

APPENDIX 2

CONTENTS OF PETITION

(Unless otherwise directed under rule 2.3)

1. Every petition other than a petition under rules 3.12, 3.13, 3.14 or 3.15 shall state—
 - (a) the names of the parties to the marriage and the date and place of the marriage;
 - (b) the last address at which the parties to the marriage have lived together as husband and wife;
 - (c) where it is alleged that the court has jurisdiction based on domicile—
 - (i) the country in which the petitioner is domiciled, and
 - (ii) if that country is not England and Wales, the country in which the respondent is domiciled;
 - (d) where it is alleged that the court has jurisdiction based on habitual residence—
 - (i) the country in which the petitioner has been habitually resident throughout the period of one year ending with the date of the presentation of the petition, or
 - (ii) if the petitioner has not been habitually resident in England and Wales, the country in which the respondent has been habitually resident during that period, with details in either case, including the addresses of the places of residence and the length of residence at each place;
 - (e) the occupation and residence of the petitioner and the respondent;
 - (f) whether there are any living children of the family and, if so—
 - (i) the number of such children and the full names (including surname) of each and his date of birth or (if it be the case) that he is over 18, and
 - (ii) in the case of each minor child over the age of 16, whether he is receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation;
 - (g) whether (to the knowledge of the petitioner in the case of a husband's petition), any other child now living has been born to the wife during the marriage and, if so, the full names (including surname) of the child and his date of birth or, if it be the case, that he is over 18;
 - (h) if it be the case, that there is a dispute whether a living child is a child of the family;
 - (i) whether or not there are or have been any other proceedings in any court in England and Wales or elsewhere with reference to the marriage or to any child of the family or between the petitioner and the respondent with reference to any property of either or both of them and, if so—
 - (i) the nature of the proceedings,
 - (ii) the date and effect of any decree or order, and
 - (iii) in the case of proceedings with reference to the marriage, whether there has been any resumption of cohabitation since the making of the decree or order;
 - (j) whether there are any proceedings continuing in any country outside England and Wales which relate to the marriage or are capable of affecting its validity or subsistence and, if so—
 - (i) particulars of the proceedings, including the court in or tribunal or authority before which they were begun,
 - (ii) the date when they were begun,
 - (iii) the names of the parties,

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- (iv) the date or expected date of any trial in the proceedings, and
- (v) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973⁽¹⁾;

and such proceedings shall include any which are not instituted in a court of law in that country, if they are instituted before a tribunal or other authority having power under the law having effect there to determine questions of status, and shall be treated as continuing if they have been begun and have not been finally disposed of,

- (k) where the fact on which the petition is based is five years' separation, whether any, and if so what, agreement or arrangement has been made or is proposed to be made between the parties for the support of the respondent or, as the case may be, the petitioner or any child of the family;
- (l) in the case of a petition for divorce, that the marriage has broken down irretrievably;
- (m) the fact alleged by the petitioner for the purposes of section 1(2) of the Act of 1973⁽²⁾ or, where the petition is not for divorce or judicial separation, the ground on which relief is sought, together in any case with brief particulars of the individual facts relied on but not the evidence by which they are to be proved;
- (n) any further or other information required by such of the following paragraphs and by rule 3.11 as may be applicable.

2. A petition for a decree of nullity under section 12(e) or (f) of the Act of 1973 shall state whether the petitioner was at the time of the marriage ignorant of the facts alleged.

3. A petition for a decree of presumption of death and dissolution of marriage shall state:—

- (a) the last place at which the parties to the marriage cohabited;
- (b) the circumstances in which the parties ceased to cohabit;
- (c) the date when and the place where the respondent was last seen or heard of; and
- (d) the steps which have been taken to trace the respondent.

4. Every petition shall conclude with:

- (a) a prayer setting out particulars of the relief claimed, including any application for an order under any provision of Part I or Part II of the Children Act 1989⁽³⁾ with respect to a child of the family, any claim for costs and any application for ancillary relief which it is intended to claim;
- (b) the names and addresses of the persons who are to be served with the petition, indicating if any of them is a person under disability;
- (c) the petitioner's address for service, which, where the petitioner sues by a solicitor, shall be the solicitor's name or firm and address. Where the petitioner, although suing in person, is receiving legal advice from a solicitor, the solicitor's name or firm and address may be given as the address for service if he agrees. In any other case, the petitioner's address for service shall be the address of any place in England or Wales to which documents for the petitioner may be delivered or sent.

(1) 1973 c. 45, as amended by 1981 c. 24.

(2) 1973 c. 18.

(3) 1989 c. 41.