

**LAWS OF TUVALU  
REVISED EDITION 1990**

**CHAPTER 21**

**MATRIMONIAL PROCEEDINGS**

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**AN ACT**

To make new provision for divorce, and for related matters.

*8 of 1984  
L.N. 13/86*

*[Commencement: 1 January 1985]*

**ENACTED BY THE PARLIAMENT OF TUVALU:**

**PART I  
PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the Matrimonial Proceedings Act 1984, and shall come into operation on such date as the Minister may, by notice, determine.

**Purpose of this Act**

2. (1) The purpose of this Act is to provide for the legal consequences of the final breakdown of a marriage, including divorce, the welfare of children and property rights.

(2) To minimize the ill-effects of a breakdown, attempts at reconciliation and the lessening (if possible) of the common bitterness resulting from a marriage failure must be given prominence, and if the divorce does go ahead it must be remembered that if there are children what is being broken up is not just a marriage but a family unit, and the children, as members of that unit must be given every care and protection.

(3) The Act says nothing one way or the other about the moral or religious implications of a marriage failure.

**Interpretation**

3. In this Act-

"associated proceedings" means any proceedings under Part IV, whether commenced or determined before or after a divorce;

"matrimonial proceedings" means-

(a) proceedings for a divorce, in accordance with Part III; or

(b) associated proceedings.

### **PART III JURISDICTION**

#### **Ground of jurisdiction**

**4.** The courts of Tuvalu have jurisdiction, in accordance with this Act, over matrimonial proceedings where-

(a) both of the parties to the marriage are domiciled in Tuvalu; or

(b) both of the parties to the marriage are normally resident in Tuvalu and have been so resident for not less than six months; or

(c) where the parties to the marriage have separated - the applicant is a person to whom paragraph (a) or (b) applies.

#### **Jurisdiction of island courts**

**5.** (1) An island court has jurisdiction in matrimonial proceedings only-

(a) where both parties to the marriage are citizens of Tuvalu; or

(b) where-

(i) after the commencement of the proceedings, both parties to the marriage consent; and

(ii) the court is satisfied that there are no major problems relating to any associated proceedings.

(2) An island court has no jurisdiction where one of the parties is absent from Tuvalu at the time of the commencement of the proceedings, unless that party consents, in writing, after the commencement of the proceedings.

(3) A consent for the purposes of Subsection (1) (b) (i) or Subsection (2) cannot be withdrawn for the purposes of the proceedings to which it relates.

(4) If during any matrimonial proceedings an island court thinks that there will or may be major problems relating to any associated proceedings, the court shall transfer the matrimonial proceedings to the Magistrate's Court.

#### **Jurisdiction of Magistrates' Courts**

**6.** (1) A Magistrate's Court has jurisdiction in all matrimonial proceedings, except in a case where proceedings have already been properly commenced in an island court.

(2) If in any matrimonial proceedings before a Magistrate's Court constituted otherwise than by the Senior Magistrate the Court thinks that a question (whether of law or of fact) of special difficulty has arisen or may arise, the Court may transfer the proceedings to a Magistrate's Court constituted by the Senior Magistrate.

**Appeal, review, etc.**

**7.** The provisions of all laws relating to appeals from and reviews of decisions of island courts and Magistrates' Courts apply to and in relation to decisions in matrimonial proceedings.

**PART III  
DIVORCE PROCEEDINGS**

**Right to divorce in certain cases**

**8.** If—

(a) one party to a marriage has wilfully refused to consummate the marriage; or

(b) the marriage has been induced by fraud, duress or mistake,

the injured party to the marriage is, subject to Part IV, entitled to a divorce.

