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CODE OF ORGANIZATION AND CIVIL PROCEDURE (CAP. 12)

CIVIL CODE (CAP. 16)

Family Court Proceedings Regulations, 2026

IN EXERCISE of the powers conferred by articles 29(2), 193A and 470 of the Code of Organization and Civil Procedure and by articles 37, 66A(3) and 66J of the Civil Code, the Minister responsible for justice has made the following regulations:-

PART I
Preliminary

Citation and commencement.

1. (1) The title of these regulations is the Family Court Proceedings Regulations, 2026.

(2) These regulations shall come into force on such date or dates as the Minister responsible for justice may, by notice in the Gazette establish and different dates may be so established for different provisions and, or purposes of these regulations.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"Children's Advocate" means an advocate forming part of the Legal Aid Agency, appointed in accordance with regulation 4 and whose functions are provided for in regulation 15;

"Family Court" means the Family Court and includes the Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section);

S.L. 372.14.

"FS3" means the income statement under the Final Settlement System (FSS) Rules together with the obligation for declaration and payment of Social Security contributions arising under the Social Security Act;

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"mediator" means a person appointed as a mediator in accordance with regulation 3;

"Minister" means the Minister responsible for justice;

"support person" means a person nominated in accordance

with regulation 5 and includes a support person appointed as a court expert whose duties are established in regulation 6, and a support person appointed as a therapist as referred to in regulation 7.

PART II
Offices of Mediator, Children's Advocate and Persons of Support

Office of mediators. Cap. 12.

3. (1) The Minister shall, in accordance with article 89 of the Code of Organization and Civil Procedure, draw up a list of experts in family matters which shall contain persons who, in his opinion, possess the qualities required to perform the functions assigned to mediators under these regulations. The said list shall consist of two (2) parts as follows:

(a) the first part shall contain a list of qualified persons as referred to above, from which the parties may, by mutual agreement, select a person to act as mediator; and

(b) the second part shall contain a list of qualified persons as referred to above, who shall be appointed by the Court on a roster basis to act as mediators in a particular case:

Provided that a person possessing the required above-mentioned qualities, may be included in both the first and second lists.

(2) There shall be within the Court Services Agency an official, designated as the mediation coordinator, whose duties shall include coordinating the assignment of mediators in accordance with the list of mediators referred to in sub-regulation (1), ensuring that the mediation documentation is complete, verifying that the terms of mediation are being followed, and if such terms are not being followed to inform the mediators or the Court of such matter.

Cap. 16.

(3) The provisions of this regulation shall apply for the purposes of article 66J(1) of the Civil Code, and the lists referred to in sub-regulation (1) shall be deemed to constitute the register referred to in article 66J(1) of the Civil Code and shall serve the same function.

Office of the Children's Advocate. Cap. 12.

4. The Minister shall, in accordance with article 89 of the Code of Organization and Civil Procedure, draw up a list of advocates who hold a warrant to practise as Children's Advocates and who possess experience in family law.

Persons of support. Cap. 12.

5. (1) The Minister shall, in accordance with article 89 of the Code of Organization and Civil Procedure, draw up a list of experts

in the fields of family and juvenile matters, consisting of individuals who, in the opinion of the Minister, possess the necessary qualifications to perform the duties assigned to them in relation to providing support to parties involved in proceedings before the Family Court.

(2) Support persons may either be Court appointed experts designated for the purpose of providing the required support in accordance with regulation 6 or therapists offering therapy as referred to in regulation 7.

(3) Support persons shall be appointed by the Court on the basis of their specialisation and by means of a roster, and their remuneration shall be borne by the Court Services Agency in accordance with tariffs established by regulations issued in accordance with article 1004 of the Code of Organization and Civil Procedure.

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(4) The list of support persons referred to in this regulation shall be reviewed every two (2) years without prejudice to any nominations made in pending proceedings.

PART III
Duties

Duties of support persons appointed as Court experts.

