pronounced, but not before; provided that where it is intended to apply, at the time of making the decree absolute, for an order under section 25 (1.) only, and the wife has previously filed her petition for alimony pending suit, it shall not be necessary to file any further petition, but the wife may apply by motion for such order, having given eight days notice to the husband or his solicitor of her intention so to do. Such notice to be in the Form (No. 9) in the Appendix.

82. A certified copy of such petition under seal of the Court shall be personally served on the husband or wife (as the case may be) and on the person or persons who may have any legal or equitable interest in the property in respect of which the application is made, unless the Court on motion shall direct any other mode of service or dispense with service of the same on them or either of them.

83. The husband or wife (as the case may be) and the other person or persons (if any) who are served with such petition, within fourteen days thereafter, may file his or their answer, verified by affidavit, to the said petition, and shall on the same day deliver a copy of the said answer to the opposite party or his or her solicitor.

84. Any person served with the petition who has not appeared in the principal cause must enter an appearance before he or she can file an answer thereto.

85. Within fourteen days from the filing of the answer, the opposite party may file a reply thereto, and the same period shall be allowed for filing any further pleading by way of rejoinder.

86. Such reply or further pleading shall be verified by affidavit, and a copy of such reply or further pleading must be served on each of the opposite parties or his or her solicitor on the day the same is filed.

87. When the pleadings are completed, the petitioner may bring the matter on for hearing, and shall serve all persons who have entered an appearance with four clear days' notice for that purpose.

88. Upon such hearing, any person who has entered an appearance may subpoena witnesses and require any other person who has entered an appearance to produce documents or to attend for the purpose of being examined or cross-examined.

89. The costs of a wife of and arising from the said petition or answer shall not be allowed on taxation of costs against the husband before the final decree in the principal cause without direction of a Judge.

90. All other application⁽⁴⁾ in relation to permanent alimony and maintenance, and all applications in relation to settlements, may be made by petition supported by affidavit; and the like practice and procedure shall be observed thereon as prescribed by the preceding Rules Nos. 81 to 88.

CUSTODY, MAINTENANCE, AND EDUCATION OF CHILDREN.

91. Application to the Court for the custody, maintenance, and education of the children under sections 37 and 38 of the Ordinance may be made, before or at the time of making the final decree, by motion supported by affidavits; and after the final decree by petition supported by affidavits; and in the latter applications the like practice and procedure shall be observed as in applications for alimony pending suit.

92. Any person served with such a petition who has not entered an appearance in the principal cause must enter an appearance before he or she can file an answer thereto.

COSTS.

93. When on the hearing of a cause the decision of a Judge is against a wife, no costs of and incidental to such hearing shall be allowed as against the husband, except such as shall be applied for and allowed by the Judge at the time of such hearing; and the wife may proceed at once to obtain the payment of such costs after taxation or as the Judge shall otherwise order.

94. The Judge in any decree or order may direct that costs after taxation be paid into court or be paid to some person to be named in the decree or order, and either forthwith or within such time after taxation as the Judge may in such order or decree direct, and in cases where no time is mentioned in a decree or order costs shall be paid within twenty-one days after service of a copy of the Registrar's certificate of the amount allowed on taxation.

(4) The word "application" appeared in the Rules of Court as published in Papua Govt. Gaz. *Semble*, "applications" was intended.

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95. In all cases in which the Court at the hearing of the cause condemns any party to the suit in costs, the solicitor of the party to whom the costs are to be paid may forthwith obtain an appointment for the taxation of his bill of costs; provided that such taxation shall not take place before the time allowed for appealing shall have expired, or, in case a motion shall have been made, until it is disposed of, unless the Judge shall for cause shown direct a more speedy taxation.

96. The party who has obtained an appointment for taxation of a bill of costs shall give to each party entitled to be heard on the taxation thereof, or his or her solicitor, such notice of the said appointment as the Registrar shall direct, and shall at or before the same time serve a copy of the bill to be taxed on such party or his or her solicitor.