**Grounds for divorce**

**9.** (1) Subject to Section 8, the only ground for divorce is that the marriage has completely broken down.

(2) Without limiting what may be accepted as evidence that a marriage has broken down, a court may accept as such evidence proof that—

(a) the respondent has, since the celebration of the marriage, committed adultery; or

(b) the respondent has deserted the applicant without reasonable cause; or

(c) the respondent has, since the celebration of the marriage, treated the applicant with cruelty; or

(d) the respondent is certified by a medical officer or medical practitioner approved for the purpose of the Mental Treatment Act(Cap. 37, 1978 Edn.)—

(i) to be of unsound mind; and

(ii) to be unlikely to recover; or

(*e*) in the circumstances it would be unreasonable to expect one party to continue in the marriage relationship with the order,

but no such evidence relieves the court from the duty to determine whether or not the marriage has completely broken down.

### **Conciliation, etc.**

**10.** Where proceedings are brought under Section 9, unless the court certifies that-

(*a*) in its opinion no attempt to reconcile the parties is like to succeed; or

(*b*) there are in the circumstances of the case special reasons why a divorce should be granted immediately,

the court shall, at some convenient stage of the proceedings and before giving judgement, adjourn the proceedings for a period fixed by the court (not being less than three months) in order to allow the parties to settle their differences.

### **Grant of divorce**

**11.** (1) Subject to this Act and in particular to Part IV, a court may, upon being satisfied as to any matter referred to in Section 8 (*a*) or (*b*) or Section 9 (1), grant a divorce.

(2) On the grant of a divorce the court shall-

(*a*) forward to the Registrar-General a certificate of divorce in the form in the Schedule; and

(*b*) issue to each of the parties, on request, a copy of the certificate.

(3) On receipt of a certificate of divorce the Registrar-General shall, in such manner as he thinks proper-

(*a*) enter the certificate in a Register of Divorces; and

(*b*) annotate any relevant entry in the Register of Marriages accordingly.

## **PART IV RELATED MATTERS**

### **Children**

**12.** (1) In any matrimonial proceedings concerning a marriage of which there are children (whether natural children, adopted children or step-children), the welfare of the children is of paramount importance, at least equal to that of the parties to the marriage.

(2) Accordingly, unless the court is satisfied that adequate arrangements have been made or will be made, for the welfare of the children it shall normally refuse to grant a divorce or defer the grant.

(3) In any matrimonial proceedings the court may make all such orders as it thinks necessary or desirable in the interests of the children.

(4) An order made under Subsection (3) may make provision to take effect-

(a) pending the determination of the proceedings; or

(b) on the grant of the divorce.

(5) Orders made under Subsection (3)-

(a) shall not be inconsistent with any other law, or any applicable Tuvaluan custom; and

(b) may include orders relating to-

(i) custody, guardianship and access to the children by one or both of the parties to the marriage; and

(ii) matters referred to in Section 13; and

(iii) matters referred to in Section 14.

### **Property rights**

**13.** (1) In any matrimonial proceedings the court may make all such orders as it thinks necessary or desirable to adjust the property rights of-

(a) the parties to the marriage; or

(b) any children to whom Section 12 applies; or

(c) any other persons affected.

(2) An order made under Subsection (1) may make provision to take effect-

(a) pending the determination of the proceedings; or

(b) on the grant of the divorce.

(3) Orders made under Subsection (1)-

(a) shall not be unreasonable or inconsistent with any other law, or any applicable Tuvaluan custom; and

(b) may include orders relating to -

- (i) the division of property; and
- (ii) the transfer of property; and
- (iii) the vesting of property; and
- (iv) maintenance, whether of a party to the marriage, a child or any other person affected.

(4) In order to limit as far as possible the continuing bad effects of the breakdown of a marriage, the court shall use its best endeavours to finally conclude all matters to which this section relates before the divorce is granted, and as far as practicable by consent.

### **Other orders**

**14.** (1) In any matrimonial proceedings the court may make any other order, direction or arrangement that it considers necessary or desirable for the purposes of this Act.

(2) Orders made under Subsection (1) shall not be unreasonable or inconsistent with any other law, or any applicable Tuvaluan custom.

### **Orders after divorce**

**15.** If-

(a) any matter as to which an order under this Part might be made has not been finally settled before a divorce is granted; or

(b) relevant circumstances change significantly,

a Magistrate's Court may, at any time after a divorce is granted, on application by or on behalf of any interested person -

(c) make any order that it might make under this Part if the matrimonial proceedings had not been terminated; or

(d) vary or unmake -

- (i) any order made under this Part; or
- (ii) any order made under paragraph (c).

