

INSTRUMENTS OF RENUNCIATION, ETC.

For taking instructions for every instrument of renun- ciation, or other document	£ s. p. - 8 0
For drawing and fair copy thereof per folio of 100 words . .	- 2 0

Given under the hand and official seal of the Governor and the hand of the Chief Justice, at Nicosia, this 4th day of January, 1955.

(M.P. 1303/53.)

E. HALLINAN,
Chief Justice.

No. 2. THE TURKISH FAMILY COURTS LAW, 1955.

RULES MADE UNDER SECTION 19.

R. P. ARMITAGE,
Governor.

In exercise of the powers vested in me by section 19 of the Turkish Family Courts Law, 1954, and with the advice and assistance of the Chief Justice, I, the Governor, do hereby make the following rules:—

1. These rules may be cited as the Turkish Family Courts Rules, 1955. Title.
2. In these rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:— Definitions.

“Action” means proceedings commenced before a Turkish Family Court by writ of summons.

“Ancillary relief” in any matrimonial cause means a claim for the maintenance of the wife, or for the maintenance or custody of infant children or both and shall be deemed to include provision for the access to such children.

“Claimant” includes every person asking any relief (other than a defendant asking relief by way of counter-claim) against any other person by any form or proceeding, whether the proceeding is by action, motion, summons, or otherwise.

“Court” means a Turkish Family Court having jurisdiction or power under any Law for the time being in force and includes a Judge having such jurisdiction or power.

“Defendant” includes any person entitled to appear in any proceedings other than a plaintiff.

“Judge” means a Turkish Family Court Judge.

“Matrimonial cause” means any proceedings in which the claim is for—

- (i) a declaration that a marriage is invalid or void,
- (ii) a divorce, or a judicial separation,
- (iii) admonition or compensation for neglect of marital duty or conduct injurious to the other spouse.

3. Proceedings for breach of promise or in any matrimonial cause shall be commenced by filing a writ of summons as in Form 1 of the Appendix hereto in the Court within the jurisdiction of which the claimant ordinarily resides. Proceedings how commenced.

4.—(1) In any matrimonial cause the statement of claim endorsed on the writ of summons shall state:— Form of action.

- (a) The names of the parties to the marriage, the occupation of the husband, the place and date of the marriage and the name and status of the wife before the marriage.
- (b) The principal addresses at which the parties to the marriage have cohabited within the jurisdiction or, if it be the case, that there has been no cohabitation within the jurisdiction.
- (c) Whether there are living any children of the marriage and, if so, the names and dates of birth or ages of such children.

- (d) Whether at the date of the institution of the cause one or both of the parties is a Turk resident in Cyprus professing the Moslem faith.
- (e) Whether there have been before the Court any and, if so, what previous proceedings with reference to the marriage or on behalf of either of the parties to the marriage, and the result of such proceeding.
- (f) Except in suits for a declaration of invalid or void marriage, the matrimonial offences charged set out in separate paragraphs.
- (g) Where adultery is alleged, whether the claimant has in any way been accessory to or connived at or condoned the adultery, and where ill-treatment is alleged, whether the claimant has condoned the ill-treatment.
- (h) In suits for the declaration of invalid or void marriage, the grounds upon which such declaration is claimed.
- (i) In suits for divorce and for neglect of marital duty or conduct injurious to the other spouse, a claim (if required) for compensation.
- (j) A statement giving particulars of the relief claimed which may include a claim for ancillary relief.

Originating
summons
and
applications.

5.—(1) Any application in any pending cause or matter which may, according to the practice and procedure of a District Court, be made *ex parte*, may be made *ex parte* in a Turkish Family Court and shall be in Form 2 of the Appendix hereto ; provided that a Judge may, if he considers the application should be on notice, require the claimant to proceed by summons in Form 3 of the Appendix hereto.

(2) Any proceedings not commenced by writ of summons and any application not *ex parte* shall be instituted or made by summons in Form 3 of the Appendix.

4 of 1951.

