

ROYAL COURT RULES 2004

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 August 2026 to 1 October 2026

Jersey

ROYAL COURT RULES 2004

Contents

Rule

PART 1 **11**

INTRODUCTORY 11

1/1 General definitions 11
1/1A Application 12
1/2 Meaning of "month" 12
1/3 Reckoning periods of time 12
1/4 Extension of time in respect of days when the offices of the Viscount or the Greffier are closed 13
1/5 Power to extend and abridge time 13
1/6 The Overriding Objective 13

PART 2 **14**

SITTINGS OF THE COURT 14

2/1 Terms 14
2/2 General provisions regarding sittings 14
2/3 Ordinary sittings of the Héritage and Samedi divisions 15
2/4 Chefs Plaids d'Héritage 15
2/5 Oath of Guernsey Jurat 15

PART 3 **15**

JURISDICTION 15

3/1 Jurisdiction of the Héritage, Family, Probate and Protection and Samedi divisions 15
3/2 Transfer between divisions 16
3/3 Institution and hearing of proceedings 16
3/4 Héritage and Family divisions 17
3/5 17
3/6 Jurisdiction of the Bailiff 17
3/7 Breaches of injunctions 17
3/8 Bailiff's jurisdiction in relation to certain representations 17

PART 4 **17**

PARTIES TO PROCEEDINGS 17

4/1 Plaintiffs ... 17
4/2 Proceedings by and against minors ... 18
4/2A Representation of bodies corporate ... 18
4/3 Representative proceedings ... 19
4/4 Representation of interested persons who cannot be ascertained, etc. ... 20
4/5 Representation of beneficiaries by trustees, etc. ... 20
4/6 Representation of deceased person interested in proceedings ... 21
4/7 Appointment of administrators ... 21

PART 5 **21**

SERVICE OF DOCUMENTS 21

5/1 Limitation on application ... 21
5/2 Service of documents generally ... 21
5/3 Date of appearance ... 22
5/4 Personal service: when required ... 22
5/5 Service through the intermediary of the Viscount's Department: when required ... 22
5/6 Ordinary service: how effected ... 22
5/7 Personal service: how effected ... 23
5/8 Personal service on body corporate ... 23
5/9 Personal service on the States or a Minister ... 23
5/10 Substituted service ... 23
5/11 Service of process on agent of overseas principal ... 24
5/12 Service of process for recovery of land where no-one appears to be in possession ... 24
5/13 Record of service ... 24
5/14 Form of summons and record of service ... 25
5/15 Summons for appearance before other divisions ... 25
5/16 Grounds for declaring summons invalid ... 25
5/17 Judgment by default ... 25

PART 6 **25**

PROCEDURE AND PLEADINGS 25

6/1 Limitation on application ... 25
6/2 Forms of proceedings ... 25
6/3 Damages ... 26
6/4 Prescription ... 26
6/5 Placing of actions on *Table* for first hearing ... 26
6/6 Actions on pending list ... 27
6/7 Dispute as to jurisdiction ... 27
6/8 Mode of pleading ... 29
6/9 Counterclaim ... 29
6/10 Third parties ... 30
6/11 Consolidation of causes or matters ... 31
6/12 Amendment of claim or pleading ... 31
6/13 Striking out ... 32
6/14 Striking out where proceedings should have been for judicial review ... 32

6/15 Obtaining further information ... 33
6/16 Restriction on the use of further information ... 33
6/17 Discovery and inspection of documents ... 33
6/18 Pre-action disclosure ... 34
6/19 Admissions ... 35
6/20 Evidence ... 35
6/21 Hearsay notices ... 36
6/22 Power to call witness for cross-examination on hearsay evidence ... 37
6/23 Credibility ... 37
6/23A ... 37
6/24 Reference of questions to Court before setting down for hearing ... 37
6/25 Deemed withdrawal; dismissal ... 38
6/26 Summons for directions ... 38
6/26A Filing and exchanging cost budgets ... 40
6/27 Setting down for hearing ... 40
6/28 Stay to allow for the settlement of proceedings ... 40
6/29 Fixing day for trial ... 40
6/30 Procedure after decision on preliminary issue ... 41
6/31 Withdrawal and discontinuance ... 41
6/32 List of witnesses ... 41
6/33 Payment into Court ... 42
6/34 Ex parte representations ... 42
6/35 Injunctions ... 42
6/36 Misjoinder and nonjoinder of parties ... 42
6/37 Procedure etc. in proceedings commenced by representation ... 43
6/38 ... 43
6/39 Leave to continue claim by way of derivative action ... 43
6/40 Proceedings under Article 141 of the Companies (Jersey) Law 1991 ... 44

PART 7 45

SUMMARY JUDGMENT 45

7/1 Grounds for summary judgment ... 45
7/2 Procedure ... 45
7/3 Evidence filed in response to a summary judgment application ... 46
7/4 Orders the Court may make ... 46
7/5 Court's powers when it determines a summary judgment application ... 47
7/6 Judgment by default ... 47

PART 8 47

INTERIM PAYMENTS 47

8/1 Interpretation and application for interim payment ... 47
8/2 Order for interim payment in respect of damages ... 48
8/3 Order in respect of sums other than damages ... 48
8/4 Manner of payment ... 49
8/5 Directions ... 49
8/6 Non-Disclosure of interim payment ... 49
8/7 Payment into Court ... 49
8/8 Adjustment on final judgment or order or on discontinuance ... 49

8/9 Counterclaim and other proceedings 50

PART 9 **50**

PROVISIONAL DAMAGES 50

9/1 Application and Interpretation 50
9/2 Order for provisional damages 50
9/3 Offer to submit to an award 50
9/4 Application for award of further damages 51

PART 9A **51**

HUMAN RIGHTS (JERSEY) LAW 2000 51

9A/1 Interpretation and application 51
9A/2 Content of pleadings 52
9A/3 Notice and directions 52
9A/4 Evidence 53
9A/5 Institution of proceedings: Taxation (Implementation) (Jersey) Law 2004 54

PART 10 **54**

PROCEEDINGS AT THE TRIAL 54

10/1 Opening speeches 54
10/2 54
10/3 Presence of parties not required if represented by advocate 54
10/4 Clameur de Haro 54
10/5 Power to adjourn trial or hearing 55
10/6 Non-compliance with Rules of Court or rule of practice 55
10/7 Non-compliance as to mode of beginning proceedings 55
10/8 Power to award costs against a plaintiff who fails to appear 55

PART 11 **55**

PROCEEDINGS ETC. SUBSEQUENT TO TRIAL 55

11/1 *Vicomte chargé d'écrire* 55
11/2 Power to set aside judgments by default 55
11/3 Authority to satisfy judgment debts by distraint 56
11/4 Sale of moveables on which distraint has been made 56
11/5 Fines and forfeitures 56

PART 12 **57**

COSTS 57

12/1 Interpretation 57
12/2 Amount of costs recoverable 57
12/3 Taxation by the Greffier 57
12/4 The standard basis 58
12/5 The indemnity basis 58
12/6 Litigants in person 58
12/7 Lawyers outside the jurisdiction 59
12/8 Costs of the taxation proceedings 59

12/9 Offer to pay costs 59
12/10 Commencement of proceedings 59
12/11 Subsequent procedure 60
12/12 Date for taxation hearing 61
12/13 Provisional taxation 61
12/13A Taxation by way of summary assessment 61
12/14 Practice directions 61

PART 12A **62**

ENFORCEMENT OF COSTS ORDERS IN INJURIES CASES 62

12A/1 Scope and Interpretation 62
12A/2 Costs orders against certain plaintiffs – limit on enforceability 62
12A/3 Exceptions 62

PART 13 **64**

DIVISION OF ESTATES, AND DOWER 64

13/1 Division of moveable estate 64
13/2 Actions for dower 64

PART 14 **64**

VUES 64

14/1 Vue de Vicomte 64
14/2 Vue de Justice 65
14/3 Costs at Vues 66

PART 14A **66**

CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016 66

14A/1 Application of Part 14A and overriding objective 66
14A/2 Interpretation 66
14A/3 Form of application 66
14A/4 Dealing with applications 66
14A/5 Directions 67
14A/6 Documents to be lodged with application 67
14A/7 Verifying documents by statement on oath 67
14A/8 Participation of P 68
14A/9 Notifying P 69
14A/10 Hearings in private 70
14A/11 Hearings in public 70
14A/12 Costs 71
14A/13 Lasting power of attorney: objection to registration 71
14A/14 Delegate to take oath 72

PART 14B **72**

MENTAL HEALTH (JERSEY) LAW 2016 72

14B/1 Application of Part 14B 72
14B/2 Interpretation 72

14B/3 Form of application 72
14B/4 Dealing with applications 72
14B/5 Directions 73
14B/6 Documents to be lodged with application 73
14B/7 Verifying documents on oath 73

PART 15 **73**

APPEALS FROM ADMINISTRATIVE DECISIONS 73

15/1 Application and interpretation 73
15/2 Notice of Appeal and fixing day for trial 74
15/3 Documents for use of the Court 74
15/3A 75
15/3B 75
15/3C 75
15/3D 75
15/3E High Hedges Law appeals 75
15/3F Modified procedure in High Hedges Law appeals 76
15/3G High Hedges Law appeals 'on the papers' 77
15/4 Amendment of notice of appeal, etc. 77
15/5 Dismissal of appeal for non-prosecution 77
15/6 Withdrawal etc. of appeal 78

PART 15A **78**

APPEALS UNDER THE PLANNING AND BUILDING (JERSEY) LAW 2002 78

15A/1 Application of Part 15A and interpretation 78
15A/2 Procedure on an appeal 78
15A/3 Withdrawal etc. 79

PART 15B **79**

APPEALS FROM THE EMPLOYMENT AND DISCRIMINATION TRIBUNAL 79

15B/1 Application and interpretation 79
15B/2 Application for leave to appeal (where Tribunal has refused leave) 80
15B/3 Appeal 80

PART 15C **82**

APPEALS FROM THE MENTAL HEALTH REVIEW TRIBUNAL 82

15C/1 Application and interpretation 82
15C/2 Procedure on appeal 82

PART 16 **83**

APPLICATIONS FOR JUDICIAL REVIEW 83

16/1 Application and interpretation 83
16/2 Grant of leave to apply for judicial review 83
16/3 Delay in applying for relief 85
16/4 Mode of applying for judicial review 86
16/5 Statements and affidavits 86

16/6 Setting aside of leave ... 87
16/7 Summons for directions and interlocutory applications ... 87
16/8 Dismissal of application for non-prosecution ... 87
16/9 Claim for damages ... 88
16/10 Hearing of application for judicial review ... 88

PART 16A 89

PROCEEDINGS UNDER THE SANCTIONS AND ASSET-FREEZING AND THE MONEY LAUNDERING AND WEAPONS DEVELOPMENT LAWS 89

16A/1 Application and interpretation ... 89
16A/2 Appeal – notice of appeal and fixing day for trial ... 90
16A/3 Appeal – general ... 90
16A/4 Application – notice of application and directions hearing ... 90
16A/5 Application – response by the Chief Minister ... 91
16A/6 Application – lodging and service of evidence ... 92
16A/7 Appeals and applications – hearings ... 92
16A/8 Special counsel, communications, etc. ... 93
16A/9 Modification of the general rules of evidence and disclosure ... 95
16A/10 Search for, lodging of and service of material ... 95
16A/11 Redacted material ... 96
16A/12 Permission to withhold closed material ... 96
16A/13 Consideration of application to withhold material ... 97
16A/14 Failure to comply with directions ... 98
16A/15 Judgments ... 98
16A/16 Reconsideration of order, direction or judgment ... 99
16A/17 Supply of court documents ... 100

PART 16B 100

PROCEEDINGS UNDER THE COUNTER-TERRORISM AND SECURITY ACT 2015 100

16B/1 Application and interpretation ... 100
16B/2 Modification of the overriding objective ... 101
16B/3 Application for permission to impose a TEO ... 101
16B/4 Reference of TEO imposed without permission ... 101
16B/5 Review applications – initial procedures ... 101
16B/6 Review application – response by the Minister ... 102
16B/7 Review application – lodging and service of evidence ... 103
16B/8 Hearing of proceedings ... 104
16B/9 Appointment of a special counsel ... 104
16B/10 Role of special counsel ... 104
16B/11 Modification of the general Rules of evidence and disclosure ... 105
16B/12 Lodging and service of relevant material ... 106
16B/13 Permission to withhold closed material ... 106
16B/14 Consideration of the Minister's objection or application ... 107
16B/15 Order of lodging and serving material and written submissions ... 108
16B/16 Failure to comply with directions ... 108
16B/17 Judgments ... 109
16B/18 Application by the Minister for reconsideration of decision ... 109
16B/19 Applications for anonymity ... 110

16B/20 Supply of Court documents 110

PART 17 **110**

TRANSACTION OF BUSINESS IN CHAMBERS 110

17/1 Non-contentious business which may be transacted before the Bailiff and Jurats ... 110
17/2 Non-contentious business which may be transacted before the Bailiff 110
17/3 Non-contentious business which may be transacted before the Greffier 110