## **PART V MISCELLANEOUS**

### **Technical rules**

**16.** (1) Subject to Subsection (2), the former bars to divorce known as condonation, connivance, conduct condoning, and collusion, as well as other technical rules (such as the requirement of corroboration in certain cases), are abolished.

(2) Notwithstanding Subsection (1), any matter to which that subsection applies may be relevant to evidence establishing a ground for divorce under this Act.

### **Queen's Proctor**

**17.** Notwithstanding Section 59 (2) of the Interpretation and General Clauses Act (Cap. 1, 1978 Edn.), there shall be no office of Queen's Proctor, or any similar or analogous office, for Tuvalu.

### **Rules of Court**

**18.** In addition to rules of court that may be made under any other law, the Chief Justice may make rules-

(a) to provide for the service of process under this Act and for dispensing with such service;

(b) to prescribe forms to be used for the purposes of this Act;

(c) to regulate practice and procedure under this Act;

(d) generally, for the better carrying into effect of the purpose of this Act.

### **Repeal and transitional**

**19.** (1) The Native Divorce Act (Cap 21, 1978 Edn.) and the Divorce Act (No. 3 of 1981) are repealed.

(2) Notwithstanding the repeals effected by Subsection (1), any proceedings under either of the repealed Acts were-

(a) commenced before the date of commencement of this Act

(b) not determined before that date,

may be continued as if this Act had not been enacted, or, if the court directs or permits, may be withdrawn and re-commenced under this Act.

## **SCHEDULE**

### **(Section 11(2))**

### **Certificate of Divorce**



IN THE SENIOR MAGISTRATE'S COURT/ MAGISTRATE'S COURT/ISLAND COURT

AT..... No.

The marriage of .....  
..... and .....  
celebrated at..... on .....  
is dissolved under the Matrimonial Proceedings Act 1984.

Senior Magistrate/Magistrate/  
Island Magistrate\*

Seal of the Court

\*Delete as appropriate

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## SUBSIDIARY LEGISLATION

### Regulations

1. Matrimonial Causes (Magistrates' Courts) Rules
2. Magistrates' Courts (Matrimonial Fees) Rules

#### (1) MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES

L.N. 26/81

[These rules were originally made under section 9 of the repealed Divorce Act, and continue in operation pursuant to section 32 of the Interpretation and General Provisions Act.]

#### Citation

1. These Rules may be cited as the Matrimonial Causes (Magistrates' Courts) Rules.

#### Interpretation

2. (1) In these Rules, unless the context otherwise requires-

"court" means a magistrate's court exercising powers under the Ordinance;

"the Ordinance" means the Divorce Ordinance.

(2) Unless the context otherwise requires, any reference in these Rules to a numbered rule refers to a rule in these Rules-and any reference to a numbered form refers to a like numbered form in the Schedule to these Rules.

(3) Any form used in accordance with these Rules may be used with such variations as the circumstances of the individual case may require.

**Application of Magistrates' Courts Rules**

3. Subject to the provisions of these Rules and of any other written law any Magistrates' Courts Rules for the time being current shall apply, with the necessary modifications, to the practice and procedure in relation to the institution and hearing of matrimonial proceedings in a magistrate's court exercising powers under the Ordinance.

**Commencement of proceedings**

4. Subject to the provisions of the Ordinance and these Rules, proceedings for dissolution of marriage may be instituted by filing a petition, addressed to the Magistrate's Court, with the Clerk to the Magistrate's Court.

**Petition**

5. (1) A petition shall be in accordance with Form 1.

(2) Unless otherwise directed, every petition shall contain the information required by Form 1, and any further information required by such of the following paragraphs of this rule as may be applicable.

(3) A petition shall state the full name of each party to the proceedings and, in addition-

(a) the address and occupation of the petitioner;

(b) the name of the wife immediately before the marriage; and

(c) the address and occupation, so far as known to the petitioner, of any person, not being a party to the proceedings, specified in the petition as a person with whom the respondent is alleged to have committed adultery.