97. If any of the parties to be heard on the taxation do not attend at the time appointed, the Registrar may, nevertheless, proceed to tax the bill upon being satisfied that due notice of the time appointed was served on such parties or their solicitors.

98. The costs to be taken by solicitors for their own use and for the use of other persons in the Matrimonial Causes Jurisdiction of the Central Court,⁽²⁾ and the fees of Court, to be paid in the said Jurisdiction, shall be those set forth in the Schedules to these Rules and no other fees shall be demanded or taken by any officer of the Court.

INTERLOCUTORY APPLICATIONS.

99. All applications, except those expressly required to be made by summons or petition, shall be made by motion.

100. The practice and procedure in respect of an application by summons shall be as nearly as may be in accordance with the practice and procedure thereon in the Central Court⁽²⁾ in civil cases.

101. When by these Rules it is provided that any application shall be by motion, notice of such motion shall be served on the parties affected by the same two clear days at least before the day appointed for hearing the same, except where it is otherwise provided by these Rules, or unless the Judge shall by special order allow a shorter time, which allowance shall be stated in the notice of motion.

102. Notices of motion must be filed in the office of the Registrar, together with all affidavits intended to be used in support before the notice of motion is served on the parties to be affected thereby.

103. In matters to be heard on motion the practice and procedure as to filing affidavits shall be the same as in matters to be heard on summons, except as otherwise provided.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

104. All orders made in interlocutory matters on motion or summons shall be drawn up, passed, and filed in the office of the Registrar within fourteen days after they shall have been made, or in default thereof shall be deemed to have lapsed.

105. If the party having the carriage of such order does not draw up, pass, and file the same within a week after it has been made, any other party or parties to the suit may undertake the carriage thereof and be entitled to costs thereof.

TAKING OUT DECREES.

106. Decrees *nisi* and absolute and all other decrees and orders made upon petition shall be drawn up, passed, and filed in the office of the Registrar within fourteen days after they shall have been made; provided that, if there be more than two parties appearing in the suit, additional time shall be allowed as provided in the next Rule.

107. If the party having the carriage of a decree or order does not draw up, pass, and file the same within a week after it has been made, the carriage thereof shall be in the other party or parties appearing in the suit in the order in which they are named in the petition; and each such other party shall be allowed an additional week for such carriage, and the party assuming such carriage shall be entitled to costs thereof, whatever may be the result of the cause.

AFFIDAVITS.

108. Every affidavit is to be drawn in the first person, and the addition and true place of abode of every deponent is to be inserted therein, and every affidavit shall be legibly endorsed with the name of the deponent and the date on which it has been sworn.

109. Every separate sheet of every affidavit shall be signed by the deponent and by the person before whom it is taken, and dated on the day on which it is sworn; and the same fees shall be payable, as on an exhibit, on each sheet beyond that upon which the jurat is written.

110. No affidavit will be admitted in any matter depending in the Court in which any material part is written on an erasure, or in the jurat of which there is any interlineation or erasure, or in which there is any interlineation to⁽⁵⁾ the extent of which, at the time the affidavit is sworn, is not clearly shown by the initials of the Commissioner or other authority before whom it was sworn.

111. Where an affidavit is made by any person who is blind or who from his or her signature or otherwise appears to be illiterate the Commissioner or other authority before whom such affidavit is

(5) The word "to" appeared in the Rules of Court as published in *Papua Govt. Gaz. Semble*, it should be omitted.

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made is to state in the jurat that the affidavit was read in the presence of the party making the same, and that such party seemed perfectly to understand the same, and also made his or her mark or wrote his or her signature thereto in the presence of the Commissioner or other authority before whom the affidavit was made.

112. No affidavit is to be deemed sufficient which has been sworn before the party on whose behalf the same is offered, or before his or her solicitor, or before a partner or clerk of his or her solicitor.

113. Solicitors and their clerks respectively, if acting for any other solicitor, shall be subject to the Rules in respect of taking affidavits which are applicable to those in whose stead they are acting.

114. When a special time is fixed for filing affidavits, no affidavits filed after that time shall be used, unless by leave of a Judge.