PART 18 **112**

REGISTRATION OF TITLE, HYPOTHECS, ETC., PROCEDURE ON CAVEATS, ETC. 112

18/1 Mode of registration and indexing 112
18/2 Registration of sundry acts, instruments and judgments 113
18/3 Registration of instruments relating to the title of immoveable property 113
18/4 Judicial hypothecs 114
18/4A Social Security hypothecs 115
18/5 Lodging and effect of a caveat (*opposition*) 116
18/6 Injunctions against transactions in immovables 117
18/7 117
18/8 Signing of contracts *(Acte authentique)* 117
18/9 Engrossment of contracts 117
18/10 Co-ownership declarations 118
18/11 Passing of hereditary contracts for and on behalf of the Public 119

PART 19 **119**

PART 20 **119**

MISCELLANEOUS 119

20/1 Applications for orders and hearing of summonses 119
20/2 Appeal from order or decision of Greffier 120
20/3 Proceedings before the Viscount or Greffier 120
20/4 Change of advocate or solicitor 120
20/5 Signing of orders of justice 120
20/6 Duration of orders of justice, provisional orders and caveats (*oppositions*) 120
20/7 Correction of judgments or orders 121
20/8 Affidavits 121
20/9 Use of English 121
20/10 Seal of the Court and sealing of documents 121
20/11 Practice directions 121

PART 21 **122**

CONCLUDING PROVISION 122

21 Citation 122

SCHEDULE 1 **123**

PROVISIONS OF THESE RULES IN WHICH REFERENCES TO THE COURT DO NOT INCLUDE REFERENCES TO THE GREFFIER. 123

SCHEDULE 1A **124**
SERMENT DES JUSTICIERS GUERNÉSIAIS 124

SCHEDULE 2 **125**
FORMS OF SUMMONSES AND RECORDS OF SERVICE 125

SCHEDULE 3 **131**
OATH OF DELEGATE UNDER THE CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016 131

SCHEDULE 4 **132**
FORM OF NOTICE OF APPEAL FROM ADMINISTRATIVE DECISION 132

SCHEDULE 4A **133**
FORM OF NOTICE OF APPEAL UNDER THE HIGH HEDGES (JERSEY) LAW 2008 133

SCHEDULE 4B **135**
FORM OF NOTICE OF APPEAL UNDER THE PLANNING AND BUILDING (JERSEY) LAW 2002 135

SCHEDULE 5 **137**
FORM OF NOTICE FOR APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW 137
FORM OF NOTICE OF APPLICATION FOR JUDICIAL REVIEW 139
FORM OF APPLICATION TO HAVE LEAVE TO APPLY FOR JUDICIAL REVIEW SET ASIDE 140

SCHEDULE 5A **141**
CONTENT AND FORM OF GENDER RECOGNITION CERTIFICATES 141

SCHEDULE 6 **143**
SCHEDULE 6A **144**
FORM OF NOTIFICATION OF LEGAL HYPOTHEC 144

SCHEDULE 7 **145**
FORM OF SUMMONS TO LIFT A CAVEAT 145

ENDNOTES **146**
Table of Legislation History 146
Table of Renumbered Provisions 147
Table of Endnote References 147

Jersey

ROYAL COURT RULES 2004[1]

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948, Article 2 of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1967, and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [see endnotes]

PART 1

INTRODUCTORY[2]

1/1 General definitions

(1) In these Rules, unless the context otherwise requires –

"Court" means any division of the Royal Court, the Bailiff or, except in the provisions of these Rules mentioned in Schedule 1, the Greffier;

"Criminal Procedure Rules" means Rules under Part 13 of the Criminal Procedure (Jersey) Law 2018;

"filed" means filed in the Judicial Greffe;

"Greffier" means the Judicial Greffier;

"hearing list" means the list so called by virtue of Rule 6/27(1);

"hearsay evidence" means evidence consisting of hearsay within the meaning of Article 1(1) of the Civil Evidence (Jersey) Law 2003;

"Inferior Number" means the Inferior Number of the Royal Court;

"office copy", in relation to a document means a copy of the document filed in, or issued out of, the Judicial Greffe and signed by the Greffier;

"pending list" means the list so called by virtue of Rule 6/6;

"practice directions" means directions issued under Rule 20/11;

"proceedings" means any proceedings in the Court howsoever commenced and includes any judgment given by default;

"Superior Number" means the Superior Number of the Royal Court;

"Table" means the list referred to in Rule 6/5(1).[3]

(2) A reference in these Rules to a plaintiff or a defendant, if the context admits, includes a reference to –

(a) a representor or party making a counterclaim or any party (however described) for the moment in the position of plaintiff;

(b) a respondent or defendant to a counterclaim or any party (however described) for the moment in the position of defendant; or

(c) a third party making or opposing any claim,

as the case may be, in any proceedings.

1/1A Application[4]

These Rules apply to all causes or matters other than proceedings to which Criminal Procedure Rules apply.

1/2 Meaning of "month"

Without prejudice to Part 1 of the Schedule to the Interpretation (Jersey) Law 1954, "month", where it occurs in any judgment, order, direction or other document forming part of any proceedings in the Court, means a calendar month unless the context otherwise requires.

1/3 Reckoning periods of time

(1) Any period of time fixed by rules of court or by any judgment, order or direction for doing any act shall be reckoned in accordance with this Rule.

(2) When the act is required to be done within a specified period after or from a specified date, the period begins immediately after that date.

(3) When the act is required to be done within or not less than a specified period before a specified date, the period ends immediately before that date.

(4) When the act is required to be done a specified number of clear days before or after a specified date, at least that number of days must intervene between the day on which the act is done and that date.

(5) If, apart from this paragraph, the period in question, being a period of 7 days or less includes a Saturday, Sunday, public holiday or bank holiday, Christmas Day or Good Friday, that day is excluded.

(6) In paragraph (5) "public holiday" and "bank holiday" mean, respectively, a day appointed to be observed as a public holiday or as a bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951.

1/4 Extension of time in respect of days when the offices of the Viscount or the Greffier are closed

If the time prescribed by rules of court, or by any judgment, order or direction, for doing any act before the Greffier or at the offices of the Viscount or the Greffier expires on a Sunday or other day on which those offices are or are required to be closed and, by reason thereof, that act cannot be done on that day, the act is in time if done on the next day on which those offices are open.

1/5 Power to extend and abridge time

(1) The Court or the Viscount may, on such terms as either thinks just, by order extend or abridge the period within which a person is required or authorized by rules of court or by any judgment, order or direction to do any act in any proceedings.

(2) The Court or the Viscount may extend any period referred to in paragraph (1) although the application for extension is not made until after the expiration of that period.

(3) The period within which a person is required by rules of court or by any order or direction to serve, file or amend any pleading or other document may be extended by consent in writing without an order being made for that purpose.

1/6 The Overriding Objective[5]

(1) The overriding objective of the Court in proceedings is to deal with cases justly and at proportionate cost.

(2) Dealing with a case justly and at proportionate cost includes, so far as is practicable –

(a) ensuring that the parties are on an equal footing;

(b) saving expense;

(c) dealing with the case in ways which are proportionate –

(i) to the amount of money involved,

(ii) to the importance of the case,

(iii) to the complexity of the issues, and

(iv) to the financial position of each party;

(d) ensuring that it is dealt with expeditiously and fairly;

(e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and

(f) enforcing compliance with rules, practice directions and orders.

(3) The Court must seek to give effect to the overriding objective when it –

(a) exercises any power given to it by these Rules; or

(b) interprets any Rules.

(4) The parties are required to help the Court to further the overriding objective.

(5) The Court must further the overriding objective by actively managing cases.

(6) Active case management includes –

(a) encouraging the parties to co-operate with each other in the conduct of the proceedings;

(b) identifying the issues at an early date;

(c) deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;

(d) deciding the order in which issues are to be resolved;

(e) encouraging the parties to use an alternative dispute resolution procedure if the Court considers that appropriate and facilitating the use of such procedure;

(f) helping the parties to settle the whole or part of the case;

(g) fixing timetables or otherwise controlling the progress of the case;

(h) considering whether the likely benefits of taking a particular step justify the cost of taking it;

(i) dealing with as many aspects of the case as it can on the same occasion;

(j) dealing with the case without the parties needing to attend at court;

(k) making use of technology; and

(l) giving directions to ensure that the trial of a case proceeds quickly and efficiently.

(7) The duty under paragraph (3) is subject to any provision of these Rules and of any other enactment which requires the Court to ensure that information is not disclosed contrary to the public interest.

(8) [6]

PART 2

SITTINGS OF THE COURT

2/1 Terms

The terms for sittings of the Court are –

(a) the Michaelmas term, beginning on the second Thursday in September and ending on the Friday preceding Christmas Day. But if Christmas Day falls on a Friday or a Saturday, the term shall end on the Friday of the preceding week, or if it falls on a Sunday, the term shall end on the preceding Wednesday;

(b) the Hilary term, beginning on the first Monday after the 6th day of January and ending on the Friday preceding Holy Week. But if the 6th day of January falls on a Monday or a Tuesday, the term shall begin on the following Thursday; and

(c) the Trinity term, beginning on the first Wednesday after Easter Day and ending on the last Friday in July.

2/2 General provisions regarding sittings

The Court may not sit, unless the Bailiff otherwise directs –

(a) on Christmas Day, Good Friday or a Sunday;

(b) on any day appointed under the Public Holidays and Bank Holidays (Jersey) Law 1951, to be observed as a public holiday; or

(c) on the Thursday or Saturday of Holy Week,

but, subject as aforesaid and to Rule 3/3, the Court may sit on any day of the year and at any hour for the transaction of any business.

2/3 Ordinary sittings of the Héritage and Samedi divisions

(1) Ordinary sittings of the Héritage and Samedi divisions shall be held on each Friday unless the Court otherwise directs. But if the Friday is one on which, by reason of these Rules or of any other enactment, the Court may not sit, the sitting shall be held on the first available day of the following week or as the Court shall direct.

(2) Ordinary business shall normally be disposed of as follows –

(a) up until 1.00 p.m., public business; and

(b) in the remainder of the afternoon, civil causes and matters.

2/4 Chefs Plaids d'Héritage

The *Chefs Plaids d'Héritage* shall sit on the first day of the Michaelmas term or on such other day, within one week either side of the first day of the Michaelmas term, as the Bailiff shall direct.

2/5 Oath of Guernsey Jurat[7]

The oath to be taken by a Jurat of the Royal Court of Guernsey in accordance with Article 9A(3)(a) of the Royal Court (Jersey) Law 1948 shall be the oath set out in Schedule 1A.

PART 3

JURISDICTION

3/1 Jurisdiction of the Héritage, Family, Probate and Protection and Samedi divisions[8]

(1) The jurisdiction of the Héritage division is the determination of –

(a) proceedings relating to the ownership of immovables;

(b) subject to Article 28 of the Loi (1851) sur les testaments d'immeubles, proceedings relating to the division of immovables;

(c) proceedings relating to the annulment of hereditary contracts;

(d) proceedings relating to the fixing of boundaries; and

(e) proceedings relating to the assignment of *rentes*.[9]

(2) The jurisdiction of the Family division is the determination of –

(a) matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949;

(b) proceedings seeking a declaration as to the validity of a marriage;

(ba) any proceedings under Part 3 or Part 4 of the Civil Partnership (Jersey) Law 2012;

(c) applications referred to the Court under Article 3, and appeals to the Court under Article 9, of the Separation and Maintenance Orders (Jersey) Law 1953;

(d) applications under –

(i) the Adoption (Jersey) Law 1961,

(ii) Article 6 of the Marriage and Civil Status (Jersey) Law 2001;

(iii)

(e) applications or proceedings pursuant to the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000;

(f) proceedings for an injunction for the protection of a child or proceedings in respect of a child pursuant to the Children (Jersey) Law 2002 or an application in proceedings under any enactment for the time being in force relating to the care and protection of children or otherwise proceedings for custody and protection or repatriation of minors pursuant to the inter jurisdictional powers of the Court in cases of child abduction.[10]

(3) The jurisdiction of the Probate and Protection division is –

(a) that set out in Article 2 of the Probate (Jersey) Law 1998; and

(b) the determination of matters concerning –

(i) lasting powers of attorney (LPAs) under Part 2, and declarations and decisions, appointments of delegates, and directions, under Part 4, of the Capacity and Self-Determination (Jersey) Law 2016; and

(ii) the appointment and discharge of tuteurs, and the giving of directions, under the Children's Property and Tuteurs (Jersey) Law 2016.[11]

(4) The jurisdiction of the Samedi division is the determination of all matters not within the jurisdiction of the Héritage division, the Family division or the Probate and Protection division.[12]

3/2 Transfer between divisions

A cause or matter may, at any stage of the proceedings therein, be transferred from one division of the Court to another by order of the Court made in the division in which the cause or matter is proceeding.

3/3 Institution and hearing of proceedings[13]

Proceedings before any division of the Court, including an action to witness the confirmation of an order of justice, may be instituted either in vacation or in term but, unless the Court is satisfied that there is urgent need for the hearing of the proceedings or the Court orders a hearing in vacation, the hearing shall not take place in vacation.[14]

3/4 Héritage and Family divisions

(1) The Héritage and Family divisions may award damages and such other relief as may be awarded by the Samedi division.