6. (1) The duties of the support persons acting as Court experts shall include:

(a) conducting an assessment of the therapeutic needs of the parties, including minors, and reporting to the Court in accordance with the terms of the appointment;

(b) providing advice to the Court regarding the need for intervention, therapy or special measures both during and after judicial proceedings, applicable to minors, parents, the parties or other individuals as the case may require;

(c) maintaining contact with the parties to the proceedings, family members, the Children's Advocate, legal guardians and other persons as deemed necessary;

(d) advising on, or making a request to the Court for the issuance of protection orders as the case may be:

Provided that:

(a) the role of the support person appointed as a court expert shall terminate upon the submission of the report, unless the Court orders otherwise;

(b) the support person acting as a court expert shall submit the report within four (4) months from the date of nomination and such period may be extended by the Court for a further two (2) months upon valid grounds:

Provided further that where a person fails to meet and cooperate with a support person acting as a Court expert, such support person shall inform the Court accordingly, and the Court shall have the authority to take such measures as it deems appropriate, including ordering that person to bear any expenses incurred.

Duties of support persons acting as therapists.

7. (1) Where a report by a support person acting as a court expert indicates the need for therapeutic interventions for minors, the parties, or third parties as appropriate, the Court may appoint a support person as a therapist in accordance with regulation 5 to provide support throughout the duration of the proceedings.

(2) The role of the support person acting as a therapist shall be to:

(a) offer therapeutic support to the parties, minors, and other relevant persons during judicial proceedings as directed by the Court;

(b) guide and assist minors, the parties, and third parties, as the case may be, on a therapeutic basis, during judicial proceedings, as the need arises.

Confidentiality of therapy.

8. The work of the support persons in accordance with regulation 7 shall respect the confidentiality of the therapeutic process and the support person providing the therapy may not be brought to testify or otherwise be required to disclose information concerning facts which have come to their knowledge in the course of providing such therapy:

Provided that this regulation shall not be construed as obliging any person to undergo any therapy against his will.

Proceedings to continue.

9. The appointment of support persons shall not impede the progress or conclusion of mediation proceedings or of proceedings before the Court.

Work of support persons as therapists.

10. The work of support persons in accordance with regulation 7 may continue during the mediation or judicial proceedings, as may be necessary.

Appointment procedure.

11. Prior to making the appointments as referred to above in this Part, the Minister shall consult with the judge or judges presiding over the Family Court regarding the specialisations required.

Oaths of mediators and Children's Advocates.

12. The process for the appointment of mediators and Children's Advocates shall follow the applicable procedures, as may be in force from time to time, of the Malta Mediation Centre and the Legal Aid Agency, respectively.

Recusal and abstention.

13. (1) A mediator may request to abstain from performing his duties in any particular case and may be challenged for the same reasons on which, according to law, a judge may abstain or be challenged.

(2) The presiding judge of the Court before which the case is being dealt with shall decide on such request for abstention or challenge, and the judge's decision shall be final and may not be appealed or reclaimed before any other Court.

Payment.

14. (1) Mediators shall be entitled to such fees for the services they provide, as may from time to time be provided for under the applicable law.

(2) Where the parties choose a mediator by mutual consent from the first part of the list of mediators, the fees due to that mediator shall be borne by the parties, but where the appointment is made otherwise, the fees due to mediators and Children's Advocates shall be borne by the Registrar.

PART IV
Functions of the Children's Advocate

Guardian *ad litem*.

15. Without prejudice to the functions of the Children's Advocate under any other law, the principal function of the Children's Advocate shall be to act as guardian *ad litem* for minor children for the purposes of these regulations, and this role shall include:

(a) providing legal assistance, representations and advice to minors;

(b) acting in the best interests of the minor;

(c) presenting the views of the minor before the Court, including through the filing of judicial acts;

(d) providing explanations to the minor on the potential consequences should the Court comply with the minor's wishes;

(e) providing the child with any relevant information;

(f) assisting the minor during mediation proceedings and in sittings before the Family Court;

(g) making submissions to the Family Court regarding measures which, in his opinion, are in the best interests of the minor:

Provided that the Children's Advocate shall provide the minor with all relevant explanations and information only if the minor is considered by the Family Court to possess sufficient understanding and maturity.