(4) Where the address, at the date of the petition, of a person referred to in paragraph (3) is not known to the petitioner, the petition shall state that the address is not known to the petitioner and also state the last address (if any) of the party or person known to the petitioner.

**Ground of petition**

6. (1) A petition shall state the ground on which the decree is sought.

(2) For the purpose of these Rules, a ground specified in a lettered paragraph of section 3 of the Ordinance may be stated in any court document in the terms set out in the table below opposite the letter by which the paragraph is identified in section 3 of the Ordinance.

(a) ..... adultery

(b) ..... desertion

- (c) ..... cruelty
- (d) ..... refusal to consummate
- (e) ..... insanity
- (f) ..... venereal disease
- (g) ..... mistake
- (h) ..... incompatibility

**Date and signing of petition**

- 7. (1) A petition shall be signed by the petitioner and shall be dated the date on which it is filed.
- (2) The court may in any case where a petition has not been filed or where a petition has been filed either on application or on its own volition complete a form of petition or make good any inadequacy in a petition filed on the basis of evidence given on oath by the petitioner but shall not proceed with any hearing of the petition without service of the new or amended petition unless the respondent is present before the court.

**Document to be filed with petition**

- 8. (1) A petition shall, subject to the provisions of rule 7, be presented for filing together with 2 copies.
- (2) A certificate of marriage or an official copy of an extract of the entry in the register of marriages of the marriage to which the petition relates shall be filed with the petition. Where a certificate is not written in English a translation in English shall be annexed to the certificate:

Provided that if a certificate, or an official copy of an entry in the register of marriage relating to the marriage cannot for good reason be procured and filed the petitioner may file instead an affidavit in Form 2.

**Summons to answer petition**

- 9. (1) A petition presented for filing and every copy of the petition for service shall be attached to a form of summons in Form 3 addressed to the respondent.
- (2) On the filing of a petition, the Clerk of the Court shall cause a summons in Form 3 to issue for the hearing of the petition on a day and at a time and place to be appointed and specified in the summons.

**Discontinuance**

- 10. Before a petition is heard, the petitioner may file a notice of discontinuance and the cause shall thereupon stand dismissed.

### **Service of petition**

11. (1) Unless otherwise directed, a copy of every petition and summons issued in accordance with rule 9(2) shall be served personally upon every respondent and on any person specified in the petition on or with whom the respondent is alleged to have committed adultery.

(2) Service shall be effected through the court.

(3) Service of a copy petition and summons shall be effected not less than 8 clear days before the day appointed in the summons for the hearing of the petition.

(4) Where the court is satisfied that it is not reasonably practicable to effect personal service of a petition, the court may order that service be effected in a manner specified in the order or that notice of a petition may be given by advertisement in which case the form of the advertisement shall be approved by the court and a copy of the newspaper containing any advertisement shall be filed in the court.

### **Dispensing with service**

12. (1) Where it appears necessary or expedient to do so the court may subject to paragraph (2) of this rule by order dispense with service of a copy of a petition on any person.

(2) Service of a copy of a petition on a respondent spouse shall not be dispensed with except with the written approval of the Senior Magistrate.

### **Supplementary petition and amendment**

13. (1) A supplementary petition may only be filed with leave after the petition has been served.

(2) A petition may be amended without leave before it is served but only with leave after it has been served.

(3) An amendment authorised to be made under this rule shall be made by filing a copy of the amended petition, together with as many copies as there are persons to be served.

(4) The provisions of rule 9 shall apply to a supplementary or amended petition as it applies to an original petition.

### **Proof of service**

14. Unless service has been dispensed with in accordance with these Rules a petition shall not proceed to hearing unless every person required to be served with a copy of the petition and the summons-

(a) has appeared before the court in answer to the summons; or

(b) is shown by an affidavit (which shall be filed) in Form 4 to have been served with a copy of the petition and the summons personally or in accordance with an order for substituted service.

