

PRACTICE NOTE 10

EVIDENCE BY AFFIDAVIT IN DIVORCE CASES

The Court will, on an appropriate application made in Family Chambers, grant an order permitting the tender of affidavit evidence at trial, pursuant to Rule 31.04.

The affidavits proposed to be tendered shall first be submitted to the Chambers Judge, prior to his having made the order, and shall contain, inter alia, the following statements of fact:

- (1) acknowledgement of receipt of service of the Petition for Divorce;
- (2) acknowledgement that the deponent is the same person as that named as respondent or co-respondent as the case may be;
- (3) acknowledgement of independent legal advice;
- (4) acknowledgement of the provisions of Section 8 of the *Evidence Act*, and waiver of rights thereunder, (in the case of the respondent);
- (5) acknowledgement of knowledge of the nature of the proceedings, and of the implications of the affidavit;
- (6) statement of the reasons why it is impossible or impractical for the deponent to attend at the hearing of the matter;
- (7) statement of facts proposed to be admitted relating to the allegations set out in the Petition.