115. The above Rules in respect to affidavits shall, so far as same are applicable, be observed in respect to affirmations and declarations to be read or used in the Court.

GENERAL PRACTICE IN MISCELLANEOUS MATTERS.

116. All notices required by these Rules or by the practice of the Court to be given by any party shall be in writing and signed by the party or his or her solicitor.

117. It shall be sufficient to leave all notices and copies of pleadings and other instruments which by these Rules are required to be given or delivered to the opposite party in the cause or their solicitors, and personal service of which is not expressly required, at the address furnished as aforesaid by the petitioner and respondent respectively.

118. Notices of motion, notice of trial, and other notices not requiring to be personally served may also be served by posting them in a registered letter directed and posted by the Registrar or such person as the Judge shall appoint so that in the ordinary course of post the same would reach the person intended to be served the number of days before the hearing of the matter or cause required by these Rules, and the post office receipt shall be *primâ facie* evidence of the date of posting such notice.

119. If an order be obtained without due notice to the opposite parties, except where otherwise provided by these Rules, such order may be rescinded upon the application of the parties on whom the notice should have been served; and the expense of and arising from the rescinding of such order shall fall on the party who obtained it, unless the Judge shall otherwise direct.

Rules of the Central Court (Matrimonial Causes Jurisdiction).

120. When it is necessary to serve personally any order or decree of the Court, the original order or decree or an office copy thereof under the seal of the Court must be produced to the party served, and after service must be annexed to the affidavit of service and marked as an exhibit by the Commissioner or other person before whom the affidavit is sworn.

121. All sittings for hearing of causes shall commence upon such days and shall be continued as the Judge shall from time to time direct: Provided that a cause may be set down for and heard at any time by leave of a Judge.

122. All decrees *nisi* may be made absolute, and all applications on petition, motion, or summons may be set down for and heard, as a Judge shall from time to time direct: Provided that any such matters may be set down for and heard at any time by leave of a Judge.

123. A Judge in every case in which a time is fixed by these Rules for the performance of any act or for any proceeding in default may, whether such time fixed has expired or not, extend the same to such time and with such qualifications and restrictions and on such terms as he shall deem fit.

124. To prevent the time limited for the performance of any act or for any proceeding in default from expiring before application can be made to a Judge for an extension thereof, the Registrar may, on reasonable cause being shown, extend the time.

125. The time fixed by these Rules for the performance of any act or for any proceeding in a cause shall in all cases be exclusive of Sundays, Christmas Day, and Good Friday: Provided that where the last day for doing any act or serving any document falls on a day which is a Court holiday the act may be done or the document served on the next day upon which the offices are open for business.

126. In any case where the exact observance of these Rules in any matter of procedure appears to a Judge likely to cause an injustice, he may, upon application made to him, vary or relax them in any way he thinks fit.

127. The Registrar of the Court is to have the custody of all pleadings and other documents to be brought in or filed, and of all entries of orders or decrees made in any matter or suit depending in the Court; and no documents filed as aforesaid are to be disclosed to any person, except the parties to the cause or their solicitors, without the special order of the Judge.

Rules of the Central Court (Matrimonial Causes Jurisdiction).

No. 2—Citation.

To the within-named respondent, C.B.

Whereas A.B., claiming to have been lawfully married to you, the within named respondent, has filed his petition in the Matrimonial Causes Jurisdiction of this Court praying that his said marriage be dissolved, wherein the said A.B. alleges that you have been guilty of

Now this is to command you that, within _____ days after service hereof on you, inclusive of the day of such service, you cause an appearance to be entered for you in this Court to the within petition. And take notice that, in default of your so doing, this Court will proceed to hear the said charge [or charges] proved in due course of law, and to pronounce sentence therein, your absence notwithstanding.

Dated this _____ day of _____, one thousand nine hundred and _____

Registrar.

This petition is filed by _____, whose address for service is _____

No. 3—Notice of Citation for Advertisement.

In the Central Court of the Territory of Papua.

Matrimonial Causes Jurisdiction.