### **Answer**

15. (1) Unless the respondent seeks a decree of dissolution of marriage, it shall not be obligatory on him to file an answer unless the court so orders.

(2) Except with the leave of the court or in accordance with rule 17, no answer may be filed later than 2 days before the date appointed in the summons as that on which the respondent is required to appear before the court to answer the petition.

(3) An answer seeking a decree of dissolution of marriage shall be in accordance with Form 5.

### **Only respondent may file an answer**

16. (1) An answer shall not be filed by any party other than the respondent.

### **Court may hear any person named in petition or answer**

(2) The court may of its own motion hear evidence from any person named in any petition or answer if it considers it to be in the interest of justice so to do and on application of any such person shall hear that person.

### **Procedure at hearing**

17. (1) On the date and at the time and place appointed in the summons, if the respondent is present and is not represented by a barrister or solicitor, the court shall read and explain the petition and the answer, if any, and shall explain the nature of the proceedings. The court shall ascertain and record whether the respondent wishes to oppose the grant of a decree of dissolution of marriage on any ground set out in the petition and whether the respondent wishes to himself apply for a divorce and if so on which of the grounds set out in the Ordinance he intends to rely. The grounds shall (unless an answer has already been filed) be recorded with such further information as may be required in the form of an Answer in Form 5 a copy whereof shall be delivered to the Petitioner who shall be granted on adjournment if he or she so requires.

(2) The court may adjourn any hearing on application of any party or on its own motion where the interest of justice so demands.

(3) The Magistrate may, in any case where, by reason of the complexity of law or otherwise, it appears to him to be a matter that should be tried before the Senior Magistrate, remit the hearing of the petition to the Senior Magistrate's Court.

(4) The court shall hear evidence on oath whether or not the parties contest the issue. All evidence shall be recorded in writing by the Magistrate.

(5) The judgement of the court shall be pronounced in open court and shall contain the points for determination the decision thereon and the reason for the decision.

### **Form of decree**

18. (1) The decree nisi shall be in Form 6.

(2) The Magistrate shall immediately upon making a decree nisi forward the papers in the case to the Senior Magistrate.

### **Certificate of decree absolute**

19. Upon the expiration of the time specified in section 5 of the Ordinance and subject to the provisions of section 6 of the Ordinance the Magistrate shall issue 3 certificates of decree absolute and shall supply one each to the Petitioner and Respondent if required.

### **Reducing period for decree to become absolute**

20. (1) Application for an order reducing the period at the expiration of which a decree nisi may become absolute may be made, without notice, at the time of the hearing of the petition, but, if not so made, shall be made by summons supported by affidavit which shall be filed in the Magistrate's Court.

(2) A copy of the summons and the affidavit in support shall be served on the other party to the marriage not less than 8 days before the hearing:

Provided that the Magistrate may, if he thinks fit, dispense with such service or reduce the period of such service.

### **Reconciliation**

21. (1) Where, after a decree nisi for dissolution of the marriage has been made but before a certificate of decree absolute has been issued, the parties have become reconciled, either party may apply to the court by way of notice of motion inter-parties for the decree nisi to be rescinded.

(2) Where the application for a decree nisi to be rescinded is made under paragraph (1) the court shall, if it is satisfied that the parties are reconciled, make an order to be made rescinding the decree.

### **Matters to be heard in chambers**

22. All applications and summonses under the Ordinance or these Rules, other than the hearing of the petition, shall be heard in chambers unless the court otherwise directs.

### **Application for decree nisi**

23. An application for a decree nisi to be made absolute shall be signed by the applicant and be in Form 7

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**SCHEDULE**

*(Rule 2 (2))*

**FORM 1**

*(Rule 5)*

**MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES**

In the Magistrate's Court

Matrimonial Cause No. .... of 19....

Between ..... Petitioner .....  
..... and .....  
..... Respondent .....