(2) Proceedings before the Héritage division in which relief by virtue of this Rule is sought shall be instituted by order of justice.

(3) An application for an injunction in the Family division shall be made by order of justice.

3/5 [15]

3/6 Jurisdiction of the Bailiff

In any cause or matter wherein, pursuant to Article 15(1) of the Royal Court (Jersey) Law 1948, the Bailiff is sole judge, the Inferior Number is properly constituted if it consists of the Bailiff alone, and the Bailiff alone shall award costs.

3/7 Breaches of injunctions

(1) An application for a party to be convened to answer for an alleged breach of an injunction may be heard by the Bailiff alone and may be made in chambers.

(2) If any such application is heard in the absence of the Greffier –

(a) the Bailiff shall make the order in writing and notify the Greffier thereof;

(b) the applicant shall file a copy of the order with the Judicial Greffier within one hour of the making of the order by the Bailiff unless the order be made out of normal working hours in which case the copy of the order shall be filed before 9.30 a.m. on the next working day.

3/8 Bailiff's jurisdiction in relation to certain representations

(1) A representation containing an interim injunction may be presented to the Bailiff in chambers and, in respect thereof, the Bailiff shall have the same powers as the Inferior Number would have in relation to the service of the proceedings, the convening of parties and the making of the interim injunction and any order incidental thereto.

(2) If the Bailiff makes an order pursuant to paragraph (1) in the absence of the Greffier, the Bailiff shall make the order in writing and notify the Greffier thereof.

PART 4

PARTIES TO PROCEEDINGS

4/1 Plaintiffs

(1) A person not ordinarily resident in Jersey may institute proceedings before the Court without having to be represented in the Island by an attorney.

(2) Every plaintiff must give an address for service in Jersey. If a plaintiff does not do so, but has, at any time, been legally represented in relation to the proceedings, the address for service shall be deemed to be the address of the last advocate or solicitor who represented that plaintiff.

(3) If at any time the Court is satisfied that a plaintiff will not receive notice of documents sent to or left at the address given or deemed to be given pursuant to paragraph (2) or that a plaintiff has no address for service in Jersey, the Court may, on application by any party to the proceedings, strike out the plaintiff's claim.

(4) Any plaintiff may be ordered to give security for costs.

4/2 Proceedings by and against minors[16]

(1) A minor may commence, prosecute, defend, intervene in, or make any application in, proceedings before the Court by a guardian *ad litem* appointed for that purpose.[17]

(2) An application for the appointment of a guardian *ad litem* may be made *ex parte* to the Court, and if made by a minor it shall be made through the minor's next friend.

(3) This Rule shall not apply to matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949.

4/2A Representation of bodies corporate[18]

(1) Subject to this Rule, a body corporate may appear and be represented in proceedings by a director of the body corporate duly authorized by the body corporate in that behalf.

(2) Where a director is so authorized in relation to any proceedings, the body corporate shall –

(a) in the case of an action –

(i) within 7 days of the action being placed on the pending list, or

(ii) when otherwise required by the Court to do so;

(b) in the case of a representation –

(i) within 7 days of the representation first being called before the Inferior Number, or

(ii) when otherwise required by the Court to do so,

lodge with the Court and send to each of the other parties to the proceedings –

(i) a declaration of the name of the director and, if different from the address for service of the body corporate, the director's address, and

(ii) a copy of the resolution or other instrument of the body corporate by which the director is so authorized.

(3) In the case of a failure to comply with paragraph (2), or a requirement of the Court thereunder, the Court may, on the application of any other party to the proceedings –

(a) in the case of proceedings brought by the body corporate, order that the proceedings be struck out or be stayed until paragraph (2), or the requirement of the Court, as the case may be, is complied with; or

(b) in the case of proceedings brought against the body corporate, give judgment by default,

or, in either case, the Court may give such directions or make such order as it thinks fit, including an order as to costs.

(4) A body corporate may with the leave of the Court amend a declaration lodged in accordance with paragraph (2) or a requirement of the Court thereunder and, if a different director is authorized, lodge a revised resolution or other instrument.

(5) A director of a body corporate other than the director referred to in –

(a) the declaration lodged in accordance with paragraph (2) or a requirement of the Court thereunder; or

(b) in the declaration as amended with leave under paragraph (4),

may not appear on behalf of or otherwise represent the body corporate in the proceedings without the leave of the Court.

(6) This Rule does not apply to an association incorporated under Article 4 of the Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations.

4/3 Representative proceedings

(1) When numerous persons have the same interest in any proceedings, not being such proceedings as are mentioned in Rule 4/4, the proceedings may be commenced and, unless the Court otherwise orders, continued by or against any one or more of them as representing all or as representing all except one or more of them.

(2) At any stage of proceedings under this Rule the Court may, on the application of the plaintiff and on such terms, if any, as it thinks fit, appoint any one or more of the defendants, or one or more of the persons who have the same interest in the proceedings as the defendants, to represent all, or all except one or more, of those persons in the proceedings; and where, in the exercise of the power conferred by this paragraph, the Court appoints a person not named as a defendant, it shall make an order adding that person as a defendant.

(3) A judgment or order given in proceedings under this Rule shall be binding on all the persons as representing whom the plaintiffs sue or, as the case may be, the defendants are sued, but shall not be enforced against any person not a party to the proceedings except with the leave of the Court.

(4) An application for the grant of leave under paragraph (3) must be made by summons which must be served personally on the person against whom it is sought to enforce the judgment or order.

(5) Notwithstanding that a judgment or order to which any such application relates is binding on the person against whom the application is made, that person may dispute liability to have the judgment or order enforced against him or her on the ground that by reason of facts and matters particular to the case, that person is entitled to be exempted from such liability.

(6) The Court hearing an application for leave under paragraph (3) of this Rule may order the question whether the judgment or order is enforceable against the person against whom the application is made to be tried and determined in any manner in which any issue or question in any proceedings may be tried and determined.

4/4 Representation of interested persons who cannot be ascertained, etc.

(1) In any proceedings concerning –

(a) the estate of a deceased person;

(b) property subject to a trust; or

(c) the construction of a written instrument including an enactment,

the Court, if satisfied that it is expedient to do so, and that any of the conditions in paragraph (2) is met, may appoint one or more persons to represent any person (including an unborn person) or class who is or may be interested (whether presently or for any future, contingent or unascertained interest) in or affected by the proceedings.

(2) The conditions referred to in paragraph (1) are –

(a) that the person, the class or some member of the class, cannot be ascertained or cannot readily be ascertained;

(b) that the person, class or some member of the class, though ascertained, cannot be found;

(c) that, though the person or the class and the members thereof can be ascertained and found, it appears to the Court expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power under paragraph (1) for the purpose of saving expense.

(3) If, in any proceedings to which paragraph (1) applies, the Court exercises the power conferred by that paragraph, a judgment or order of the Court given or made when the person or persons appointed in exercise of that power are before the Court shall be binding on the person or class represented by the person or persons so appointed.

(4) If, in any such proceedings, a compromise is proposed and some of the persons who are interested in, or who may be affected by, the compromise are not parties to the proceedings (including unborn or unascertained persons) but –

(a) there is some other person with the same interest before the Court who agrees to the compromise or on whose behalf the Court sanctions the compromise; or

(b) the absent persons are represented by a person appointed under paragraph (1) who so agrees,

the Court, if satisfied that the compromise will be for the benefit of the absent persons and that it is expedient to exercise this power, may approve the compromise and order that it shall be binding on the absent persons, and they shall be bound accordingly except where the order has been obtained by fraud or non-disclosure of material facts.

4/5 Representation of beneficiaries by trustees, etc.

(1) Proceedings may be brought by or against trustees, executors or administrators in their capacity as such without joining any of the persons having a beneficial interest in the trust or estate as the case may be; and any judgment or order given or made in those proceedings shall be binding on those persons unless the Court in the same or other proceedings otherwise orders on the ground that the trustees, executors or

administrators, as the case may be, could not or did not in fact represent the interests of those persons in the first mentioned proceedings.

(2) Paragraph (1) is without prejudice to the power of the Court to order any person having such an interest as aforesaid to be made a party to the proceedings or to make an order under Rule 4/4.

4/6 Representation of deceased person interested in proceedings

(1) If, in any proceedings it appears to the Court that a deceased person was interested in the matter in question in the proceedings and that the deceased has no executor or administrator, the Court may, on the application of any party to the proceedings, proceed in the absence of a person representing the estate of the deceased or may appoint a person to represent that estate for the purposes of the proceedings; and any such appointment and any judgment or order subsequently given or made in the proceedings shall bind the estate of the deceased to the same extent as it would have been bound had an executor or administrator of the deceased been a party to the proceedings.

(2) Before making an order under paragraph (1), the Court may require notice of the application for the order to be given to such (if any) of the persons having an interest in the estate as it thinks fit.

4/7 Appointment of administrators

The Court, if satisfied that it is expedient to do so, may at any time of its own motion or upon an application *ex parte* –

(a) appoint an administrator of the property of a person absent from Jersey; or

(b) in any proceedings appoint an administrator of the property of any party or of any person convened as a party to the proceedings.

PART 5

SERVICE OF DOCUMENTS

5/1 Limitation on application

This Part other than Rules 5/10, 5/15, 5/16 and 5/17 does not apply to the service of summonses outside Jersey.

5/2 Service of documents generally

(1) Except when rules of court or any other enactment otherwise expressly provide or the Court otherwise orders, service of any document in any cause or matter may be effected by ordinary service.

(2) When provision is made for the service of any document in any cause or matter to be effected by ordinary service, such service may be effected by personal service.

5/3 Date of appearance

Every summons must specify the date on which appearance before the Court is required.

5/4 Personal service: when required[19]

Personal service is required in the case of the following summonses for appearance before the Court, that is to say, a summons –

(a) to witness the confirmation of an order of justice;

(b) for the payment of the amount of a judgment on pain of imprisonment (*à peine de prison*);

(c) to appear before the Héritage division.

(d)

5/5 Service through the intermediary of the Viscount's Department: when required

Service through the intermediary of the Viscount's Department is required –

(a) where personal service is required;

(b) in an action resulting from the raising of the *Clameur de Haro*;

(c) in the case of a summons –

(i) to witness the confirmation of an arrest,

(ii) to appear in court in pursuance of an order of justice regarding the appointment of an administrator or a guardian,

(iii) to reply to an appeal the determination of which, or to a reference the determination of which, is within the competence of the Court.

5/6 Ordinary service: how effected

(1) Ordinary service of a document is effected –

(a) by leaving it at the proper address of the person to be served;

(b) by post;

(c) by email or similar means of electronic communication where the parties are accustomed to communicating with each other by that means or where the parties agree to service by email or by such other similar means; or

(d) in such other manner as the Court may direct.[20]

(2) For the purposes of this Rule and of Article 7 of the Interpretation (Jersey) Law 1954, in its application to this Rule, the proper address of any person shall be the address for service of that person, but if at the time when service is effected that person has no address for service, the proper address for those purposes shall be –

(a) in any case, the business address of the advocate or solicitor (if any) who has undertaken in writing to accept service on behalf of that person in the proceedings in connection with which service of the document in question is to be effected;

(b) in the case of an individual, that person's usual or last known address;

(c) in the case of individuals suing or being sued in the name of a firm, the principal or last known place of business of the firm in Jersey;

(d) in the case of a body corporate, the registered or principal office of the body; or

(e) in the case of a Minister (including the Chief Minister) the address specified for the time being by Order pursuant to Article 51A of the States of Jersey Law 2005.[21]

(3) Without prejudice to Article 7 of the Interpretation (Jersey) Law 1954, a document sent by post to an address in Jersey shall, unless the contrary is proved, be deemed to have been served on the second day after the day on which it was posted, days on which there is no collection or delivery of letters excepted.

(4) [22]

(5) [23]

5/7 Personal service: how effected

Personal service of a document is effected by leaving it with the person to be served or, in the case of an order of justice, by leaving a copy thereof with the person to be served and, if so requested by the person to be served at the time when it is left, showing him or her the original.

5/8 Personal service on body corporate

Personal service of a document on a body corporate may, in cases where provision is not otherwise made by any enactment, be effected by serving it in accordance with Rule 5/7 on any Director, Manager, Secretary or other similar officer thereof, or by leaving it at or delivering it to the registered office of the body.

5/9 Personal service on the States or a Minister[24]

(1) Personal service of a document on the States may, in cases where provision is not otherwise made by any enactment, be effected by serving it in accordance with Rule 5/7 on the Greffier of the States.

(2) Personal service of a document on a Minister (including the Chief Minister) may be effected by leaving it at the proper address of that Minister.

5/10 Substituted service

(1) If a document is required to be served personally but, on an *ex parte* application –

(a) it appears to the Court that it is impracticable to effect personal service; or

(b) for any other reason the Court considers it appropriate to order substituted service,

the Court may grant leave to effect substituted service of the document.[25]

(2) An application for an order for substituted service must be supported by affidavit stating the facts on which the application is founded.

(3) An order pursuant to paragraph (1) that requires the person to be served to appear before the Court shall specify the date on which appearance is required.