Appointment of Children's Advocate.

16. (1) When a party files a mediation letter and following the appointment of a mediator, there are minor children involved, the Court may, upon the request of any party or the mediator and after considering the particular circumstances and the best interests of the child, appoint a Children's Advocate to assist the minor throughout all proceedings.

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(2) The merits and means test provided for in article 912 of the Code of Organization and Civil Procedure, shall not apply to the appointment of a Children's Advocate as provided in sub-regulation (1).

(3) The Children's Advocate shall hold sessions scheduled by him, both with the minor alone and, where necessary, with the assisted parties, in order to draw up his submissions to the Court after hearing, or giving an opportunity to the parties and the children to be heard and taking into account the circumstances of the family. The submissions of the Children's Advocate shall always be made in the best interests of the child.

(4) If the Children's Advocate considers that it is in the best interests of the child to appoint a support person as a court expert to assess the child, the parents, the parties or any other person whose conduct affects the best interests of the child, he shall if they consider that there are sufficient grounds for doing so, make a request to this effect to the Court to make such provisions as it deems fit after hearing the persons concerned.

PART V
Mediation Procedures

Commencement of proceedings for personal separation or divorce.

17. (1) Where one of the spouses intends to proceed with proceedings for personal separation or divorce against the other spouse, that party shall first request authorisation from the Family Court to proceed by filing a letter, in the case of personal separation, or by filing an application, in the case of divorce, as applicable, in the

Family Court registry. In the case of a letter, it shall be addressed to the Registrar and shall indicate the name and address of the party submitting the letter as well as those of the other party and shall include a request to the Court to authorise such spouse to proceed. The letter shall be signed and submitted either personally by the party or by an advocate or legal procurator acting on behalf of that party.

(2) (a) Together with the letter referred to in sub-regulation (1), the spouse shall file a sworn note containing a list of assets and liabilities within the community of acquests or the community of residue under separate administration, paraphernal property, common property and debts, paraphernal credits or debts and the matrimonial home, to the best of his or her knowledge.

(b) The party shall also submit an official statement issued by their employer, (FS3), a statement of income for the preceding three (3) calendar years, or a profit and loss statement covering the same period, or any other official document indicating that person's income during that period. Where such documents are not available, the party shall make a sworn declaration to that effect.

(c) In the note filed in accordance with paragraph (a), the party shall include their proposal regarding the liquidation and division of assets, debts and credits, and the matrimonial home, together with a proposal concerning the care and custody of the children, their residence, the access rights of each party and the payment of maintenance, and expenses relating to health, education and extracurricular activities payable by each party.

Procedure following letter of mediation.

18. The mediation letter, the note and the appointment for the first mediation session shall be notified to the counterparty together with an order to appear for the scheduled mediation sessions and to respond to the proposals within twenty (20) days and, if applicable, to submit counter-proposals by means of a note containing the said information and documentation required under regulation 17, to the best of the knowledge of that party. Such note shall be served upon the applicant's advocate.

Mediation procedures.

19. (1) Before granting authorisation to institute proceedings for personal separation or divorce, the Court shall summon the parties to appear before a mediator, who shall schedule not less than six (6) sessions within a maximum period of eight (8) months, which period may be extended for a maximum of four (4) months, either by agreement between the parties or by order of the Court for a valid reason upon the request of any party or the mediator. The mediator may be appointed either by the Court or by mutual consent of the parties.

(2) Where the Court considers it necessary, or upon the request of the mediator or either spouse, it may appoint a Children's Advocate to represent the interests of minor children as guardian *ad litem* as defined in Part IV, who shall attend hearings and make submissions in accordance with regulation 15:

Provided that if at any stage of the mediation, the parties agree to sign a contract of consensual personal separation or to file a joint application for divorce, they shall proceed in accordance with regulation 40.

(3) Upon the request of any party to the proceedings or the Children's Advocate, the Court may, at any stage of the mediation, appoint a support person as a court expert in accordance with the provisions of regulation 6.