(See Notes at end)

**PETITION**

To the Magistrate's Court

I, ..... of ..... now ask the Court to dissolve my marriage to ..... the respondent whose address is ....., and whose occupation is ....., on the ground(s) of:-

(see Note 1)

1. On the ..... day of ..... 19 ....., I was lawfully married to ..... the respondent at ....., I (or the respondent) being then being called ..... (state full name and status of wife immediately before the marriage).
2. The respondent and I have cohabited at ..... and at ..... (or the respondent and I have never cohabited).
3. I am domiciled (or resident) in Tuvalu (see Note 2) or (I being the wife have ordinarily resided in Tuvalu for three years immediately) (see Note 3) preceding the presentation of this Petition.
4. There have been no previous proceedings in any court with reference to the marriage or to any child of the marriage except (state the nature of the proceedings, the date and effect of any order made and whether there has been any resumption of cohabitation since the order).
5. The facts which I rely on as constituting the ground(s) specified above are-(see Note 4)

I therefore ask that the marriage be dissolved.

Dated and filed this ..... day of ..... 19...

Petitioner

### **NOTES**

1. Insert one or more of the following grounds. The full wording of the grounds is given in the Divorce Ordinance but you may use the following word or words to describe which ground or grounds you feel apply:

- a) adultery
- b) desertion
- c) cruelty
- d) refusal to consummate
- e) insanity
- f) venereal disease
- g) mistake
- h) incompatibility

2. If you are the husband then your country of domicile will be in Tuvalu if it is the country where you are making your permanent home. If you are just a visitor and intend to leave eventually then you are not domiciled in Tuvalu even if you stay in the country for many years. Delete this sentence if the part in bracket applies.

3. If you are a woman then you may as an alternative ask for a divorce if you have ordinarily lived in Tuvalu for the last 3 years. Delete the part in brackets if you are a man or if it does not apply.

4. State briefly the facts which establish that the grounds for divorce given by you apply (i.e. the details of adultery or insanity or as the case may be). These should give sufficient information to allow your husband or wife to understand the allegation.

**FORM 2**  
(Rule 8(2))

### **MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES**

In the Magistrate's Court



Between ..... Petitioner .....  
..... and ..... Respondent .....

Matrimonial Cause No. .... of 19...

**AFFIDAVIT AS TO MARRIAGE**

I ..... of .....

**MAKE OATH** and **SAY** as follows:

1. I am unable to file a marriage certificate or an official copy of an extract of the entry in a register of marriages because (insert reason).
2. I was married to ..... of ..... on the ..... day of .....  
19 ... My unmarried name (my wife's unmarried name) (delete as appropriate)  
was.....
3. At the time of the marriage I was ..... years old and my wife/husband was ..... years old.  
At that time I was single/married/widowed/a widower/divorced (delete as appropriate) and my  
husband/wife was single/ married/ a widower/ divorced (delete as appropriate).
4. The marriage was performed by ..... of ..... (state name if  
known and position held)

**SWORN** before me

..... Signed..... this .....day of ..... 19 ....

Signed .....

Position held .....

**FORM 3**  
*(Rule 9)*

**MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES**

**SUMMONS**

In the Magistrate's Court

Matrimonial Cause No. .... of 19.....

Between ..... Petitioner .....  
and ..... Respondent .....

**SUMMONS**

To ..... the above named respondent  
(and to..... of .....) )

**TAKE NOTICE** that you must appear before this Court sitting at .....on the .....  
day of ..... 19.... at ..... o'clock in the ..... noon, if you think fit to do so,  
upon the hearing of the petition (a copy whereof is attached) in the above cause, in connection  
with the allegations against you contained in that petition and that if you do not appear the Court  
may proceed to hear the petition even though you are not there.

Dated this ..... day of ..... 19....

Magistrate/Clerk of the Court

**NOTE**

If you intend to defend, or wish to be heard on any allegation or claim in the petition or to make  
any application on your own behalf, you must attend at the time and place specified on the above  
summons.

**FORM 4**  
(Rule 16 (6))

**MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES**

In the Magistrate's Court

Between ..... Petitioner.....  
..... and ..... Respondent .....

Matrimonial Cause No. .... of 19....

**AFFIDAVIT OF SERVICE**

I ..... of .....