(4) Substituted service of a document is effected by taking such steps as the Court directs to bring the document to the notice of the person to be served.

5/11 Service of process on agent of overseas principal

(1) If the Court is satisfied on an *ex parte* application that –

(a) a contract has been entered into within the jurisdiction with or through an agent who is either an individual residing or carrying on business within the jurisdiction or a body corporate having a registered office or place of business within the jurisdiction;

(b) the principal for whom the agent was acting was at the time when the contract was entered into and is at the time of the application neither such an individual nor such a body corporate; and

(c) at the time of the application either the agent's authority has not been determined or the agent is still in business relations with the principal,

the Court may authorize service of process commencing proceedings relating thereto to be effected on the agent instead of on the principal.

(2) An order under paragraph (1) authorizing service of process shall specify the time within which the proceedings are to be brought before the Court.

(3) When an order is made under paragraph (1) authorizing service of process on a defendant's agent, a copy of the order and of the process shall be sent by post to the defendant at the address of the defendant out of the jurisdiction.

5/12 Service of process for recovery of land where no-one appears to be in possession

(1) When proceedings are instituted to recover land, the Court may, if satisfied on an *ex parte* application that no person appears to be in possession of the land and that service cannot or could not otherwise be effected on any defendant –

(a) authorize service on that defendant to be effected by affixing a copy of the process to a conspicuous part of the land; or

(b) order that service already effected by affixing the process to some conspicuous part of the land be treated as good service on that defendant.

(2) In paragraph (1) "land" includes any building or structure on the land.

5/13 Record of service

(1) The record of service of a document must state the person by whom, the means by which, the place at which and the day on which service was effected.

(2) However, in the case of a document sent by post, the day on which the document was posted must be stated instead of the day on which the document was served.

(3) It is not sufficient to state only that service of a document was effected by ordinary service.

5/14 Form of summons and record of service

A summons and a record of service must be in the appropriate form set out in Schedule 2.

5/15 Summons for appearance before other divisions

Except where provision is otherwise made, a summons for appearance before any division of the Court must be served at least 4 clear days before the day on which the defendant is required to appear.

5/16 Grounds for declaring summons invalid

The Court may declare a summons invalid –

(a) if it has not been served in an authorized manner; or

(b) if the terms of the *billet* and the summons differ to the material prejudice of the party served.

5/17 Judgment by default

The Court shall not give judgment by default in any action unless satisfied that –

(a) the summons was validly served in due time; and

(b) the *billet* was tabled in due time.

PART 6

PROCEDURE AND PLEADINGS

6/1 Limitation on application[26]

Save as otherwise provided, this Part does not apply to matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949.

6/2 Forms of proceedings[27]

(1) Unless otherwise directed by the Court and save as provided by any enactment or by these Rules, proceedings in the Court must be instituted –

(a) by an action –

(i) by summons, or

(ii) by an order of justice; or

(b) by a representation.

(2) Subject to Rules 3/4, 10/6 and 10/7 proceedings –

(a) with regard to the division of immoveable or moveable estate on an intestacy;

(b) seeking the annulment of hereditary contracts or wills;

(c) relating to the assignment of *rentes*;

(d) relating to the fixing of boundaries;

(e) for a debt or liquidated demand;

(f) for dower;

(g) for the acknowledgement of debts;

(h) for the confirmation of arrests,

must be instituted by a summons.

(3) Proceedings before the Viscount or the *Greffier Arbitre* must be instituted by a summons.

6/3 Damages

(1) Special damages must be specifically claimed.

(2) General damages must be pleaded, but the quantity of damages shall not be specifically claimed.

(3) If general damages have been pleaded against a defendant in an action and the defendant makes default or having appeared fails to file an answer within the time limited, the plaintiff may seek interlocutory judgment against the defendant for damages to be assessed and interest and costs, and proceed with the action against any remaining defendants.

(4) The Court may at any stage of proceedings direct that the assessment of damages be referred to the Greffier.

6/4 Prescription

(1) The prescription of a right of action is suspended by the service of proceedings for appearance before the Court or, where an order for substituted service is made under Rule 5/10, on the making of the order.

(2) Suspension of prescription ceases when the proceedings are discontinued or the defendant is discharged from the proceedings.[28]

(3) Nothing in this Rule affects the rule of law expressed in the maxim *à qui ne peut agir la prescription ne court point*.

6/5 Placing of actions on *Table* for first hearing

(1) When an action is to be brought before the Court for the first time a *billet* must be deposited with the Greffier not later than midday on the day next preceding that of the sitting of the Court, and the Greffier shall place such actions on the list known as the *Table* and display it in a public place in the vicinity of the Court not later than 9 a.m. on the day of the sitting.

(2) This Rule shall not apply in relation to *causes de brièveté* or if the Court considers that, in the interests of justice, compliance therewith should not be required.

6/6 Actions on pending list

(1) A defendant who wishes to defend an action that has come before the Court shall ask the Court to order that the action be placed on the pending list and, provided that the defendant then gives an address for service in Jersey, the Court shall so order.

(2) However, if the defendant fails to give an address for service in Jersey, but has at any time been legally represented in relation to the proceedings, the address for service shall be deemed to be the address of the defendant's last advocate or solicitor.

(3) If an action for a debt or a liquidated claim is placed on the pending list after it has been instituted by summons, the plaintiff must within 21 days of it being placed on the pending list file particulars of the claim, and the action shall be stayed, as against the plaintiff, until such particulars are filed.

(4) A defendant who wishes to defend an action placed on the pending list must, within 21 days of the date on which the action was placed on the pending list, or of the delivery of the particulars of claim, as the case may be, file an answer to the action.

(5) If at any time the Court is satisfied either that the defendant will not personally receive notice of any documents which are sent to or left at the defendant's address for service, or that the defendant has no address for service in Jersey, it may, on application by any party to the proceedings, strike out the defendant's answer.

(6) The plaintiff may, after giving notice to the Greffier and to the defendant by 5 p.m. on the penultimate working day before the day of the sitting of the Court, ask the Court to pronounce judgment against the defendant –

(a) if the time limit for filing an answer has expired and no answer has been filed;

(b) if an answer has been struck out for any reason without the defendant having been given leave to file another answer; or

(c) if such leave has been given and the time limit for filing another answer has expired, and no such answer has been filed.

(7) Any judgment given under paragraph (6) shall be deemed to be a judgment by default and the provisions of Rule 11/2 shall apply.

(8) When an answer has been filed, the plaintiff may, within 21 days of the delivery of the answer, file a reply.

(9) Except when the answer contains a counterclaim, no subsequent pleading may be filed except by leave of the Court.

(10) If the answer contains a counterclaim, the defendant may, within 21 days of the delivery of the reply, file a rejoinder.

(11) A copy of every particulars of claim, answer, reply, rejoinder and subsequent pleading must, within 24 hours of being filed, be delivered to the other parties to the action or their advocates or solicitors.

6/7 Dispute as to jurisdiction

(1) The appearance of a party to any proceedings before the Court shall not be treated as a waiver of any irregularity in the proceedings or service thereof or in any order giving leave to serve the proceedings out of the jurisdiction.

(2) The reference in paragraph (1) to the appearance of a party to any proceedings is a reference to any appearance made –

(a) whether or not the proceedings have been served; and

(b) irrespective of the purpose for which it is made.

(3) Any party (in this Rule referred to as 'the applying party') who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any such irregularity as is mentioned in paragraph (1) or on any other ground must –

(a) if a return date for appearance before the Court has been fixed –

(i) ask the Court to order that the proceedings be placed on the pending list, and

(ii) not later than 21 days thereafter apply to the Bailiff in chambers for a day to be fixed for the hearing of one or more of the applications mentioned in paragraph (4); or

(b) if no return date for appearance before the Court has been fixed, apply to the Bailiff in chambers, not later than 7 days after the expiry of the time limited for the filing by that party of a pleading in the proceedings, for a day to be fixed for the hearing of one or more of the applications mentioned in paragraph (4).[29]

(4) The applications referred to in paragraph (3) are applications by the applying party for an order –

(a) setting aside the proceedings or service of the proceedings on that party;

(b) declaring that the proceedings have not been duly served on that party;

(c) discharging any earlier order giving leave to serve the proceedings on that party out of the jurisdiction;

(d) for the protection or release of any of his property arrested or threatened with arrest in the proceedings;

(e) discharging any earlier order made to prevent any dealing with any of that party's property;

(f) declaring that in the circumstances of the case the Court has no jurisdiction over that party in respect of the subject matter of the claim or the relief or remedy sought in the proceedings;

(g) for such other relief as may be appropriate.

(5) An application by the applying party must be made by summons which –

(a) states grounds of the application; and

(b) is supported by an accompanying affidavit verifying the facts on which the application is based.

(6) Upon hearing the application the Court (if it does not thereupon dispose of the matter in dispute) may give such directions for its disposal as may be appropriate including directions for the trial thereof as a preliminary issue.

(7) Upon notice being given of an application under paragraph (3), time limits for the filing of pleadings (whether applicable by virtue of these Rules or by order of the Court) shall not apply, and shall not begin to run, until the application has been dismissed by the Court or abandoned, as the case may be.

(8) A party who fails to make an application in accordance with paragraph (3) within the time specified in sub-paragraph (a) or sub-paragraph (b) thereof (whichever is

applicable) shall be deemed to have submitted to the jurisdiction of the Court in the proceedings.

(9) A party who makes an application in accordance with paragraph (3) shall not be deemed to have submitted to the jurisdiction of the Court in the proceedings unless the Court shall otherwise order.

6/8 Mode of pleading

(1) Subject to the provisions of this Rule, every pleading must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for that party's claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.

(2) Without prejudice to paragraph (1), the effect of any document or the purport of any conversation referred to in the pleading must, if material, be briefly stated, and the precise words of the document or conversation shall not be stated, except insofar as those words are themselves material.

(3) A party need not plead any fact if it is presumed by law to be true or the burden of disproving it lies on the other party, unless the other party has specifically denied it in his or her pleading.

(4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in that party's pleading.

(5) A party must in any pleading subsequent to a statement of claim plead specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality –

(a) which that party alleges makes any claim or defence of the opposite party not maintainable;

(b) which, if not specifically pleaded, might take the opposite party by surprise; or

(c) which raises issues of fact not arising out of the preceding pleading.

(6) A party may in pleadings raise any point of law.

6/9 Counterclaim

(1) Subject to paragraph (2), a defendant in an action may set up by way of counterclaim against the claims of the plaintiff any right or claim whether such counterclaim sounds in damages or not, and such counterclaim shall have the same effect as a cross-action so as to enable the Court to pronounce a final judgment in the same action both on the original claim and on the counterclaim.

(2) When a defendant sets up a counterclaim, if the plaintiff contends that the claim thereby raised ought not to be disposed of by way of counterclaim but in an independent action, the Court may at any time order that such counterclaim be excluded.

(3) If in any case in which the defendant sets up a counterclaim the action of the plaintiff is stayed, discontinued or dismissed, the counterclaim may nevertheless be proceeded with.

6/10 Third parties

(1) If a defendant in an answer to an action which has been placed on the pending list –

(a) claims against a person not already a party to the action any contribution or indemnity;

(b) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

(c) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and the defendant, but also as between either or both of them and a person not already a party to the action,

the Court may, after hearing the parties, make an order that such person be convened as a third party.

(2) In such order (a copy of which shall be delivered to all the parties to the action) the Court shall give such directions as it considers appropriate for service on such third party and for the filing of pleadings.

(3) A third party so convened shall from the time of service be a party to the action as if that party had been made a defendant in an original action either by the defendant on whose application that party was convened or by the plaintiff.

(4) If the time limited for filing an answer by the third party has expired and no answer has been filed –

(a) the third party shall be deemed to admit any claim stated in the defendant's answer and shall be bound by any judgment (including judgment by consent) or decision in the action insofar as it is relevant to any claim, question or issue stated in the defendant's answer and the defendant may, on giving notice to the Greffier and to the third party by 5 p.m. on the penultimate working day before the day of the sitting of the Court, ask the Court to pronounce judgment against the third party as to liability, but not as to the amount; and

(b) the defendant by whom the third party was convened may, if judgment by default is given against the defendant in the action, at any time after satisfaction of that judgment and, with the leave of the Court, before satisfaction thereof, obtain judgment against the third party in respect of any contribution or indemnity claimed in the defendant's answer and, with the leave of the Court, in respect of any other relief or remedy claimed therein.

(5) The Court may at any time set aside or vary a judgment given under paragraph (4) on such terms as it thinks just.

(6) When a defendant has convened a third party, the Court may at or after the trial of the action or, if the action is decided otherwise than by trial, on an application by summons give such judgment as the nature of the case may require for the defendant against the third party or for the third party against the defendant.

(7) Where in any action judgment is given against a defendant and judgment is given for the defendant against a third party, the judgment shall not be put into execution against the third party without the leave of the Court until the judgment against the defendant has been satisfied.

(8) If in any action a defendant in his or her answer –

(a) claims against a person who is already a party to the action any contribution or indemnity; or

(b) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

(c) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and the defendant but also as between either or both of them and some other person who is already a party to the action,

the Court may after hearing the parties make an order that such person be convened as a third party by the defendant and paragraph (2) shall apply.