Between A.B., of
Petitioner

C.B. (formerly
his wife, Respondent

R.S.; of
Co-respondent.

,
,
and
,
and
,

To C.B., late of (*last known address*).

Take notice that the said A.B. has commenced a suit against you in this Honourable Court, and is applying for a _____ on the grounds of _____; and take notice that you are required to enter an appearance to the said suit in this Court on or before the _____ day of _____, and, in the event of your not doing so within the time limited or obtaining further time, the petitioner may proceed and the suit heard and determined, your absence notwithstanding. A copy of the petition filed herein may be had on application to the undersigned free of charge.

Dated the _____ day of _____ 19 _____

Solicitor for Petitioner.
(Address.)
Registrar.
(Seal.)

No. 4—Appearance.

In the Central Court of the Territory of Papua.

Matrimonial Causes Jurisdiction.

A.B., Petitioner,
v.
C.B., Respondent
and
R.S., Co-respondent

} The Respondent, C.B., appears in person; or X.Y., the solicitor for C.B., the Respondent, appears for the Respondent.

Dated the _____ day of _____ 19 _____
[Here insert the address required within one mile of the office of the Central Court.]

No. 5—Answer.

(Usual heading and title.)

The _____ day of _____, 19 _____
The respondent _____, by her solicitor [or in person], in answer

MARRIAGE AND DIVORCE—

to the petition filed herein, saith—

1. That she denies that she committed adultery with the said _____, as set forth in the said petition.
2. Respondent further saith that on the _____ day of _____ 19____, and on other days between that day and _____, the said A.B., at _____, committed adultery with X.Y.
[In like manner the respondent is to admit, deny, or refute the statement contained in the petition, and to state connivance, condonation or other matters relied on as a ground for dismissing the petition.]

Wherefore this respondent humbly prays:—

That Your Honour will be pleased to reject the prayer of the said petition, and decree, &c.

No. 6—Notice to be Endorsed on Decree Nisi.

Take notice that, if you marry again before this decree nisi shall have been made absolute, you will be guilty of bigamy.

No. 7—Petition for Reversal of Decree of Judicial Separation.

(Head address and entitle as in Form No. 1.)

The _____ day of _____ 19____.
The petition of A.B., of _____
Showeth—

1. That your petitioner was, on the _____ day of _____ 19____, lawfully married to C.B.
2. That on the _____ day of _____, 19____, Your Honour, at the petition of the said C.B., pronounced a decree affecting this petitioner to the effect following:—
[Here briefly set out the substance of the decree.]
3. That the said decree was obtained in the absence of your petitioner, who was then residing at _____
[State facts showing that petitioner did not hear of proceedings.]
4. That there were reasonable grounds for your petitioner leaving his said wife, for that his said wife _____
[Here state grounds of defence petitioner would have had to the original proceedings.]

Your petitioner therefore humbly prays—

That Your Honour will be pleased to reverse the said decree.

_____, Petitioner's signature.

NOTE.—This Petition is filed by _____, of _____, solicitors for A.B., of _____ (the abovenamed petitioner), whose address for service is _____.

No. 8—Petition for Alimony Pendente Lite or Permanent Alimony.

In the Central Court of the Territory of Papua.

Matrimonial Causes Jurisdiction.

To His Honour _____, Chief Judicial Officer.

A.B., Petitioner, } The _____ day of _____, 19____.

v. }
C.B., Respondent. }
The petition of A.B., the lawful wife of C.B.,
Showeth—

1. That the said C.B. has for many years carried on the business of _____, at _____, and from such business derives the annual income of £ _____.
2. That the said C.B. holds _____ shares in the _____ company, amounting in value to £ _____, and yielding a clear annual dividend to him of £ _____.
3. That the said C.B. is possessed of stock-in-trade in his said business of _____ to the value of £ _____ [and so on for so many faculties as the husband may possess].

Rules of the Central Court (Matrimonial Causes Jurisdiction).

Your petitioner therefore humbly prays—

That Your Honour will be pleased to decree her such sum or sums of money by way of alimony *pendente lite* (or permanent alimony) as to Your Honour shall seem meet.

