



Jersey

MATRIMONIAL CAUSES (AMENDMENT No. 2) RULES 2010

Arrangement

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MATRIMONIAL CAUSES (AMENDMENT No. 2) RULES 2010

*Made**18th February 2010**Coming into force**in accordance with Rule 11*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948¹, Article 43 of the Matrimonial Causes (Jersey) Law 1949² and Article 19(2) of the Gender Recognition (Jersey) Law 2010³, has made the following Rules –

1 Interpretation

In these Rules “principal Rules” means the Matrimonial Causes Rules 2005⁴.

2 Rule 5 amended

In Rule 5(2) of the principal Rules for the words “Article 18(d), (e) or (f)” there shall be substituted the words “Article 18(1)(d), (e), (f) or (i)”.

3 Rules 5A, 5B and 5C inserted

After Rule 5 of the principal Rules there shall be inserted the following Rules –

“5A Supplemental: petition for nullity on ground of issue of interim gender recognition certificate

- (1) This Rule applies to a petition for nullity brought under Article 18(1)(g) of the Law.
- (2) Unless otherwise directed, the petitioner must file with the petition a copy of an interim gender recognition certificate issued to the petitioner or to the respondent, as the case may be.

5B Supplemental: petition for nullity on ground that respondent's change of gender would be recognized by an approved jurisdiction

- (1) This Rule applies to a petition for nullity brought under Article 18(1)(h) of the Law.
- (2) The petition must contain particulars of the conditions satisfied and steps taken in the approved jurisdiction that are –
 - (a) prescribed; or
 - (b) relied upon to satisfy the Court that, but for the fact that the parties are still married, the change of gender would be recognized by that jurisdiction.
- (3) The petitioner must file such documents as the Greffier may direct in support of a petition to which this Rule applies.

5C Supplemental: petition for nullity on ground of respondent's gender having become acquired gender at time of marriage

Where a petition for nullity is brought under Article 18(1)(i) of the Law and a full gender recognition certificate has been issued to the respondent, the petitioner must file a copy of that full certificate with the petition, unless otherwise directed.”

4 Rule 12A inserted

After Rule 12 of the principal Rules there shall be inserted the following Rule –

“12A Supplemental: acknowledgement of service of petition for nullity brought on ground relating to gender recognition

- (1) This Rule applies where a petition for nullity is brought under –
 - (a) Article 18(1)(g) of the Law and an interim gender recognition certificate has been issued to the respondent;
 - (b) Article 18(1)(i) of the Law and a full gender recognition certificate has been issued to the respondent.
- (2) Where the respondent returns to the Greffier an acknowledgement of service in Form 4, the respondent must, unless otherwise directed, file with it a copy of the interim certificate or the full certificate, as the case may be.”

5 Rules 16A, 16B and 16C inserted

After Rule 16 of the principal Rules there shall be inserted the following Rules –

“16A Supplemental: answer praying for decree of nullity on ground of issue of interim gender recognition certificate

- (1) This Rule applies to an answer under Rule 16(1) that prays for a decree of nullity under Article 18(1)(g) of the Law.
- (2) The respondent must, unless otherwise directed, file with the answer a copy of an interim gender recognition certificate issued to the respondent or to the petitioner, as the case may be.

16B Supplemental: answer praying for decree of nullity on ground that petitioner’s change of gender would be recognized by an approved jurisdiction

- (1) This Rule applies to an answer under Rule 16(1) that prays for a decree of nullity under Article 18(1)(h) of the Law.
- (2) Unless otherwise directed, the answer must contain particulars of the conditions satisfied and steps taken in the approved jurisdiction that are –
 - (a) prescribed; or
 - (b) relied upon to satisfy the Court that, but for the fact that the parties are still married, the petitioner’s change of gender would be recognized by that jurisdiction.
- (3) The respondent must file such documents as the Greffier may direct in support of an answer to which this Rule applies.

16C Supplemental: answer praying for decree of nullity on ground of petitioner’s gender having become acquired gender at time of marriage

Where an answer under Rule 16(1) prays for a decree of nullity under Article 18(1)(i) of the Law and a full gender recognition certificate has been issued to the petitioner, the respondent must file a copy of the full certificate with the answer, unless otherwise directed.”.

6 Rule 19A inserted

After Rule 19 of the principal Rules there shall be inserted the following Rule –

“19A Supplemental: reply to answer praying for decree of nullity on ground relating to gender recognition

- (1) This Rule applies where an answer is filed under Rule 16(1) which prays for a decree of nullity under –
 - (a) Article 18(1)(g) of the Law and an interim gender recognition certificate has been issued to the petitioner;
 - (b) Article 18(1)(i) of the Law and a full gender recognition certificate has been issued to the petitioner.

- (2) Where the petitioner files a reply under Rule 19(1) to the answer, he or she must, unless otherwise directed, file with it a copy of the interim certificate or the full certificate, as the case may be.”.

7 Rule 28 amended

In Rule 28(2) of the principal Rules –

- (a) for the words “divorce or judicial separation” there shall be substituted the words “divorce, judicial separation or a decree of nullity”;
- (b) in sub-paragraph (a) after the words “Form 8,” there shall be inserted the word “8A.”.