(4) The decision to nominate a Children's Advocate appointed by the Court at any stage of the proceedings, shall be communicated to the Legal Aid Agency by the Court Registrar and the said Agency shall file a note indicating the name of the appointed Children's Advocate who shall assist in the proceedings.

(5) There shall be a Children's Advocate assigned to all the children in each case throughout the proceedings however, where the Court considers that there may be a conflict of interest in cases involving more than one child, the Court may order the Legal Aid Agency to appoint more than one Children's Advocate as may be required.

Domestic violence.

20. (1) Where the letter filed in accordance with regulation 17 is accompanied by evidence substantiating a case of domestic violence, the Court shall, upon application by either party and after service of the application upon the counterparty with an opportunity to reply, if it deems fit, suspend the mediation procedure and appoint the application for hearing, within four (4) days, in order to take such measures as it deems appropriate, including those under article 37 of the Civil Code and determine whether mediation should continue or be terminated as the case may require:

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Provided that when intentional manipulation of any minor is alleged by either of the parties, the application of the said party shall be notified to the other party, who shall be allowed up to a maximum of ten (10) working days to reply. The Court shall, if it deems it appropriate, appoint the application for hearing within four (4) days to hear the parties. After hearing the parties, the Court may take the appropriate measures, including to suspend the mediation process and, or appoint a Children's Advocate and, or a support person as a court expert who shall

give their recommendations and conclusions to the Court.

(2) Where the Court at any stage of the proceedings, finds that the evidence submitted concerning alleged domestic violence or intentional manipulation of the minor, as referred to in sub-regulation (1), was false or misleading, the Court shall refer the matter to the Executive Police for investigation, in particular as to whether the offence provided under article 101 of the Criminal Code or any other offence has been committed.

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The mediator becomes aware of domestic violence.

21. Where during mediation proceedings the mediator becomes aware of, or has reason to suspect the occurrence of domestic violence or intentional manipulation of the minor, the mediator shall immediately inform the Judge by means of a note to that effect and the provisions of regulation 20 shall apply.

Power of Court upon default of parties.

22. Where a person fails to comply with the provisions of these regulations, including to appear before a mediator for the first session or any subsequent session, the mediator shall request a written explanation. If such explanation is not provided or is not justified, the mediator shall inform the Court by means of a note indicating the failure together with any reason submitted by that person for their absence. In any case, the Court may order the defaulting party to appear before it and justify their absence, and if the Court considers that such absence is not justified, the Court shall take such measures as it deems appropriate. In its decision with regard to any pending application before it, the Court shall duly take into account and give proper consideration to such failure and any other failure.

Mediation procedure before the mediator.

23. (1) The mediator shall first seek to reconcile the parties.

(2) Where either party or both parties are not assisted by an advocate or legal procurator, the mediator shall inform the parties of the importance of any agreement and of their right to be assisted by an advocate or legal procurator or to obtain legal advice before signing any such agreement. A party who chooses not to be assisted shall submit a note confirming this decision.

(3) At this stage, the mediator shall proceed to hear the parties including the Children's Advocate, if appointed. If the Children's Advocate has not been appointed by the parties, but the mediator recognises the need for this, the mediator shall request the appointment of the Children's Advocate by means of a note to the Judge.

When reconciliation is not achieved.

24. Where reconciliation between the spouses does not occur, the mediator shall endeavour to assist the parties in reaching an agreement to conclude the personal separation amicably.

Hearing by mediator.

25. The mediator may hear the parties *in camera*, either separately or jointly, in the presence of their advocates or legal procurators, and may also hear the minor children of the spouses, and the Children's Advocate, if appointed in accordance with these regulations.

Mediation proceedings to be without prejudice except for proof of assets.

26. The spouses and all other persons shall not be required to take an oath and no evidence may be produced before any Court regarding what was said before the mediator during conciliation or mediation proceedings, concerning any proposal made by the mediator or any other person or the reaction of either spouse to such proposals. Notes exchanged shall remain without prejudice between the parties:

Provided that any evidence of assets obtained from financial institutions or other testimony brought in accordance with regulation 27 shall be admissible as evidence at the stage of proceedings following mediation.