And your petitioner will ever pray.

Petitioner's signature.

No. 9.

Take notice that on the _____ day of _____, 19____, the petitioner [or respondent] intends, on the hearing of the application for a decree absolute herein, to apply for an order for payment to her of a monthly or weekly sum for her maintenance, and to refer to the proceedings for alimony *pendente lite*, and to use such further affidavits as she may think fit.

SCHEDULE OF FEES

	£	s.	d.
On every citation	0	5	0
Sealing form of advertisement of any nature	0	5	0
Entering appearance	0	5	0
Filing petition	0	10	0
Filing answer or reply	0	5	0
Filing any application	0	5	0
For an order	0	5	0
Filing any document not enumerated	0	2	6
On every summons	0	5	0
For every office search	0	2	6
On every appointment before Registrar	0	1	0
On every writ issued	0	5	0
Sealing and certifying any copy of a pleading	0	5	0
On any other certificate	0	2	6
On every decree or an order dismissing a suit	0	10	0
On entering any finding of a Judge or dismissing of suit	0	5	0
On every trial	1	0	0
On every office copy per folio of 72 words	0	0	6
For certifying such copy	0	2	6
Taxing costs when bill as taxed does not exceed £20	0	5	0
In every other case 2½ per cent. on amount allowed.			
On references or examinations to ascertain the means of any party or the settlements of any deeds or other reference not specially provided for, not exceeding one hour	1	0	0
For every additional hour	0	10	0
For report or award thereon	1	0	0
For settling any bond or recognisance	0	5	0
For examining any engrossment with draft as settled, for every 15 folios or part thereof	0	2	6
For every other proceeding not herein specifically provided for, the same fees as for the like or analogous proceedings in civil cases in the Central Court.			

SCHEDULE OF COSTS.

Endorsing citation on petition	0	3	0
Service of petition, subpoena if within 2 miles of the office of solicitor or residence of person employed to effect service	0	6	8
If over that distance, discretionary.			
Where served in the country by any other person, the amount actually paid to that person—			
(1) For swearing the affidavit of service;			
(2) For reasonable and necessary expenses of travelling and sustenance;			
(3) A fee of 8s., with an additional fee of 8s. for each day necessarily occupied after the first day.			

Where more than one attendance is necessary to effect service, such further sum as the Registrar may think fit.

MARRIAGE AND DIVORCE—

	£	s.	d.
For service out of the jurisdiction, such reasonable allowance as the Registrar may think fit.			
Service of any document on the solicitor or at the address for service ..	0	3	4

Notices.

Notice to produce, inspect, and admit, including service of same ..	0	7	6
If necessarily more than 4 folios, for each additional folio ..	0	1	4
Preparing notice of motion and copy to file ..	0	5	0
If more than 3 folios, for each additional folio ..	0	1	4
Preparing and serving notice of appearance, notice of trial, of hearing, of inquiry, or of any appointment before Registrar ..	0	4	0
Preparing and entering appearance ..	0	7	6

Instructions.

For petitions, answers, and other pleadings ..	0	6	8
		to	
	2	0	0
To defend suit ..	0	6	8
For affidavit ..	0	6	8
		to	
	1	0	0
To appeal against any order ..	0	6	8
For deed, bond, or similar instrument ..	0	6	8
For or in opposition to motion or summons ..	0	6	8
		to	
	1	0	0
For brief on any application to the Court, or on commission or <i>de bene esse</i> examination ..	0	6	8
		to	
	5	5	0
For brief on any reference or examination before Registrar ..	0	6	8
		to	
	5	5	0
For brief on hearing of suit, discretionary.			
For any matter similar to above matter but not herein specially provided for, discretionary.			

Drawing.