(9) If a defendant has convened a third party and the third party makes such a claim or requirement as is mentioned in paragraph (1) or (8), this Rule shall apply as if the third party were a defendant; and similarly where any further person, to whom by virtue of this paragraph this Rule applies as if that person were a third party, makes such a claim or requirement.

6/11 Consolidation of causes or matters

(1) If, when 2 or more actions are pending, it appears to the Court that –

(a) some common question of law or fact arises in both or all of them;

(b) the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or

(c) for some other reason it is desirable to make an order under this Rule,

the Court may order that those actions be consolidated on such terms as it thinks just or may order that they be tried at the same time or one immediately after another or may order that any of them be stayed until the determination of any of them.

(2) Actions that have been consolidated may be de-consolidated at any stage of the proceedings.

6/12 Amendment of claim or pleading

(1) The Court may at any stage of the proceedings allow a plaintiff to amend his or her claim, or any party to amend his or her pleading, on such terms as to costs or otherwise as may be just.

(2) Any party may at any stage of the proceedings amend his or her pleadings with the consent of the other parties.

6/13 Striking out

(1) The Court may at any stage of the proceedings order to be struck out or amended any claim or pleading, or anything in any claim or pleading, on the ground that –

(a) it discloses no reasonable cause of action or defence, as the case may be;

(b) it is scandalous, frivolous or vexatious;

(c) it may prejudice, embarrass or delay the fair trial of the action; or

(d) it is otherwise an abuse of the process of the Court,

and may make such consequential order as the justice of the case may require.

(2) No evidence shall be admissible on an application under paragraph (1)(a).

6/14 Striking out where proceedings should have been for judicial review

(1) When a person seeks an order in any action or representation and the only relief sought should have been sought by an application for judicial review under Part 16, any person against whom such relief is sought may apply to the Court for an order striking out the action or representation as an abuse of process and the Court shall make such an order unless –

(a) the Court considers the person bringing the action or representation could not reasonably have known that the relief should have been sought by an application for judicial review and (unless the action or representation were instituted within 3 months from the date when grounds for the application first arose) the Court is satisfied that allowing the matter to proceed will not be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration; or

(b) the Court considers that in all the circumstances of the case, it is just and convenient to allow the action or representation to continue,

provided in each case, that the Court is satisfied that leave would have been granted to move for judicial review if an application for leave had been made.[30]

(2) Applications for an order under paragraph (1) must be brought within 28 days from service of the action or representation upon the defendant. The person applying for such an order must serve notice of the application on all other parties.[31]

(3) In cases falling within sub-paragraph (1)(a) or (b), the Court may direct that the action or representation be treated as if it had begun by way of an application for judicial review and Part 16 shall apply accordingly and the Court may make such consequential orders as it considers necessary.[32]

(4) Where a person seeks in an action or representation –

(a) relief which could have been sought by way of action or representation; and

(b) relief which could have been sought by way an application for judicial review,

any person against whom such relief is sought may apply to the Court for an order striking out any claim relating to matters that could have been the subject of an application for judicial review and the Court shall make such an order if, having regard to all the circumstances of the case, it considers that the matter was not properly included in the action or representation or that it was not appropriate to

include that claim in the action or representation rather than pursuing that claim by way of an application for judicial review.[33]

(5) An application for an order under paragraph (4) must be brought within 28 days of service of the action or representation upon the defendant. The person applying for such an order must serve notice of the application on all other parties.[34]

(6) If a person seeks an order under paragraph (4), and the Court does not strike out any claim relating to matters that could have been the subject of an application for judicial review, the Court may, on application by any party or of its own motion at any stage of the proceedings make such orders as it thinks fit for dealing with any or all of the claims raised in the action or representation and such orders may include staying all or part of the claim, directing that all or part of the claim be treated as if it had begun by way of an application for judicial review so that Part 16 applies to that claim or part of a claim, and making any consequential orders that it considers necessary.[35]

6/15 Obtaining further information[36]

(1) The Court may at any time of its own motion or on application order a party to –

(a) clarify any matter which is in dispute in the proceedings; or

(b) give additional information in relation to any such matter,

whether or not the matter is contained or referred to in a pleading.

(2) Paragraph (1) is subject to any rule of law to the contrary.

(3) Where the Court makes an order under paragraph (1), the party against whom it is made must –

(a) lodge his or her response with the Greffier; and

(b) serve it on the other parties,

within the time and, if applicable, in the manner, specified by the Court.

6/16 Restriction on the use of further information[37]

The Court may direct that information provided by a party to another party (whether given voluntarily in response to a request for further information or following an order made under Rule 6/15) must not be used for any purpose except for that of the proceedings in which it is given.

6/17 Discovery and inspection of documents[38]

(1) The Court may order any party to any proceedings to furnish any other party with a list of the documents which are or have been in his or her possession, custody or power relating to any matter in question in the cause or matter and to verify such list by affidavit.

(2) An order under paragraph (1) may be limited to such documents or classes of documents only, or to such only of the matters in question in the proceedings, or to the results of searches carried out by a party, as may be specified in the order.

(3) If it is desired to claim that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of the privilege.

(4) A party who has furnished any other party with a list of documents in compliance with paragraph (1) must allow the other party to inspect the documents referred to in the list (other than any which the party furnishing the list objects to produce) and to take copies thereof and, accordingly, must give the other party notice in writing stating a time within 7 days after furnishing the list at which the said documents may be inspected at a place specified in the notice.

(5) The Court may order any party to any proceedings in whose pleadings or affidavits reference is made to any document to produce that document for the inspection of any other party and to permit the other party to take copies thereof.

(6) The Court may order inspection to take place by delivery of copies of documents in an electronic format.

(7) Before applying by summons, a party may apply by letter to any other party to furnish him or her with such a list and allow him or her to inspect and take copies of the documents referred to therein.

6/18 Pre-action disclosure

(1) An application for an order (hereinafter called "a disclosure order") under Article 2(1) of the Law Reform (Disclosure and Conduct before Action) (Jersey) Law 1999 (hereinafter called the "1999 Law") for the disclosure of documents before the commencement of proceedings must be made by representation.

(2) A representation under paragraph (1) must be supported by an affidavit which must –

(a) state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in which a claim for personal injuries is likely to be made; and

(b) specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading intended to be served in the proceedings, that the documents are relevant to an issue likely to arise out of a claim for personal injuries likely to be made in the proceedings and that the person against whom the order is sought is likely to have or have had them in his or her possession, custody or power.

(3) A copy of the supporting affidavit must be served with the representation on every person against whom a disclosure order is sought.

(4) A disclosure order may be made conditional on the applicant's giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just, and shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been, in that person's possession, custody or power and, if not, then in that person's possession, custody or power, when he or she parted with them and what has become of them.

(5) No person shall be compelled by virtue of such an order to produce any documents which that person could not be compelled to produce if the subsequent proceedings had already been begun.

(6) In this rule "a claim for personal injuries" means a claim in respect of personal injuries to a person or in respect of a person's death.

6/19 Admissions

(1) A party to any proceedings may give notice, by a pleading or otherwise in writing, that that party admits the truth of the whole or any part of the case of any other party.

(2) A party to any proceedings may, not later than 28 days after the proceedings are set down for trial or hearing, serve on any other party a notice requiring the other party to admit, for the purpose of those proceedings only, the facts specified in the notice.

(3) An admission made in compliance with paragraph (2) must not be used against the party by whom it was made in any proceedings other than the proceedings for the purpose of which it was made or in favour of any person other than the person by whom the notice was given, and the Court may at any time allow a party to amend or withdraw an admission so made by that party on such terms as may be just.

(4) When admissions of fact are made by a party to the proceedings either by that party's pleadings or otherwise, any other party to the proceedings may apply to the Court for such judgment or order as on those admissions that other party may be entitled to, without waiting for the determination of any other question between the parties, and the Court may give such judgment or make such order on the application as it thinks just.

6/20 Evidence

(1) Subject to these Rules and to any other enactment relating to evidence, any fact required to be proved at the hearing of any proceedings by the evidence of witnesses shall be proved by the examination of the witnesses orally and in open court.[39]

(2) However, the Court may –

(a) subject to paragraph (4), order that any particular facts to be specified may be proved by affidavit or a witness statement;

(b) order that the affidavit of any witness may be read at the hearing on such conditions as the Court thinks reasonable;

(c) order that evidence of any particular fact to be specified shall be given at the hearing by statement on oath of information and belief or by production of documents or entries in books or by copies of documents or entries or otherwise as the Court may direct; and

(d) order that not more than a specified number of expert witnesses may be called.[40]

(3) The Court shall have full discretionary power, at any time before the delivery of judgment, to receive such further evidence as in the opinion of the Court the justice of the case may require, and may of its own motion direct that additional witnesses be heard.[41]

(4) The Court may at all events, and whether or not an order is made under sub-paragraph (2)(a), order the production of a witness for cross-examination.[42]

(4A) Where the affidavit or witness statement is the subject of a hearsay notice under Rule 6/21, the provisions of Rule 6/22 shall apply.[43]

(4B) If a person required to appear for cross examination under this Rule or Rule 6/22 fails to appear the Court may have regard to that person's evidence as it sees fit.[44]

(5) Any party may apply to the Court –

(a) for an order authorizing the Greffier or the Viscount or an advocate or solicitor to take in writing, on oath, the evidence of any person who is a party or witness in any proceedings and who is in Jersey at the time of the application;

(b) for a commission or for letters of request to examine a person who is a party or witness in any suit and who is not in Jersey at the time of the application.[45]

(6) [46]

(7) Unless otherwise directed by the Court, evidence taken in accordance with paragraph (5) of this Rule shall not be admissible at the hearing unless the Court is satisfied that the deponent is dead or out of Jersey or unable from sickness or other infirmity to attend Court, in any of which cases the depositions duly certified shall be admissible in evidence.[47]

(7A) The Court shall have power to issue a summons requiring a person to appear in any proceedings before the Court to give evidence or to produce documents or both.[48]

(7B) Before issuing a summons under paragraph (7A), the Court may –

(a) request the person so to appear;

(b) accommodate any reasonable request by the person as to the day and time of the appearance; and

(c) where it would be appropriate to do so, having regard to the nature of the evidence or any document, undertake to receive the evidence or document in confidence.[49]

(8) Persons called to give evidence before the Court must be summoned through the intermediary of the Viscount's Department at least 2 clear days before the day on which their appearance is required.

6/21 Hearsay notices

(1) A notice under Article 4 of the Civil Evidence (Jersey) Law 2003 (hereinafter referred to as a "hearsay notice") must –

(a) state that it is a hearsay notice;

(b) identify the hearsay evidence;

(c) identify the person who made the statement which is to be given in evidence; and

(d) state why that person will (or may) not be called to give oral evidence.

(2) A single hearsay notice may deal with the hearsay evidence of more than one witness.

(3) The requirement to give a hearsay notice does not apply to –

(a) evidence which is authorized to be given by or in an affidavit in proceedings other than hostile proceedings; or

(b) a statement which a party to a proceedings relating to an estate desires to give in evidence and which is alleged to have been made by the person whose estate is the subject of the proceedings.[50]

(4) A party who desires to give in evidence at the trial or hearing of a cause or matter hearsay evidence must –

(a) if the cause or matter is required to be set down for trial or hearing, within 28 days after it is set down or within such other period as the Court may specify; and

(b) in any other case, not later than 14 days before the cause or matter first comes before the Court, or within such other time as the Court may specify,

serve a hearsay notice on every party to the cause or matter.

6/22 Power to call witness for cross-examination on hearsay evidence

(1) If a party tenders as hearsay evidence a statement made by a person but does not propose to call the person who made the statement to give evidence, the Court may, on application, allow another party to call and cross-examine the person who made the statement on its contents.

(2) Notice of an application under paragraph (1) must be delivered to all other parties not later than 28 days after service of the hearsay notice.

(3) When the Court allows another party to call and cross-examine the person who made the statement, it may give such directions as it thinks fit to secure the attendance of that person and as to the procedure to be followed.

6/23 Credibility

(1) If –

(a) a party tenders as hearsay evidence a statement made by a person but does not call the person who made the statement to give oral evidence; and

(b) another party intends to attack the credibility of the person who made the statement,

that other party must notify the party tendering the hearsay evidence of that intention.

(2) A notice under paragraph (1) must be given not later than 28 days after service of the hearsay notice or within such lesser period as the Court may specify.

6/23A [51]

6/24 Reference of questions to Court before setting down for hearing

When in any action on the pending list it appears to the Greffier that a question raised by a pleading should be determined before the action is set down for trial or hearing, the Greffier may refer such question to the Court and may give such directions as he or she deems appropriate for securing the attendance of the parties before the Court.