Hearing of witnesses.

27. During the mediation process, the parties may by mutual agreement, or by application filed by either party, request the Court to appoint a judicial assistant to hear evidence on oath in order to facilitate the process before the mediator:

Provided that where the information requested from financial institutions or other institutions refers only to the preceding three (3) years, the Court may also authorise such information to be submitted by means of a sworn note filed in the Court Registry.

Applications for interim decrees in cases of personal separation and other cases contemplated in these regulations.

28. Where agreement is reached on any of the issues during mediation concerning maintenance, access, or the care and custody of the children or their residence, a joint application shall be filed during the course of mediation so that the Court, once satisfied that the agreement is fair and in the best interests of the parties and the children, may issue a decree *in camera* on the matters agreed upon by the parties.

Decrees during mediation.

29. Where during mediation, there remain points of divergence between the parties including with regard to maintenance, care and custody, residence, therapeutic needs, educational and, or extracurricular activities, and any other substantial point of disagreement, either party may request the Court to make provision on such claims. The Court may either issue such decrees *in camera* within a maximum period of twenty (20) days, or if it considers that the matter warrants a hearing, it shall appoint the application for hearing within a maximum of twenty (20) days from the filing of the application, and any such *pendente lite* decree shall be issued within a maximum period of fifteen (15) days following the date of the hearing.

Decrees regarding maintenance.

30. In the case of a claim for maintenance, the decision of the Court shall be reasoned and the needs of the children together with the income, means and aptitude of each party shall be given due consideration in accordance with the provisions of article 54(2), (3) and (4) of the Civil Code. In its decision, the Court shall also make provision for the payment of expenses relating to health, education and extracurricular activities of the children and the manner in which each parent shall contribute. The maintenance ordered by the Court may be deducted directly from the salary of the party so ordered to pay in accordance with article 381(2) of the Code of Organization and Civil Procedure and the Court may also order the party who is obliged to pay the maintenance to establish a standing order with the bank or financial institution for the direct payment of the maintenance to the other party and, insofar as possible, the same shall apply to expenses relating to health, education and extracurricular activities contributing to the well-being of the children.

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Maintenance claimed by spouse.

31. The procedure established in regulation 30 shall apply *mutatis mutandis* to any application for maintenance made by one spouse against the other and the need, means and capacity of each party shall be given due consideration before the Court issues an interim decree, in accordance with article 46A of the Civil Code.

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Care, custody, residence and access.

32. Upon the request of any party, the Court shall decide on the care and custody, residence, and access of the children *pendente lite*. Before doing so, the Court shall take into account the equal responsibilities of each parent, the equal rights of each parent, the rights and interests of the children, and the particular circumstances of the family. The Court shall also consider the willingness and ability demonstrated by each parent in the upbringing of the children. Any decision of the Court shall be without prejudice to the provisions of article 57 of the Civil Code and shall always be taken in the best interests of the children. The right of access shall be deemed to create an obligation on the parent who requested, or in favour of whom it has been granted, and shall also be an obligation on the other parent to provide it. Any breach, both of the obligation to provide access and of the obligation to carry out and observe access, shall be deemed to be a breach of a decree of the Court and for this failure the provisions of regulation 34 as well as the provisions of article 57(2) and (3) of the Civil Code shall apply.

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Interim decrees and warrants.

33. Either party may, while conciliation or mediation proceedings are still ongoing, or at any stage before or during the hearing of the case, request the Court to issue such provisional orders, interim decrees and warrants as may be necessary to safeguard any interest that party may have.

Breach of decrees.

34. (1) During the mediation stage, either party shall have the right to file an application by means of a judicial act before the Court requesting the said Court to make appropriate provision regarding the breach by the other party of any decree issued in the course of the proceedings. Where there is repeated breach of a decree, either party may request the Court to hold a hearing, and the Court, after hearing the parties and, if necessary, any witnesses, shall issue such measures as it deems fit.