8 Rule 45A inserted

After Rule 45 of the principal Rules there shall be inserted the following Rule –

“45A Saving for certain decrees of nullity absolute on pronouncement

Nothing in this Part affects a decree of nullity under Article 18(1)(g) or (h) of the Law that is absolute on pronouncement in accordance with the proviso to Article 20(1) of the Law.

9 Schedule – Form 3 amended

In the Schedule to the principal Rules, in Form 3, after paragraph 11 there shall be inserted the following paragraph –

“12. If the petition is for nullity –

- (a) on the ground that an interim gender recognition certificate has been issued to a party to the marriage, and such a certificate has been issued to you, you must, when returning the acknowledgement of service, attach to it a copy of your interim certificate;
- (b) on the ground that a change of your gender would be recognized by an approved jurisdiction, you may, when returning the acknowledgement of service, be required to attach to it such documents as the Greffier may direct;
- (c) on the ground that your gender was the acquired gender at the time of the marriage under the Gender Recognition (Jersey) Law 2010⁵ and a full gender recognition certificate has been issued to you, you must, when returning the acknowledgement of service, attach to it a copy of your full certificate.”.

10 Schedule – Form 8A inserted

In the Schedule to the principal Rules, after Form 8 there shall be inserted Form 8A set out in the Schedule to these Rules.

11 Citation and commencement

These Rules may be cited as the Matrimonial Causes (Amendment No. 2) Rules 2010 and shall come into force on the same day as the Gender Recognition (Jersey) Law 2010 comes into force.

J.M. O’SULLIVAN

Deputy Registrar, Family Division.

SCHEDULE

(Rule 10)

“Form 8A

Affidavit by Petitioner in support of petition for annulment under Article 18(1)(g) of the Matrimonial Causes (Jersey) Law 1949

Matrimonial Causes Rules 2005 Rule 28(2)(a)

**IN THE ROYAL COURT OF JERSEY
(Family Division)**

File No:

BETWEEN

PETITIONER

AND

RESPONDENT

QUESTION	ANSWER
<p>About the Petition</p> <p>1. Have you read the petition in this cause?</p>	
<p>2. Do you wish to alter or to add to any statement in the petition? If so, state the alterations.</p>	
<p>3. Subject to these alterations or additions (if any) is everything stated in your petition true?</p>	
<p>About the interim gender recognition certificate</p> <p>4. State the date on which the interim gender recognition certificate was issued. State the name of the person to whom the certificate has been issued. You must attach a copy of the interim certificate to this form.</p>	
<p>About other proceedings</p> <p>5. To the best of your knowledge and belief has there been or is there continuing any of the following proceedings:</p> <ul style="list-style-type: none"> • an application to amend an error in the interim certificate; • an appeal against a decision to amend (or not to amend) an error in the interim certificate; • a reference under Article 7(1) of the Gender Recognition (Jersey) Law 2010; or • an appeal against a decision made following a reference under Article 7(1)? 	

<p>If so, please give details of those proceedings and any order made. (You should also attach copies of any order made).</p>	
<p>About the child(ren) of the family 6. Have you read the Statement of Arrangements filed in this cause?</p>	
<p>7. Do you wish to alter anything in the Statement of Arrangements or add to it? If so, state the alterations or additions.</p>	
<p>8. Subject to these alterations and additions (if any) is everything stated in your petition [and Statement of Arrangements for the child(ren)] true to the best of your knowledge and belief?</p>	

AFFIDAVIT

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

(occupation)

make oath and say as follows –

1. I am the petitioner in this cause.
2. **The answers to Questions 1 to 8 are true.**
- 3.⁽¹⁾ I identify the signature⁽²⁾ appearing in the copy acknowledgement of service now produced to me and marked “A” as the signature of my husband/wife, the respondent in this cause.
4. I exhibit marked “B” a copy of the interim gender recognition certificate issued to myself/the respondent in this cause.
5. ⁽³⁾

(1) Delete if the Acknowledgement is signed by an advocate or a solicitor.

(2) Insert name of the respondent exactly as it appears on the Acknowledgement of Service signed by him / her.

(3) if you have answered “Yes” to question 5, exhibit any document on which you intend to rely.

6. I identify the signature⁽²⁾
appearing at section D of the Statement of Arrangements dated
..... now produced to me and marked "C"
as the signature of the respondent.

7.[(a) Both my [husband] [wife] and I were domiciled in Jersey on the
date these proceedings began
(give details)
.....
.....] **or**

[(b) [My husband/wife] [and] [I] [has] [have] been habitually resident in
Jersey throughout one year immediately prior to the presentation of
the petition] **or**

[(c) My [husband] [wife] died before the presentation of the petition and
at death [was domiciled in Jersey] [had been habitually resident in
Jersey for 1 year before [his] [her] death].⁽⁴⁾

⁽⁴⁾ Delete as the case may
be.

⁽⁵⁾ Delete if costs are not
sought.

8. I ask the court to grant a decree annulling my marriage with the
respondent on the ground stated in my petition [and to order the
respondent to pay the costs of this suit].⁽⁵⁾

Sworn at

this day of 20

Before me

[Advocate] [Solicitor] [Notary Public]⁽⁴⁾”

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- ¹ *chapter 07.770*
 - ² *chapter 12.650*
 - ³ *L.1/2010*
 - ⁴ *chapter 12.650.50*
 - ⁵ *L.1/2010*