6/25 Deemed withdrawal; dismissal[52]

(1) When proceedings have been adjourned *sine die*, if at the expiration of 3 years from the date on which it was first so adjourned no further steps have been taken, the proceedings shall be deemed to have been withdrawn.[53]

(2) If at the expiration of 2 years from the date on which an action was set down on the hearing list, the trial of the action before the Royal Court has not been completed, the Court may, of its own motion, after giving not less than 28 days' notice in writing to all the parties to the action, order that it be dismissed.[54]

(3) This Rule does not affect the power of the Court under any other provision of these Rules to dismiss any proceedings.[55]

6/26 Summons for directions

(1) With a view to providing an occasion for the consideration by the Court of the preparations for the trial of an action so that –

(a) all matters which must or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with; and

(b) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal thereof,

the Court will at the expiry of 3 months of the action being placed on the pending list, require the parties to attend a directions hearing (if the date for such a hearing has not already been fixed).[56]

(2) Paragraph (1) does not prevent any party to the action issuing a summons for directions, or the defendant or any other party to the action applying for an order to dismiss the action.[57]

(3) On an application by a party to dismiss the action under paragraph (2), the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.

(4) On the hearing of a summons for directions, the Court shall consider whether –

(a) it is possible to deal then with all matters which must or can be considered on the hearing of the summons for directions; or

(b) it is expedient to adjourn the consideration of all or any of those matters.

(5) If, when the summons for directions first comes to be heard, the Court considers that it is possible to deal with all the said matters, it shall deal with them forthwith and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also dealt with then.

(6) If, when the summons for directions first comes to be heard, the Court considers that it is expedient to adjourn the consideration of all or any of the matters which must be considered on the hearing of the summons, the Court shall deal forthwith with such of those matters as it considers can conveniently be dealt with and shall endeavour to secure that all other matters which must or can be dealt with are dealt with then or at a resumed hearing of the summons for directions.

(7) At the hearing of the summons for directions, the Court shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the

proceedings which ought reasonably to be made by them and may record in its act any admissions or agreements so made, and (with a view to such order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.

(8) Without prejudice to the generality of paragraph (12), if the Court on any hearing of the summons for directions requires a party to the action or that party's advocate or solicitor to give any information or produce any document and that information or document is not given or produced, the Court may –

(a) record the facts in its act with a view to such order, if any, as to costs as may be just being made at the trial; or

(b) if it appears to the Court to be just to do so, order that the whole or any part of the pleadings of the party concerned be struck out, or order that the action or counterclaim be dismissed on such terms as may be just.

(9) Notwithstanding anything in the foregoing provisions of this Rule, no information or documents which are privileged from disclosure shall be required to be given or produced under this Rule by or by the advocate or solicitor of any party otherwise than with the consent of that party.

(10) Any party to whom the summons for directions is addressed must so far as practicable apply at the hearing of the summons for any order or directions which that party may desire as to any matter capable of being dealt with on an interlocutory application in the action and must, not less than 7 days before the hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.

(11) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for an order or directions not asked for by the summons or in a notice given under paragraph (10), that party shall, not less than 7 days before the resumed hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.

(12) If any party fails to comply with an order made under the provisions of this Rule, the Court may, of its own motion or on the application of any other party to the action, make such order as it thinks just including, in particular, an order that the action be dismissed or, as the case may be, that the answer or other pleading be struck out and judgment entered accordingly.[58]

(13) If 2 months have elapsed from the time limited for filing pleadings and no summons has been issued pursuant to any of the foregoing provisions of this Rule, the Court may of its own motion, after giving not less than 28 days' notice in writing to all parties to the action, order that the action be dismissed, and the Court may make such consequential order as to costs or otherwise as it thinks fit.

(14) A person who was a party to an action dismissed pursuant to paragraph (13) may apply to the Court for the action to be reinstated.[59]

(15) An application under paragraph (14) must be made by summons which –

(a) states the grounds of the application; and

(b) is supported by an accompanying affidavit verifying the facts on which the application is based.[60]

(16) On an application under paragraph (14) the Court, if it reinstates the action, may do so on terms as to costs (including security for costs) and shall give such directions as it thinks fit as to the future course of the action.[61]

6/26A Filing and exchanging cost budgets[62]

(1) Not later than 7 days before the first directions hearing, unless the Court otherwise orders, all parties must file and exchange budgets where the value of the claim, including any counterclaim, is less than £500,000.

(2) The contents of any budget shall be set out in a Practice Direction.

(3) If a party fails to provide a budget or fails to provide a budget with sufficient detail as required by any court order or Practice Direction the Court may require a party to produce a budget containing the required information on such terms, including as to costs, as the Court shall see fit.

6/27 Setting down for hearing

(1) If the Court, on the application of any party or otherwise, is satisfied that an action is ready for trial or hearing, it shall cause the action to be set down on the hearing list and the Greffier shall notify every party to the action accordingly.

(2) If the Court is not so satisfied it may, notwithstanding any other provision of these Rules, require the appearance of the parties before it and give such directions as it deems appropriate.

6/28 Stay to allow for the settlement of proceedings

(1) In this Rule, "alternative dispute resolution" means any method of resolving disputes otherwise than through the normal trial process and, without prejudice to the generality of the foregoing, includes mediation and conciliation.

(2) Notwithstanding any other provision of these Rules, the Court may at any stage of any proceedings either on the application of any party to the proceedings or of its own motion direct that the proceedings be stayed for such period as the Court thinks fit to enable the parties to try to settle the proceedings by alternative dispute resolution.

(3) The Court may extend any stay which it has granted under paragraph (2) of this Rule until such date or for such specified period as it considers appropriate.

(4) As a condition of granting a stay under this Rule the Court may require the parties to report back on progress made to settle the proceedings or if a settlement is reached.

(5) If the Court is not told by the end of the period of the stay that a settlement has been reached the Court may give such directions as to the management of the case as it considers appropriate.

6/29 Fixing day for trial

(1) When an action has been set down on the hearing list any party may apply to the Bailiff in chambers for a day to be fixed for the trial or hearing of the action.

(2) The party applying must, not less than 4 days before making an application under paragraph (1) notify in writing the other parties to the action of his or her intention to make the application and when it is intended to make it.

(3) When a date has been fixed for the trial or hearing of an action the party applying must, within 24 hours, notify that date to every other party who was not present at the hearing of the application.

(4) A requirement in these Rules or in any order or direction of the Court to apply to fix a day for the trial or hearing of an action is not satisfied until the hearing to fix a date for the application has taken place.[63]

6/30 Procedure after decision on preliminary issue

(1) When the Court has given judgment on a preliminary issue, it may direct that the case be restored to the pending list if further pleadings are required, or it may direct that the case remain on the hearing list.

(2) If the Court directs that the case be restored to the pending list, the foregoing provisions of this Part shall, with the necessary modifications, apply to the subsequent steps in the action.

6/31 Withdrawal and discontinuance

(1) Except with the consent of the other parties to the action, a party may not discontinue an action or counterclaim, or withdraw any particular claim made by that party therein, or withdraw his or her defence or any part of it, without the leave of the Court, and any such leave may be given on such terms as to costs, the bringing of a subsequent action or otherwise as the justice of the case may require.

(2) Subject to the terms imposed by the Court in granting such leave, the fact that a party has discontinued an action or counterclaim or withdrawn a particular claim made by that party therein shall not be a defence to a subsequent action for the same, or substantially the same, cause of action.

(3) When a party is liable to pay any costs under paragraph (1), then if, before payment of such costs, that party subsequently brings an action for the same, or substantially the same, cause of action, the Court may order the proceedings in that action to be stayed until those costs are paid.

6/32 List of witnesses

(1) Not less than 48 hours before the time fixed for the hearing of an action the plaintiff must deposit with the Greffier a *billet* with a list of the plaintiff's witnesses, if any, to which shall be affixed the fee prescribed for the first day of the hearing.

(2) Similarly any other party to the action must deposit with the Greffier a list of the witnesses, if any, whom that party intends to call.

(3) This Rule applies to the hearing of proceedings on a representation as it applies to the hearing of an action.[64]

6/33 Payment into Court

(1) In any proceedings before the Court any defendant may at any time pay into Court a sum of money in satisfaction of any cause of action in respect of which a claim is made.[65]

(2) Such payment shall be made by lodging a sum of money with the Greffier who, unless otherwise directed, shall place the money on deposit with a bank that is a registered person within the meaning of the Banking Business (Jersey) Law 1991 or with a finance and investment subsidiary of such a bank.

(3) The Greffier shall within 7 days of receipt of payment give notice of the payment to all parties to the proceedings.[66]

(4) Except with the consent of the other parties to the proceedings, no payment may be withdrawn without leave of the Greffier, such leave to be obtained by summons.[67]

(5) Except when the tender of payment is pleaded by the party making payment, the fact that payment into Court has been made shall not be disclosed to the Court before whom the proceedings are tried until all questions of liability and of the amount of debt or damages have been decided.[68]

(6) Subject to paragraph (7), the Court when awarding costs may take into consideration the fact that payment into Court has been made.

(7) Nothing in this Rule derogates from the discretion of the Court to make such order as to costs as it deems just.

6/34 Ex parte representations

Except by leave of the Court, no *ex parte* representation may be presented to the Court unless a copy thereof has been delivered to the Bailiff and to the Greffier at least 24 hours before presentation.

6/35 Injunctions

(1) Any injunction may be varied by the Bailiff or the Greffier in the terms agreed by the parties to the proceedings in which the injunction has been obtained.

(2) If any variation is made in the absence of the Greffier, the Bailiff shall make his order in writing and transmit it to the Greffier.

6/36 Misjoinder and nonjoinder of parties

At any stage of the proceedings in any cause or matter the Court may on such terms as it thinks just and either of its own motion or on application –

(a) order any person who has been improperly or unnecessarily made a party or who has for any reason ceased to be a proper or necessary party, to cease to be a party;

(b) order any of the following persons to be added as a party, namely –

(i) any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the cause or matter may be effectually and completely determined and adjudicated upon, or

(ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between that person and that party as well as between the parties to the cause or matter,

but no person may be added as a plaintiff without that person's consent signified in writing or in such other manner as the Court may direct.

6/37 Procedure etc. in proceedings commenced by representation[69]

(1) In proceedings commenced by representation, the procedure to be followed shall be such as the Court may, in its discretion, determine in the particular case.

(2) In the exercise of its discretion under paragraph (1), the Court may at any stage direct that any provision of these Rules governing procedure and pleadings in an action shall apply *mutatis mutandis* to the proceedings.

6/38 [70]

6/39 Leave to continue claim by way of derivative action[71]

(1) This Rule applies to proceedings which include any claim by way of derivative action.

(2) In any proceedings to which this Rule applies, unless the Court orders otherwise –

(a) the action must be brought by order of justice;

(b) the order of justice must identify every defendant against whom the plaintiff seeks to bring the action; and

(c) the company shall be joined as a party.

(3) Where proceedings to which this Rule applies have been placed on the pending list, the plaintiff must apply to the Inferior Number for leave to continue the action.

(4) The application when issued must be accompanied by an affidavit verifying the facts on which the claim and the entitlement to sue on behalf of the company are based.

(5) Unless the Court otherwise orders, an application to fix a date for the hearing for leave to be determined must be made within 21 days after the proceedings are placed on the pending list.

(6) Any affidavit in response from any defendant or the company joined as a party must be served no later than 7 days prior to the hearing fixed for the application.

(7) Nothing in this Rule shall prevent the plaintiff from applying for interlocutory relief pending the determination of an application under paragraph (3).

(8) On the hearing of the application under paragraph (3), the Inferior Number may –

(a) grant leave to continue the proceedings, for such period and upon such terms as it may think fit;

(b) dismiss the proceedings;

(c) adjourn the application and give such directions as to joinder of parties, the filing of further evidence, discovery, cross-examination of deponents and otherwise as it may consider expedient,

and in any case may make such orders as to costs as it thinks fit.

(9) If the plaintiff does not apply for leave to continue the proceedings as required by paragraph (3) within the time laid down in paragraph (5), any defendant, and the company joined as a party, may apply for an order to dismiss the proceedings.

(10) On the hearing of such an application for dismissal, the Court may –

(a) dismiss the proceedings;

(b) if the plaintiff so requests, grant the plaintiff (on such terms as to costs or otherwise as the Court may think fit) an extension of time to apply for leave to continue the proceedings; or

(c) make such other order as may in the circumstances be appropriate,

and in any case may make such orders as to costs as it thinks fit.

(11) If there is a material change in circumstances after the Inferior Number has given leave to the plaintiff to continue the proceedings in pursuance of an application under paragraph (3), any defendant or the company joined as a party may make an application supported by affidavit requiring the plaintiff to show cause why the Court should not dismiss the action or any claim made in it by way of derivative action. On such application the Court shall have the same powers as it would have had upon an application under paragraph (10).

(12) The plaintiff may include in an application under paragraph (3) an application for an indemnity out of the assets of the company in respect of costs incurred or to be incurred in the action and the Court may grant such indemnity upon such terms as may in the circumstances be appropriate.

(13) A respondent to any application under paragraph (3) shall not be obliged to file an answer until after determination of that application.

(14) Where leave is given any directions required in relation to that leave may be given at any time by the Bailiff or the Greffier as either shall see fit.

6/40 Proceedings under Article 141 of the Companies (Jersey) Law 1991[72]

(1) This Rule applies to proceedings under Article 141(1) of the Companies (Jersey) Law 1991 (for an order under Article 143 of that Law on the ground that a company's affairs are being or have been conducted in a manner which is unfairly prejudicial to the interests of its members or that an act or omission of the company is or would be so prejudicial).