(2) The Court shall have the power, upon repetitive breaches of various decrees and, or any report of the support person as a Court expert, to suspend or vary the rights or any of the rights of the defaulting party, without prejudice to any criminal proceedings that may be instituted in respect of the same facts as the case may be.

Lack of appearance for mediation.

35. Where a party fails to attend a mediation session, the provisions of regulation 22 shall apply *mutatis mutandis*.

Closure of the mediation procedure.

36. Where the mediator succeeds in reconciling the parties, the mediator shall file a note in the records of the procedure, which shall be sent by the Registrar to the Court, and the Court shall close the proceedings in view of the reconciliation.

Termination of mediation without reconciliation.

37. Where the mediator's attempts to reconcile the parties or to bring them to an agreement have failed, or where the mediation period expires in accordance with regulation 19, the mediator shall inform the Judge in writing, who shall then grant the requested authorisation:

Provided that if at any stage of the mediation, the mediator is of the opinion that such reconciliation is unlikely to be achieved or that such agreement cannot be reached, the mediator may inform the Judge before the expiry of the period stipulated in regulation 19 so that the Court may proceed to its decision.

Commencement of case.

38. Where authorisation is given by the Court for a spouse to proceed with a personal separation, it is lawful for either spouse to institute a court action, or to make a counter-claim for a personal separation or divorce, as the case may be, for the same reasons or on the basis of the other reasons mentioned in the Civil Code as if that authorisation referred to both parties for each of the reasons mentioned:

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Provided that where proceedings are instituted by only one party and, in those proceedings no counter-claim has been filed, the other party shall not be precluded from likewise instituting separate proceedings for separation or divorce. Such proceedings shall be heard together as connected cases. This shall also apply to all proceedings provided for in these regulations, including causes for maintenance,

access, and care and custody of minors. The appointment of the Children's Advocate ordered by the Court in the first action shall continue to have effect and shall be binding on the parties also in respect of any related proceedings until the final determination of such proceedings.

PART VI
Cases to which Mediation Procedures other than Separation and Divorce Apply

Other proceedings to which mediation applies.

39. (1) Without prejudice to the other provisions of these regulations, where a person intends to proceed before the Court with respect to any of the following matters:

(a) disagreement between unmarried parties regarding the care and custody of children, their residence, access rights of each party, and the payment of maintenance and expenses relating to health, education, and extracurricular activities payable by each party;

(b) maintenance between spouses;

(c) changes to anything regulated by a personal separation judgement or a personal separation contract or by a divorce decree or judgment:

Provided that in the case of an alleged need for medical treatment and, or therapy for the children, an application shall be filed before the Court and the said Court shall, in its discretion, either decide on such application without proceeding to mediation or, where it deems it to be more appropriate in the circumstances of the case, refer the parties to mediation; or

(d) changes to an agreement concerning any matter referred to in paragraph (a),

the provisions of regulation 17 shall apply according to the requests made:

Provided that where the request under this sub-regulation concerns the care and custody of children, their residence and, or access rights of each party and, or the payment of maintenance and expenses relating to health, education, and extracurricular activities payable by each party, the provisions of regulations 17 and 18 shall apply.

(2) The Court shall summon the parties to appear before a mediator, and the provisions of these regulations, including those

concerning the appointment of a Children's Advocate as the case may require, shall apply *mutatis mutandis*.

(3) The mediator shall mediate between the parties with a view to bringing them to an agreement on the matter in dispute.

(4) When the parties reach an agreement, it shall be recorded in writing and entered in the procedural acts, which shall then be forwarded by the mediator to the Court, which shall unless there is anything contrary to public order, issue a decree on the matter in accordance with such agreement.

(5) Where the parties do not reach an agreement, the provisions of these regulations shall apply *mutatis mutandis*.

(6) During mediation, either party to whom this regulation applies, may request the Court to issue any provisional order, including any interim decree, or to issue any act or warrant necessary to safeguard its rights.

PART VII
Consensual Separations

Separation by agreement.