Drawing petition ..	0	7	6
If more than 5 folios, for each additional ..	0	1	0
Answer, reply, or other pleading not exceeding 3 folios ..	0	5	0
If more than 3 folios, for each additional ..	0	1	0
Affidavit of service, including instructions and copy to file ..	0	5	0
If more than 3 folios, per folio ..	0	1	4
Briefs, per folio ..	0	1	6
Bill of costs, including copy to file ..	0	1	6
Decree, orders, and any other document not specifically mentioned ..	0	5	0
If more than 3 folios, per folio ..	0	1	0
Pleadings, briefs, and other documents where no other provision made, per folio ..	0	0	4
If, necessarily, on parchment ..	0	0	8
Copies, notices of motion, summonses, orders, affidavits, writs of any kind, and similar documents ..	0	1	0
Or per folio ..	0	0	4
Where briefs or other documents are typewritten, only half the amount shall be allowed for second copy, and one-fourth for any third or additional copy. No allowance for letterpress copies.			

Perusals.

Perusing and abstracting any pleading or affidavits of the adverse party ..	0	1	0
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Rules of the Central Court (Matrimonial Causes Jurisdiction).

	£	s.	d.
Or per folio	0	0	4
Perusing any documents to be settled by the Registrar, by the party who has not drawn same	0	1	0
Or per folio	0	0	4
Notice to produce, inspect, and admit, including looking up documents	0	6	8
		to	
	0	13	4

Attendances.

To deliver or file any document (when not included in general charge)	0	3	4
To search for appearances	0	3	4
In pursuance of notice to admit or to inspect produce for inspection document included in any affidavit of documents	0	6	8
Or per hour	0	13	4
To obtain or give necessary consent or undertaking	0	6	8
To obtain appointment to examine witnesses	0	6	8
To obtain appointment to tax or any other appointment	0	3	4
To obtain signature of a Judge to any order made by him	0	6	8
To bespeak and for copy of Court document	0	6	8
To bespeak and for money out of Court, and giving receipt therefor	0	6	8
Upon reference to Registrar upon matters such as to settle bond, deed, etc.	0	6	8
		to	
	1	0	0
Or per hour	1	0	0

Upon any reference to the Registrar to report on alimony, or other reference where witnesses are or might be examined, or upon any examination of witnesses before any Commissioner	0	13	4
Or per hour	1	0	0

If examination more than 2 miles from place of business of solicitor, such additional allowance as the Registrar may deem reasonable.			
On deponents being sworn, or by a solicitor or his clerk to be sworn, to an affidavit	0	6	8
On an <i>ex parte</i> application to a Judge	1	1	0
On a summons	1	1	0
In court, per day	0	13	4
		to	
	4	4	0

Or such allowance as the Registrar shall think fit.

On hearing of cause, per day	2	2	0
		to	
	7	7	0
Clerk's attendance when more than 6 witnesses, per day	1	1	0
On taxation of bill of costs	0	6	8
Or discretionary.			
For any other necessary attendance not specified	0	3	4
		to	
	0	13	4

The Registrar may allow such fees for maps, plans, or models as he may deem reasonable.

Allowance to Witnesses.

Solicitors, medical practitioners, surveyors, architects, and other professional men, per day	1	0	0
If country witness, additional per day	0	5	0
		to	
	1	1	0
Merchants, bankers, accountants, auctioneers, and the like	0	10	6
		to	
	1	1	0
If country witnesses, additional daily allowance	0	5	0
		to	
	0	12	6

Tradesmen, master mariners, clerks, artisans, sailors, labourers, and

MARRIAGE AND DIVORCE—

	£	s.	d.
the like, per day	0	7	0
		to	
If country witnesses, additional daily	0	15	0
		to	
Female witnesses according to station in life	0	4	0
		to	
If country witnesses, additional daily	0	5	0
		to	
	0	10	0
		to	
	0	2	0
		to	
	0	6	0

No witness shall be deemed to be a country witness who resides within five miles of Port Moresby.

In addition to the foregoing allowances, country witnesses may be allowed such sum as the Registrar thinks reasonable to provide for actual expenses of conveyance to and from the place of trial, excluding any charges for maintenance or sustenance whilst travelling.

In every case the Registrar may allow such expenses as he may think have been reasonably and properly incurred, and paid to witnesses for qualifying to give skilled evidence.