(2) Proceedings to which this Rule applies must, unless the Court orders otherwise, be brought by order of justice.

(3) Where the proceedings have been placed on the pending list, Rule 6/6 shall not apply, and the plaintiff must within 21 days apply to the Inferior Number for directions, although the Inferior Number may direct that such application be made to the Bailiff or to the Greffier.

(4) On the hearing of an application under paragraph (3) the Court shall give such directions as it thinks appropriate with respect to the following matters –

(a) service of the order of justice on any person, whether in connection with the time, date and place of a further hearing, or for any other purpose;

(b) whether, and if so by what means, the proceedings are to be advertised;

(c) the manner in which in which any evidence is to be adduced;

(d) any other matter affecting the procedure on the order of justice or in connection with the hearing and disposal of the proceedings; and

(e) such orders, if any, including a stay for any period, as the Court thinks fit, with a view to mediation or other alternative dispute resolution.

PART 7[73]

SUMMARY JUDGMENT

7/1 Grounds for summary judgment[74]

(1) The Court may in any proceedings give summary judgment against a plaintiff or defendant on the whole of a claim or on a particular issue in any pleading if –

(a) it considers that –

(i) the plaintiff has no real prospect of succeeding on the claim or issue, or

(ii) the defendant has no real prospect of successfully defending the claim or issue; and

(b) there is no other compelling reason why the case or issue should be disposed of at a trial.

(2) A summary judgment hearing may be ordered by the Court of its own motion or on application made by either party in accordance with this Part.

7/2 Procedure[75]

(1) A plaintiff may not, without leave of the Court, apply for summary judgment until the defendant against whom the application is made has placed the matter on the pending list.

(2) If a plaintiff applies for summary judgment before a defendant against whom the application is made has filed an answer, that defendant need not file an answer before the hearing.

(3) An application for summary judgment must be made by summons which must set out the claims or issues which it is proposed that the Court will decide at the hearing.

(4) The application must be supported by an affidavit verifying the facts to which the application relates and stating that, in the deponent's belief, the other party has no real prospect of succeeding on the claim or issue or of defending the claim or issue set out in the application as the case may be.

(5) Unless the Court otherwise directs, an affidavit for the purposes of this Rule may contain statements of information or belief with the sources and grounds thereof.

(6) The summons and a copy of the affidavit must be served on the other party not less than 14 clear days before the day on which the summary judgment hearing is to take place.

7/3 Evidence filed in response to a summary judgment application[76]

(1) If the respondent to an application for summary judgment wishes to rely on evidence at the hearing, he or she must –

(a) file an affidavit containing or exhibiting the evidence to be relied upon; and

(b) serve copies on every other party to the application,

at least 7 days before the summary judgment hearing.

(2) If the applicant wishes to rely on any evidence in reply, he or she must –

(a) file an affidavit containing or exhibiting the evidence to be relied upon; and

(b) serve a copy on the respondent,

at least 3 days before the summary judgment hearing.

(3) Where a summary judgment hearing is fixed by the Court of its own motion the Court must set out for the parties the claim or issue it wishes to be determined; and –

(a) any party who wishes to rely on evidence at the hearing must –

(i) file an affidavit containing or exhibiting the evidence to be relied upon, and

(ii) unless the Court orders otherwise, serve copies on every other party to the proceedings,

at least 7 days before the date of the hearing; and

(b) any party who wishes to rely on evidence at the hearing in reply to any other party's written evidence must –

(i) file in reply an affidavit containing or exhibiting the evidence to be relied upon, and

(ii) unless the court orders otherwise serve copies on every other party to the proceedings,

at least 3 days before the date of the hearing.

(4) This Rule does not require affidavit evidence –

(a) to be filed if it has already been filed; or

(b) to be served on a party on whom it has already been served.

7/4 Orders the Court may make[77]

(1) The orders the Court may make under this Part include –

(a) judgment on the claim, answer or issue;

(b) the dismissal of the claim, answer or issue;

(c) the dismissal of the application;

(d) a conditional order.

(2) A conditional order for the purpose of paragraph (1) is an order which requires a party –

(a) to pay a sum of money into court; or

(b) to take a specified step in relation to his or her claim or answer, as the case may be, and provides that that party's claim will be dismissed or that any pleading of that party will be struck out if that party does not comply.

7/5 Court's powers when it determines a summary judgment application[78]

Following determination of a summary judgment application the Court may give directions –

(a) as to the filing and service of any further pleadings in respect of any claims or issues remaining in dispute;

(b) about the management of the case.

7/6 Judgment by default[79]

Any judgment given against a party who does not appear at the hearing of a summary judgment application shall be treated as a judgment by default, and Rule 11/2 shall apply.

PART 8

INTERIM PAYMENTS

8/1 Interpretation and application for interim payment

(1) In this Part "interim payment" in relation to a defendant means a payment on account of any damages, debt or other sum (excluding costs) which the defendant may be held liable to pay to or for the benefit of the plaintiff, and any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as guardian *ad litem* of the plaintiff or defendant.

(2) The plaintiff may, at any time after an action has been placed on the pending list, apply to the Court for an order requiring the defendant to make an interim payment.

(3) An application under this Rule must be made by summons and be accompanied by an affidavit which –

(a) verifies the amount of the damages, debt or other sum to which the application relates and the grounds of the application; and

(b) exhibits any documentary evidence relied on by the plaintiff in support of the application.

(4) The summons and a copy of the affidavit in support and any documents exhibited thereto must be served on the defendant against whom the order is sought not less than 10 clear days before the day on which the defendant is required to appear.

(5) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown.

8/2 Order for interim payment in respect of damages

(1) If, on the hearing of an application under Rule 8/1 in an action for damages, the Court is satisfied –

(a) that the defendant against whom the order is sought (in this paragraph referred to as "the respondent") has admitted liability for the plaintiff's damages; or

(b) that the plaintiff has obtained interlocutory judgment against the respondent for damages to be assessed; or

(c) that, if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the respondent or, where there are two or more defendants, against any of them,

the Court may, if it thinks fit, and subject to paragraph (2), order the respondent to make an interim payment of such amount as it thinks just not exceeding a reasonable proportion of the damages which in the opinion of the Court are likely to be recovered by the plaintiff after taking into account any relevant contributory negligence and any set-off, cross-claim or counterclaim on which the respondent may be entitled to rely.

(2) No order may be made under paragraph (1) in an action for personal injuries if it appears to the Court that the defendant is not a person falling within one of the following categories, namely –

(a) a person who is insured in respect of the plaintiff's claim;

(b) a public authority or body; or

(c) a person whose means and resources are such as to enable that person to make an interim payment.

8/3 Order in respect of sums other than damages

If, on hearing an application under Rule 8/1, the Court is satisfied –

(a) that the plaintiff has obtained an order for an account to be taken as between the plaintiff and the defendant;

(b) that the plaintiff's action includes a claim for possession of land and, if the action proceeded to trial, the defendant would be held liable to pay to the plaintiff a sum of money in respect of the defendant's use and occupation of the land during the pendency of the action, even if a final judgment or order were given or made in favour of the defendant; or

(c) that, if the action proceeded to trial, the plaintiff would obtain judgment against the defendant for a substantial sum of money apart from any damages or costs,

the Court may, if it thinks fit, without prejudice to any contentions of the parties as to the nature or character of the sum to be paid by the defendant, order the defendant to make an interim payment of such amount as it thinks just after taking into account any set-off, cross-claim or counterclaim on which the defendant may be entitled to rely.

8/4 Manner of payment

(1) The amount of any interim payment ordered to be made shall be paid to the plaintiff unless the order provides for it to be paid into Court, and where the amount is paid into Court, the Court may, on the application of the plaintiff, order the whole or any part of it to be paid out to the plaintiff at such time or times as the Court thinks fit.

(2) An application under paragraph (1) for money in Court to be paid out may be made *ex parte*, but the Court may direct a summons to be issued.

(3) An interim payment may be ordered to be made in one sum or by such instalments as the Court thinks fit.

(4) When a payment is ordered in respect of the defendant's use and occupation of land, the order may provide for periodical payments to be made during the pendency of the action.

8/5 Directions

When an application is made under Rule 8/1, the Court may give directions as to the further conduct of the action and, in particular, may order an early trial of the action.

8/6 Non-Disclosure of interim payment

The fact that an order has been made under Rule 8/2 or 8/3 shall not be pleaded and, unless the defendant consents or the Court so directs, no communication of that fact or of the fact that an interim payment has been made, whether voluntarily or pursuant to an order, shall be made to the Court at the trial or hearing of any question or issue as to liability or damages until all questions of liability and amount have been determined.

8/7 Payment into Court

When, after making an interim payment, whether voluntarily or pursuant to an order, a defendant pays a sum of money into Court under Rule 6/33, the notice of payment must state that the defendant has taken into account the interim payment.

8/8 Adjustment on final judgment or order or on discontinuance

If a defendant has been ordered to make an interim payment or has in fact made an interim payment, whether voluntarily or pursuant to an order, the Court may, in giving or making a final judgment or order, or granting the plaintiff leave to discontinue the action or to withdraw the claim in respect of which the interim payment has been made, or at any other stage of the proceedings, on the application of any party, make any order with respect to the interim payment as may be just and, in particular –

(a) an order for the repayment by the plaintiff of all or part of the interim payment;

(b) an order for the payment to be varied or discharged; or

(c) an order for the payment by any other defendant of any part of the interim payment which the defendant who made it is entitled to recover from the other defendant by way of contribution or indemnity or in respect of any remedy or relief relating to or connected with the plaintiff's claim.

8/9 Counterclaim and other proceedings

This Part shall apply, with the necessary modifications, to any counterclaim or other proceedings where one party seeks an order for an interim payment to be made by another.

PART 9

PROVISIONAL DAMAGES

9/1 Application and Interpretation

(1) This Part applies to actions to which Article 3 of the Administration of Justice (Interim Payments and Provisional Damages) (Jersey) Law 1993 (hereinafter referred to as "Article 3") applies.

(2) In this Part "award of provisional damages" means an award of damages for personal injuries under which –

(a) damages are assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in Article 3; and

(b) the injured person is entitled to apply for further damages at a future date if that person develops the disease or suffers the deterioration.

9/2 Order for provisional damages

(1) The Court may on such terms as it thinks just and subject to this Rule make an award of provisional damages if –

(a) the plaintiff has pleaded a claim for provisional damages; and

(b) the Court is satisfied that the action is one to which Article 3 applies.

(2) An order for an award of provisional damages shall specify the disease or type of deterioration in respect of which an application may be made at a future date and shall also, unless the Court otherwise determines, specify the period within which such application may be made.

(3) The Court may, on the application of the plaintiff within the period, if any, specified in paragraph (2), extend that period if it thinks it just to do so, and the plaintiff may make more than one such application.

(4) An award of provisional damages may be made in respect of more than one disease or type of deterioration and may in respect of each disease or deterioration specify a different period within which an application may be made at a future date.

9/3 Offer to submit to an award

(1) When an application is made for an award of provisional damages, any defendant may at any time (whether or not the defendant makes a payment into Court) make a written offer to the plaintiff –

(a) to tender a sum of money (which may include an amount, to be specified, in respect of interest) in satisfaction of the plaintiff's claim for damages assessed on the assumption that the injured person will not develop the disease or suffer

the deterioration referred to in Article 3 and identifying the disease or deterioration in question; and

(b) to agree to the making of an award of provisional damages.

(2) Any offer made under paragraph (1) shall not be brought to the attention of the Court until after the Court has determined the claim for an award of provisional damages.

(3) If an offer is made under paragraph (1), the plaintiff may, within 21 days of receipt of the offer, give written notice to the defendant of acceptance of the offer and must on such acceptance make an application to the Court for an order in accordance with Rule 9/2(1).

9/4 Application for award of further damages

(1) This Rule applies when the plaintiff, pursuant to an award of provisional damages, claims further damages.

(2) No application for further damages may be made after the expiration of the period, if any, specified under Rule 9/2(2) or of such period as extended under Rule 9/2(3).

(3) The plaintiff must give not less than 3 months' written notice to the defendant of intention to apply for further damages and, if the defendant is to the plaintiff's knowledge insured in respect of the plaintiff's claim, to the insurers.

(4) The plaintiff must issue a summons for directions as to the future conduct of the action within 21 days of the expiry of the period of notice referred to in paragraph (3).

(5) On the hearing of the summons for directions the Court shall give such directions as may be appropriate for the future conduct of the action including, but not limited to, the disclosure of medical reports and the place and date of the hearing of the application for further damages.

(6) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the order for the award of provisional damages.

(7) Part 8 (interim payments) shall, with the necessary modifications, apply to an application made under this Rule.

(8) The Court may include in an award of further damages simple interest at such rate as it thinks fit on all or any part thereof for all or any part of the period between the date of notification of the plaintiff's intention to apply for further damages and the date of the award.