40. (1) Where the parties have not reconciled but, through the assistance of the mediator appointed in accordance with regulation 3(1)(b), have agreed to sign a contract of consensual personal separation or to file a joint application for divorce, the mediator appointed by the Court shall forward to the Court the draft contract of personal separation or the divorce agreement, as the case may be, together with any comments on that draft from the parties' advocates or legal procurators, the Children's Advocate, if appointed, and his views, so that authorisation may be granted by the Judge for the execution of the contract.

(2) Where both spouses agree to submit a draft of personal separation, they shall notify the Court by means of a joint note signed by the notary who prepared the draft and by their respective advocates or legal procurators, and indicating the appointment of the mediator in accordance with regulation 3(1)(a). This note shall be filed in the Court Registry together with the draft contract.

Examination of draft agreement.

41. The mediator shall, within one (1) month of the filing of the note, examine the draft and, if necessary, hear the parties in the presence of their legal advisers as well as the minor children of the spouses, and where appropriate, request the Court to appoint a Children's Advocate. The mediator shall within not more than one (1) month, return the note to the Court together with his views:

Provided that the session with the mediator, whether appointed privately by the parties or by the Registrar, shall not be held online unless the mediator and the parties agree otherwise.

Court decree.

42. Upon receiving the mediator's report in accordance with regulation 41, the Court shall, if it deems necessary, hear the parties or their respective advocates and legal procurators, the children and, or the Children's Advocate as guardian *ad litem*, if appointed, as it considers appropriate, and shall proceed to issue its decree as soon as possible, approving, amending, or rejecting the said draft and stating its reasons.

Decree to be delivered *in camera*.

43. The Judge, whether a hearing has been held in accordance with regulation 42 or otherwise because the Court does not consider it necessary, shall grant authorisation by means of a decree *in camera*.

PART VIII
Amendments of Contracts or Judgements

Note of agreement on amendments.

44. Where the parties agree to amend a contract already approved by the Court or to alter the effects of a judgment delivered by the Court, the parties shall file a joint application together with the draft agreement and in such case the parties shall not be required to undergo the mediation procedure:

Provided that if in the terms of the variation there is a minor involved, the Court shall appoint a Children's Advocate if it deems it necessary, and shall proceed to decide whether to grant the required authorisation after considering the observations of the Children's advocate.

Property held in common by parties.

45. Where the parties have pending proceedings before the Family Court, whether in mediation and, or in a case concerning their common children and they own property in which they reside, the Family Court shall have jurisdiction to decide, by means of a lawsuit, with regard to the division and sale of property between unmarried parties.

PART IX
Agreement on Collateral Matters

Note of agreement.

46. Where during the conciliation or mediation stage the parties reach an agreement regarding the payment of a sum of money for maintenance which shall be paid by one party to the other, whether for themselves or for the children, or reach an agreement concerning custody or access rights to the children and, or their residence, maintenance, or who shall continue to reside in the matrimonial home, in such a way that the agreement terminates the dispute between them,

the mediator shall record such agreement in a note, which shall be signed by the parties and shall immediately transmit that note to the Court so that it may issue its decree thereon.

PART X
Separation or Divorce Cases

Time limits and procedure.

47. (1) Where the Court has authorised either spouse to proceed with a case for personal separation or divorce, either party may commence proceedings within two (2) months from the date of the decree:

Provided that this period may be extended by authorisation of the Court granted for a serious reason upon application by either party.

(2) Once the case is initiated and on the conclusion of the written procedures, the Court shall proceed to appoint or confirm the appointment of a Children's Advocate to assist the minor children as provided in these regulations. At this stage the Court shall establish a time limit within which the parties shall submit all documentary evidence in support of their case and produce any witnesses whose testimony cannot be given by affidavit.

(3) The Court shall concede to the plaintiff up to six (6) months to file evidence by affidavit and any other documentary evidence. Upon the closure of the plaintiff's evidence the Court shall allow up to six (6) months to the defendant to file evidence by affidavit and any other documentary evidence:

Provided that during the period allowed for the filing of evidence by affidavit and documentary evidence the Court shall still proceed with the hearing of the cause:

Provided further that the six (6) month periods may be extended by a reasoned order of the Court on serious grounds.