**MAKE OATH** and **SAY** as follows:

1. On ..... 19.... I served with a copy of the Petition and Summons in the  
above matter by delivering the Summons with the Petition attached to him personally.

2. I know that the person on whom I served the Summons and the Petition was .....  
because (he is known to me) (I was able to identify him by..... ) (delete or  
complete as appropriate).

Signed:.....

**SWORN** before me

.....  
this ..... day of .....19.... at .....

Signed .....  
Office held .....

**FORM 5**  
*(Rule 17 (3))*

**MATRIMONIAL CAUSES (MAGISTRATES' COURTS) RULES**

In the Magistrate's Court

Matrimonial Cause No. ....of 19....

Between ..... Petitioner .....  
..... and .....  
..... Respondent

**ANSWER**

I, ..... the Respondent in answer to the allegations made in the Petition in these proceedings say that the following facts set out in the Petition are incorrect:

(see Note 1)

I do not accept that the Petitioner is entitled to a decree of dissolution marriage and ask that the court dismiss the Petition.

**CROSS PETITION** (delete this entire section if Respondent does not wish to Petition for Divorce)

1. I ..... the Respondent now ask the court to dissolve my marriage to the Petitioner on the following grounds: (see Note 2)

2. The details contained in Petition paragraph 1, 2, and 4 are correct (except in the following respect) (delete if not applicable):

3. I am domiciled in Tuvalu (see Note 3) (I am the spouse and I have been ordinarily resident in Tuvalu for 3 years immediately preceding the presentation of this Petition) (see Note 4).

4. The facts on which I rely as constituting the grounds specified above are as follows:

(see Note 5)

I now ask that the marriage be dissolved .....

Dated and filed this ..... day of ..... 1981

.....  
Respondent

## **NOTES**

1. Read the facts and grounds set out in the Petition (opening paragraph and paragraph (5)) and indicate what if anything you feel is incorrect or untrue.

2. Insert one or more of the following grounds. The full wording of the grounds is given in the Divorce Ordinance but you may use the following word or words to describe which ground or grounds you feel apply:

a) adultery

b) desertion

c) cruelty

d) refusal to consummate

e) insanity

f) venereal disease

g) mistake

h) incompatibility

3. If you are the husband then your country of domicile will be in Tuvalu if it is the country where you are making your permanent home. If you are just a visitor and intend to leave eventually then you are not domiciled in Tuvalu even if you stay in the country for many years. Delete this sentence if part in bracket applies.

4. If you are a woman then you may as an alternative ask for a divorce if you have ordinarily lived in Tuvalu for the last 3 years. Delete the part in brackets if you are a man or if it does not apply.

5. State briefly the facts which establish that the grounds for divorce give you apply (i.e. the details of adultery or insanity or as the case may be), should give sufficient information to allow your husband or wife to understand the allegation.

### **(2) MAGISTRATES' COURTS (MATRIMONIAL FEES) RULES**

L.N. 1/82

*Commencement: 27th April 1982*

#### **Citation**

1. These Rules may be cited as the Magistrates' Courts (Matrimonial Fees) Rules.

## **Fees Schedule**

2. The fees prescribed in the Schedule to these Rules shall be charged in respect of the matters to which they are respectively assigned.

## **Payment**

3. These prescribed fees shall be paid to the Clerk to the Magistrate's Court in which the Petition is presented.

## **Magistrate's court may waive fees**

4. A magistrate's court may, if it thinks fit dispense with the payment of fee on account of the poverty of any party or for other sufficient reason.

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### **SCHEDULE** *(Rule 2)*

#### **Fees in Matrimonial Causes**

|   |  |
|---|--|
| 1. Filing a petition                                  | \$25.00  |
| 2. Filing an answer which contains no cross petition  | Nil  |
| 3. Filing an answer containing a cross petition       | \$12.00  |
| 4. Filing any application                             | \$5.00   |
| 5. Providing any sealed copy of duplicate certificate | Cost to court of preparing the same to be assessed by clerk.   |
| 6. Service or arranging for service of any document.  | Cost to court of serving or arranging for service to service of the same to be assessed by the clerk |

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