

## **FREQUENTLY ISSUED REQUISITIONS WHEN PROCESSING DIVORCE DOCUMENTS**

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**Divorce documents are processed in accordance with the provisions of the Matrimonial Causes Act, the Civil Procedure Rule, 2002 (Amended) and various Practice Directions. Draft Forms were amended by the Rules Committee. Please see Prescribed Form as Amended (Jamaica Gazette No.49 of 2015 and No.49c)**

### **General Requisitions**

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1. Failure to conform to the wording of the Prescribed Forms, particularly standard paragraphs.
2. Failure to comply **fully** with requisitions issued or to comply at all.
3. The name of Petitioner/ Respondent does not correspond with what is presented on the marriage certificate.
4. The place of marriage and the name of marriage officer do not correspond with what appears on the marriage certificate.
5. The names of the Petitioner, Respondent or relevant child(ren) are not consistent throughout all the documents filed
5. The date of birth of relevant children is not consistent throughout the documents filed.
6. Jurat of Affidavits are defective i.e not signed, dated and place sworn is missing.
7. The Justice of the Peace does not write out his/her name or indicate the parish to which he/she is assigned
8. The dates of particular documents are not correctly stated or referred to.
9. Failure to serve the Respondent/Respondent's Attorney with the Notice of Application to Dispense with Hearing and the Supporting Affidavit where an Acknowledgement of Service is filed.
10. Failure to file a County Clerk Certificate to verify the commission of the Notary who witnessed Affidavits where such Affidavits are sworn in a non-commonwealth country.
11. Not including an e-mail address in the footnote of the documents.

## Petition

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12. The parties have not been separated for a year prior to the date of presentation of the Petition. See section **5(2) of the Matrimonial Causes Act**.
13. Where the Petitioner or Respondent is a female – failing to state how the person is described in the marriage certificate.
14. Where the female does not take the name of the husband, failing to state that the said person did not take the name of the husband.
15. Where parties continue to reside in the matrimonial home, albeit being separated – not adequately describing the nature of separation to satisfy the Court that the parties are living separate and apart.
16. The Petition is not signed or dated.
17. Not stating the marital status of the parties at the time of the marriage.
18. Omitting the date of separation or not stating the said date clearly in the petition.
19. The name of the marriage officer and the place of marriage are not consistent with what is stated on the marriage certificate.
20. To state the address the parties resided as husband and wife and **since when**.
21. State whether there were any attempts made at reconciliation.
22. The address for service of the Respondent is not the same as the address provided for the Respondent in the body of the Petition.
23. No Acknowledgement of Service Form filed or only one Acknowledgement of Service Form filed.

## Affidavit Accompanying Petition

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24. Name and date of birth of the relevant child/children not stated or is stated incorrectly
25. Failure to state how each party contributes financially to the maintenance of the relevant child/children.

## Affidavit of Service

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26. Process Server is to state his occupation to determine the eligibility of the person to serve. Police officers are not permitted to serve civil documents - **See Section 13 of the Constabulary Force Act**.

27. Dates of the documents served are incorrectly stated (especially the date of the Petition which is often confused with the date of the Notice to the Respondent).
28. Failing to state the reason service was effected on the Respondent at an address different from the address provided for the Respondent in the Petition.
29. Failing to file original photograph where respondent was identified by means of a photograph.
30. Where the respondent was identified by means of personal knowledge, Process Server failing to state whether he/she knew the respondent to be the spouse of the petitioner and for how long.

### **Affidavit of Search**

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31. The date the search was done is missing.
32. The search must be sworn and filed on the same day on which the search is conducted.
33. The period of the search is missing.
34. Jurat incomplete.

### **Notice of Application to Dispense with Hearing**

35. The date of service is incorrect.
36. The date of the marriage is incorrect.
37. The relevant provision of the CPR being relied on is not stated in the ground.
38. Where an amended petition is filed after service of the petition, failure to include a request for an order to dispense with service of the Amended Petition.
39. Not including or correctly stating the period of time within which an Acknowledgment of Service or Answer is to be filed.

### **Affidavit in Support of Notice to Dispense with Hearing**

40. The date of separation and the circumstances that led to the breakdown of the marriage does not accord with what is stated in the Petition.
41. The original marriage certificate (in the new format) is to be filed/ exhibited to this Affidavit.
42. Failing to state whether any attempts were made at reconciliation.
43. Where the Petitioner is present at the time of service, failing to state that he/she was present and that he/she pointed out the Respondent to the Process Server as being his/her spouse.
44. The information with regards to the relevant child (ren) is not updated or is inconsistent with the information in the Affidavit Accompanying Petition.

### **Decree Nisi**

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45. The name of parties/relevant child(ren) and date of birth/place of marriage incorrect.
46. Paragraphs 2 and 4 are not worded in accordance with Form MP.8 of the 2015 Amendments to Part 76 of the Civil Procedure Rules as Amended.
47. Insert in brackets after the Petitioner's/Respondent's name the following (described in the marriage certificate as....) in cases where the names appear different on the marriage certificate.
48. Inclusion of orders for custody and access where none was prayed for in the Petition or not including the said orders where same has been prayed for and granted by the Court.

### **Notice of Application for Decree Absolute**

49. Pre-mature applications. Applications filed before the expiry of the 6 weeks from the date of the Decree Nisi.
50. Application not dated.
51. The date of the Decree Nisi incorrectly stated.
52. The name and title of the Judge or Master who granted the Decree Nisi is;
  - (a) Incorrectly/ incompletely spelt or
  - (b) The wrong name stated

### **Affidavit of Search**

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- 53.** The date of the Decree Nisi incorrectly stated.
- 54.** Period of Search not included.
- 55.** The date search was conducted, the date the Affidavit was sworn and filed not corresponding.
- 56.** Jurat incomplete.

### **Affidavit in Support of Notice of Application for Decree Absolute**

- 57.** Copy of signed Decree Nisi not exhibited.
- 58.** The date of the Decree Nisi incorrectly stated.
- 59.** The name and title of the Judge or Master who granted the Decree Nisi
  - (a) Incorrectly/incompletely spelt or
  - (b) The wrong name stated.
- 60.** Names and dates of birth of relevant child/children not correctly stated.
- 61.** Arrangements for the relevant child/children not properly set out or updated.
- 62.** Prayer at the end of Affidavit not included.
- 63.** Jurat incomplete.

### **Decree Absolute**

- 64.** The date of the Decree Nisi incorrectly stated.
- 65.** The name and title of the Judge or Master who granted the Decree Nisi
  - (c) Incorrectly/incompletely spelt or
  - (d) The wrong name stated
- 66.** Wife's name as described in marriage certificate not properly stated or stated at all.
- 67.** Date and place of marriage incorrectly stated.
- 68.** Amendments to marriage certificate not observed.