(4) When appointed or confirmed in accordance with sub-regulation (2), the Children's Advocate shall appear on behalf of the children at court sittings to ensure that the best interests of the children are safeguarded. At this stage, the Children's Advocate shall have the faculty to meet with the minors, either alone or with their parents, as required by the case and under the Court's direction.

(5) The Children's Advocate is obliged to continue following the case and the interests of the minors and to be present at court sittings and to make all submissions necessary in the best interest of the minors as the case may require.

(6) Where a support person has not already been appointed as a court expert in accordance with these regulations, the Court may even at this stage, appoint a support person as a court expert to assist it in the interests of the parties and the children. The appointment of a support person as a court expert may be requested by either party to the case, as well as by the Children's Advocate.

(7) Until it delivers its judgment, the Court may upon request by either party, issue such provisional orders as it considers necessary, and may also, where required due to serious reasons or a change in circumstances, amend or revoke such orders.

Priority of decisions.

48. Where the Court is unable to decide within a short period of time, on the liquidation of any community of property between the parties, it shall first decide on other matters and subsequently address that issue at a later stage. The Court may also, at any stage, encourage the parties to enter into an arbitration agreement as provided in the proviso to article 15(6) of the Arbitration Act.

Cap. 387.

PART XI
Miscellaneous Provisions

General powers to issue orders.

49. The judge or magistrate, as the case may be, and any judicial assistant who may be assigned to the case, always under the direction of the Court, shall issue any order as may be necessary for the proper conduct of the case.

Power of Court upon breach of decrees.

50. Any party to the proceedings for separation, divorce, custody or access to minors shall have the right to file an application before the Court regarding the other party's breach of interim decrees issued by the Court. The Court shall have the power, after considering the circumstances of such breach and in respect of the principle of proportionality, to suspend the rights of the defaulting party if such party fails to show reasons justifying such breach, without prejudice to any other order the Court may deem appropriate to impose. Any party may request a hearing, both during mediation or during the case, where there is repeated breach of a decree, and the Court shall issue any order necessary to ensure compliance with its decrees, without prejudice to any other measures contemplated under other laws, including criminal laws.

Duty to serve applications upon the counterparty.

51. In every case in which these regulations provide for an application to be filed by any party, such application shall be served on the other party.

Training for mediation students.

52. In order to ensure that students undergoing training at the University of Malta to become mediators benefit from placements with mediators, the following rules shall apply:

(a) a student enrolled in the Master of Arts in Mediation course at the University of Malta shall make a sworn declaration that they will maintain the confidentiality of those proceedings. Such declaration shall be filed in the Civil Court Registry (Family Section);

(b) before the student attends any mediation session, the mediator shall obtain prior permission from the parties;

(c) the student may take an active role in the mediation proceedings under the guidance of the mediator, provided that the consent referred to in paragraph (b) has been obtained;

(d) if at any time during the mediation process a party requests that the student leaves the mediation session, the student shall immediately withdraw from that session.

Duty to participate in training.

53. Mediators, Children's Advocates and support persons appointed in accordance with these regulations shall be obliged to participate in such professional training, as may be organised for them from time to time, in the field of the administration of justice relating to family law for the purpose of ensuring a high level of professionalism in the exercise of their functions in the Family Court.

Repeal and saving. S.L. 12.20.

54. The Civil Court (Family Section), The First Hall of the Civil Court and The Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations, in this regulation referred to as the "repealed regulations", are hereby repealed without prejudice to anything done, or that may be done or omitted to be done thereunder:

Provided that without prejudice to the generality of this regulation, the repealed regulations shall be deemed to have remained in force for the purpose of ensuring that no appointment of a mediator, a Children's Advocate or support person, made in accordance with those regulations, shall cease to be in force by reason of the provisions of this regulation until such appointment shall not have been terminated in accordance with the repealed regulations or under these regulations.

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