(3) Proceedings for a declaration of legitimacy or illegitimacy or for a declaration that a marriage contracted under the Sheri Law, before the coming into operation of the Turkish Family (Marriage and Divorce) Law, 1951, is valid shall be made by summons on Form 2 or Form 3 as circumstances require.

Signature
and date of
appearance.

6. Every statement of claim upon a writ of summons and every summons and *ex parte* application shall be signed by the party who institutes or makes the same and, in the case of a minor or other person who is not *sui juris*, by his or her guardian, and shall be endorsed in conspicuous characters with a notice to appear before the Court on the day specified therein.

Settlement of
issues.

7.—(1) Except by leave of the Court, pleadings in any action other than the particulars contained in the writ of summons shall be made orally before the Court at or before the commencement of the trial.

(2) A defendant who has not appeared before the Court on the day appointed by the writ of summons may appear and make his defence at any time prior to judgment upon payment of such costs to the claimant as the Court may direct.

Counter-
claim.

8.—(1) The defendant at any time before the day specified in the writ of summons for his appearance (or thereafter with the leave of the Court) may deliver to the plaintiff and file in Court a counter-claim but the Court may order any counter-claim to be tried separately which cannot conveniently be tried together with the claim.

(2) On the day upon which the parties appear before the Court pursuant to the writ of summons (or thereafter by leave of the Court) the plaintiff shall make his defence to the counter-claim, and the defendant may then give his reply, if any, or join issue with the claimant.

9. When the issues are settled, the Court shall fix the date of hearing.

Date of
hearing.
Amend-
ments.

10.—(a) The claimant may amend his writ of summons or application before service upon filing an affidavit verifying the new facts alleged.

(b) After service a writ of summons may be amended only with the leave of the Court and on such terms and conditions as the Court may direct.

11.—(a) Any party may by letter require any other party to furnish particulars of any allegation or other matter pleaded and, if the other party fails to furnish such particulars within a reasonable time, the party requiring the particulars may apply for an order that particulars be given. Particulars.

(b) All particulars, whether given in pursuance of an order or otherwise, shall be filed within 24 hours after being furnished to the party requiring them.

12.—(1) Applications made *ex parte* or by summons shall state the facts on which the applicant relies and need not be supported by affidavit unless required by the Court or Judge. Hearing of application.

(2) On the day upon which the parties appear before the Court pursuant to an application by summons, prior to the hearing of any evidence other than such as is or may be ordered to be on affidavit, the party, if any, opposing the application shall state the grounds for such opposition.

(3) The Court may thereupon proceed to hear and determine the application, or may fix a date for the hearing thereof.

13. Nothing in these rules shall dispense with the requirements of legal evidence and no order shall be made except the facts in support thereof are of record or are admitted or are supported by sworn testimony. Requirements of proof.

14. The witnesses in any cause or matter shall be examined *viva voce* and in open court: Evidence.

Provided that the Court may—

- (a) order that any particular facts to be specified in the order may be proved by affidavit ;
- (b) order that the affidavit of any witness may be read at the trial on such conditions as the Judge may think reasonable ;
- (c) order that not more than a specified number of expert witnesses may be called ;
- (d) having regard to the nature of the case and the evidence to be adduced and with the consent of the parties order that the evidence of a particular witness or witnesses be taken *in camera*.

15.—(1) Where in any matrimonial cause, relief is claimed on the ground of impotence or incapacity or under section 19 (e) of the Turkish Family (Marriage and Divorce) Law, 1951, the party claiming such relief may apply to the Court and the Court may appoint a medical inspector or two medical inspectors to examine the parties and to report to the Court the result of the examination. Medical inspection.
4 of 1951.

(2) Every examination under this rule shall be made at such time and place as the Court may direct.

16. Every judgment or order of the Court shall be signed by the Judge and, on the application of any party to the registrar, be entered in a book to be kept for the purpose, and copies may be issued on payment of the prescribed fees. Judgment and order.

17. Where a Court transfers the execution of a judgment to the District Court under section 15 of the Turkish Family Courts Law, 1954, the registrar shall certify to the appropriate District Court the amount due under the judgment, and shall transmit to such Court certified copies of the judgment and of the order of transfer. Transfer of execution to District Court.
42 of 1954.

18.—(1) A writ for the seizure and sale of movable property shall be signed and sealed by a Judge. Execution upon movable property.

(2) The duties of writs clerk shall be performed by the registrar.

19. Every bill of costs shall be referred to the Court at the conclusion of hearing for taxation by the Judge. Taxing of bills of costs.

APPENDIX.

FORM No. 1.—WRIT OF SUMMONS.

In the Turkish Family Court of _____ No. _____ of 19 ____ .
 Between : _____ Claimant,
 _____ and _____ Defendant.

To

of (a) _____, (b)

This is to command you to appear before the Court at (c)
 on _____ day the _____ day of _____ 19 ____, at the hour of
 in the forenoon, for the hearing of an action against you by
 of (a)

(d)

The Claimant's claim in the action is set out in the statement of claim
 overleaf.

The Claimant's address for service is (e)

And take notice that, in default of your appearing before the Court on
 the day aforesaid, the Claimant may proceed in the action and judgment
 may be given in your absence.

Filed and sealed on the (f) _____ day _____ of _____, 19 ____ .

Registrar.

(a) Give full address, including street and number of premises, if any.

(b) State Defendant's occupation, if known.

(c) State the town or village in which the Court will hear the action.

(d) State Claimant's occupation.

(e) Give the full name, occupation, and address of a person within the municipal
 limits of the town or village in which is situated the Registry in which the action is
 filed, with whom documents intended for Claimant may be left.

(f) The date should be filled in by the Registrar.

N.B.—In drawing up a writ regard should be had to the provisions governing
 statements of claim.

Statement of Claim.

True Copy.

(Signed)

Registrar.

(a) *Advocate for Claimant.*

(a) Strike out the words "Advocate for" if suing in person.

FORM No. 2.—APPLICATION MADE *EX PARTE*.

In the Turkish Family Court of _____ No. _____ of 19 ____ .
 Between : _____
 _____ *A.B.*, Claimant,
 _____ and _____
 _____ *C.D.*, Defendant.
Ex Parte A.B., of _____, Applicant.

The above applicant applies for (a)

The application is based on (b)

(a) Set out order or direction applied for.

(b) Set out specific section of Law or specific Rule of Court,

* The facts relied upon are as follows : (c)

This application is made by *A.B.* in person (or by *E.F.*, advocate for *A.B.*). Address for service :

(Signed)

Advocate for Applicant.

Filed on the day of , 19 .

Fixed for hearing on the day of , 19 , at o'clock
in the forenoon.

Registrar.

(c) If the application is not required by the rules to be supported by affidavit, the facts relied upon should be stated in the application.

* Strike out if not required.

FORM NO. 3.—APPLICATION BY SUMMONS.

In the Turkish Family Court of No. of 19 .

Between :

A.B.,

Claimant,

and

C.D.,

Defendant.

Application by *A.B.*, of

Let all persons concerned attend the Court at on the day
of , 19 , at the hour of in the
forenoon, on the hearing of an application whereby the above-named
applicant applies for (a)

The application is based on (b)

* The facts relied upon are as follows : (c)

or

*(The facts relied upon are set out in the accompanying affidavit of *A.B.*
of dated the day of , 19 .)

This summons was taken out by the applicant in person (or by *E.F.*,
advocate for the applicant). Address for service :

(Signed)

Filed on the day of , 19 .

Fixed for hearing on the day of 19 , at the hour
of in the forenoon.

To (d)

Registrar.

(a) Set out order or direction applied for.

(b) Set out specific section of Law or specific Rule of Court.

(c) If the application is not required by the rules to be supported by affidavit, the facts relied upon should be stated in the application.

(d) State name and address of person to be served with the summons ; and on form filed in Court give names and addresses of every such person.

* Strike out if not required.

Given under the hand and official seal of the Governor and the hand of
the Chief Justice, at Nicosia, this 4th day of January, 1955.

E. HALLINAN,
Chief Justice.