PART 9A[80]

HUMAN RIGHTS (JERSEY) LAW 2000

9A/1 Interpretation and application

(1) In this Part –

"Convention right" has the same meaning as in the Law;

"declaration of incompatibility" means a declaration of incompatibility under Article 5 of the Law;

"Law" means the Human Rights (Jersey) Law 2000;

"pleading" means –

(a) an order of justice, a notice, representation, petition, application, summons or other such process; or

(b) an answer or other document lodged or served by a party as a cross-claim or in reply to a pleading mentioned in sub-paragraph (a) except an acknowledgement of service in a matrimonial cause.

(2) This Part applies to proceedings in any division of the Court whether original or appellate.

9A/2 Content of pleadings

(1) A party who seeks to rely on any provision of or right arising under the Law or seeks a remedy available under the Law must state that fact in that party's pleading and in that pleading must specify –

(a) precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;

(b) the relief sought;

(c) whether the relief sought includes –

(i) a declaration of incompatibility, or

(ii) damages in respect of a judicial act to which Article 10(3) of the Law applies;

(d) if the relief sought includes a declaration of incompatibility, details of the legislative provision alleged to be incompatible and the grounds on which it is alleged to be incompatible;

(e) if the proceedings are brought following a finding by another court or tribunal that a public authority has acted in a way which is made unlawful by Article 7(1) of the Law, details of that finding; and

(f) if the proceedings relate to a judicial act which is alleged to have infringed a Convention right of a party as provided by Article 10 of the Law, details of the judicial act complained of and of the court or tribunal which is alleged to have performed that act.

(2) A party who seeks to amend a pleading to include the matters referred to in paragraph (1) must, unless the Court orders otherwise, do so as soon as possible and in any event not less than 28 days before the hearing.

9A/3 Notice and directions

(1) The Court shall not make a declaration of incompatibility unless 21 days' notice, or such other period of notice as the Court directs, has been given to the Attorney General.

(2) When notice has been given to the Attorney General, the Attorney General or other person permitted by the Law, shall be joined as a party on giving notice to the Court.

(3) If a party has included in a pleading –

(a) a claim for a declaration of incompatibility; or

(b) an issue for the Court to decide which may lead to the Court considering making a declaration of incompatibility,

the Court may at any time consider whether notice should be given to the Attorney General and give directions for the content and service of the notice.

(4) If a claim is made under the Law in respect of a judicial act, notice must be given to the Attorney General and, if the Attorney General has not, within 21 days or such other period as the Court directs after the notice is served, applied to be joined as a party, the Court shall join the Attorney General as a party.

(5) In the case of an appeal for which leave to appeal is required, the Court shall, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (3) when deciding whether to give leave.

(6) If paragraph (5) does not apply and a hearing for directions would, but for this Rule, be held, the Court must, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (3) at the hearing for directions.

(7) If neither paragraph (5) nor (6) applies, the Court must consider the issues and give the directions referred to in paragraph (3) when it considers it appropriate to do so, and may fix a hearing for this purpose.

(8) If a party amends a pleading to include a claim for a declaration of incompatibility, the Court must consider whether notice should be given to the Attorney General and give directions for the content and service of the notice.

(9) The notice given under paragraph (1) must be in the form directed by the Court and, unless the Court orders otherwise, must be accompanied by –

(a) the direction given by the Court; and

(b) the pleadings in the proceedings.

(10) Copies of the notice given under paragraph (1) must be served on all the parties.

(11) Unless the Court orders otherwise, the Attorney General must, if he or she wishes to be joined as a party, give to the Court and every other party notice of that intention and, if the Attorney General has nominated a person to be joined as a party, the notice must be accompanied by the written nomination.

9A/4 Evidence

(1) This Rule applies when a claim is heard by the Court which –

(a) is for a remedy under Article 8 of the Law in respect of a judicial act which is alleged to have infringed the claimant's Article 5 Convention rights; and

(b) is based on a finding by a court or tribunal that the claimant's Convention rights have been infringed.

(2) The Court –

(a) may proceed on the basis of the finding of that court or tribunal that there has been an infringement but it is not required to do so; and

(b) may reach its own conclusion in the light of that finding and of the evidence heard by that court or tribunal.

9A/5 Institution of proceedings: Taxation (Implementation) (Jersey) Law 2004[81]

(1) This Rule applies to proceedings brought under Article 8(1)(a) of the Law in which an injunction is sought to restrain the transmission of tax information obtained by the Jersey competent authority pursuant to a requirement made of a taxpayer or a third party under Regulations made under Article 2 of the Taxation (Implementation) (Jersey) Law 2004.

(2) Notwithstanding the provisions of Article 8(3) of the Law, proceedings to which this Rule applies must be instituted –

(a) where the person bringing the proceedings is the person subject to the requirement to provide the tax information, no later than 14 days after the requirement was made;

(b) where the person bringing the proceedings has been given notice by the Jersey competent authority of the requirement made of another person to provide the tax information, no later than 14 days after that notice was given.

(3) In this Rule "Jersey competent authority" means the competent authority for the time being in relation to Jersey for the purposes of Regulations made under Article 2 of the Taxation (Implementation) (Jersey) Law 2004, however described.

PART 10

PROCEEDINGS AT THE TRIAL

10/1 Opening speeches[82]

At the hearing of any proceedings where any party intends to adduce evidence, that party or, if represented by an advocate, that party's advocate shall, before adducing such evidence, be entitled to open that party's case to the Court.

10/2 [83]

10/3 Presence of parties not required if represented by advocate[84]

In any proceedings to which these Rules apply, the presence of a party shall not be required so long as that party appears through the intermediary of an advocate.

10/4 Clameur de Haro

(1) The fines imposed by the Court in matters of *Clameur de Haro* or of contempt thereof shall be in the discretion of the Court.

(2) Actions resulting from the raising of the *Clameur de Haro* shall be instituted in conjunction with the Attorney General and shall be dealt with as *causes de brièveté*.

10/5 Power to adjourn trial or hearing

The Court may, if it thinks it expedient in the interests of justice, postpone or adjourn a trial or hearing of any proceedings for such time and on such terms, if any, as it thinks fit.

10/6 Non-compliance with Rules of Court or rule of practice

Subject to Rule 10/7, non-compliance with Rules of Court, or with any rule of practice for the time being in force, shall not render any proceeding void unless the Court so directs, but the proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, in such manner and on such terms as the Court thinks fit.

10/7 Non-compliance as to mode of beginning proceedings

(1) No proceedings shall be void, or be rendered void or wholly set aside under Rule 10/6 or otherwise, by reason only of the fact that the proceedings were begun by a means other than that required in the case of the proceedings in question.

(2) If proceedings are begun as mentioned in paragraph (1) then, subject to that paragraph, the Court may make any order which it has power to make under Rule 10/6, and paragraph (1) shall not be taken as prejudicing the power of the Court to make any order it thinks fit with respect to the costs of those proceedings.

10/8 Power to award costs against a plaintiff who fails to appear

If the plaintiff in an action fails to appear at any stage of the proceedings, the Court may order the plaintiff to pay to a defendant who appears such sum by way of costs as it thinks just and reasonable.

PART 11

PROCEEDINGS ETC. SUBSEQUENT TO TRIAL

11/1 *Vicomte chargé d'écrire*[85]

An application by a creditor under Article 2 or 3 of the Loi (1832) sur les décrets must –

(a) be made by representation; and

(b) be accompanied by an affidavit which –

(i) exhibits the act or judgment relating to the debt, and

(ii) verifies the amount of the debt still outstanding.

11/2 Power to set aside judgments by default

(1) Any judgment by default may be set aside by the Court on such terms as to costs or otherwise as it thinks fit.

(2) An application under paragraph (1) must be made by summons supported by an affidavit stating the circumstances under which the default has arisen.

(3) "Judgment by default" does not include any judgment to which the defendant has given notice in writing to the Court that the defendant submits.

11/3 Authority to satisfy judgment debts by distraint

(1) When the Court grants a judgment condemning a defendant to pay a sum of money, the judgment shall be taken to authorize the plaintiff to cause the moveables of the defendant to be distrained on unless the Court directs otherwise.

(2) Moveables distrained on shall be applied towards the satisfaction of the judgment debt and costs, or sold (either at a public auction or at a valuation) and the proceeds of sale so applied without the plaintiff's being required to obtain any further judgment.

11/4 Sale of moveables on which distraint has been made

(1) No sale of moveables on which a distraint has been made may take place without the leave of the Court unless the Viscount is satisfied that the defendant is aware of the making of the distraint.

(2) No sale of moveables on which a distraint has been made by virtue of an authorization granted under Rule 11/3 may without the leave of the Court take place, except at the request of the defendant, before the expiration of 15 days after the day on which the distraint is made.

(3) No sale of moveables on which a distraint has been made which requires confirmation by the Court may without the leave of the Court take place, except at the request of the defendant, before the expiration of 15 days after the date of the act of the Court confirming the distraint.

(4) A notice that moveables on which a distraint has been made are to be sold must be published in the Jersey Gazette not less than 10 days before the date fixed for the sale.

(5) A notice indicating the place and date of such sale, together with all particulars relating to the sale, must be published in the Jersey Gazette not less than 2 days before such date.

(6) The name and address of the defendant must be mentioned in both such notices.

11/5 Fines and forfeitures

(1) It shall be the duty of the Viscount to collect all fines and other penalties imposed by the Court and to dispose of all forfeitures ordered by the Court.

(2) An order imposing a fine or other penalty shall be taken to authorize the Viscount to distrain on the moveables of the offender and to apply them, or the proceeds of sale thereof (the sale being effected either at a public auction or at a valuation), towards the satisfaction of the fine or other penalty and of the costs incurred by the Viscount.

PART 12[86]

COSTS

12/1 Interpretation

In this Part, unless the context otherwise requires –

"indemnity basis" means the basis of taxation of costs described in Rule 12/5;

"litigant in person" includes a body corporate not represented by an advocate;

"paying party" means a party against whom the Court has made an order for costs;

"receiving party" means a party in favour of whom the Court has made an order for costs;

"standard basis" means the basis of taxation of costs described in Rule 12/4.[87]

12/2 Amount of costs recoverable

(1) Subject to the provisions of this Part, the amount of costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis unless it appears to the Court appropriate to order costs to be taxed on the indemnity basis.

(2) When an action has been commenced by summons for the recovery of a debt or liquidated sum and judgment is obtained in default or without opposition, without any order for substituted service or service out of the jurisdiction having been made or without the action having been placed on the pending list, the plaintiff in whose favour an order for costs has been made shall, unless the Court otherwise orders, recover such costs on the basis of a scale of fixed costs issued from time to time by the Greffier pursuant to Rule 12/14.

(3) Where the Court has ordered a person to pay any costs of a party, it may at any time order that person to pay such amount as it sees fit as an interim payment on account of costs before the costs are assessed.[88]

(4) An amount ordered to be paid on account under paragraph (3) is recoverable as a judgment debt and, accordingly, Rule 11/3 shall apply.[89]

12/3 Taxation by the Greffier

(1) The Greffier shall have the power to tax –

(a) the costs of or arising out of any cause or matter in the Court; and

(b) any other costs the taxation of which is directed by order of the Court.

(1A) The power to tax costs under paragraph (1) includes the power to tax by way of summary assessment the costs of or arising out of any interlocutory application.[90]

(2) An order for costs shall be liable to taxation and payment forthwith unless it appears to the Court that some other order should be made.

(3) Without prejudice to Rules 12/2(2) and 12/6, if the Court makes an order for costs without indicating the basis of taxation, the costs must be taxed on the standard basis.

(4) When costs are liable under paragraph (2) to payment forthwith and have been taxed by the Greffier, the amount thereof is recoverable as a judgment debt and, accordingly, Rule 11/3 shall apply.[91]

(5) Costs shall not be taken to have been taxed for the purposes of paragraph (4) until any appeal against the taxation has been finally determined or until the time has expired within which such an appeal may be lodged and none has been.[92]

12/4 The standard basis

On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any doubts which the Greffier may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party.

12/5 The indemnity basis

On a taxation of costs on the indemnity basis all costs shall be allowed except insofar as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the Greffier may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party.

12/6 Litigants in person

(1) Subject to this Rule, on a taxation of the costs of a litigant in person, there shall be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by an advocate on the litigant's behalf.

(2) The amount of costs allowed where a litigant in person does any item of work for his or her case or part thereof shall be –

(a) if the work thereby causes the litigant pecuniary loss, either –

(i) the amount that the litigant can prove he or she has lost for time reasonably spent on doing the work, or

(ii) up to two-thirds of the sum which in the opinion of the Greffier would have been allowed in respect of that item if the litigant had been represented by an advocate,

whichever is the lower; or

(b) if the work does not cause the litigant pecuniary loss, at such rate per hour as determined by the Greffier in respect of the time reasonably spent by the litigant (or, in the case of a body corporate, a director of the litigant) on the work within a range or band specified in practice directions issued in accordance with Rule 12/14.[93]

(3) A body corporate that has lodged a declaration in accordance with Rule 4/2A(2) or a requirement of the Court under that Rule may not claim as a pecuniary loss under paragraph (2) any payment to the authorized director for appearing and representing the body corporate pursuant to the declaration.[94]

(4) Disbursements shall be allowed to the extent that they are actually and reasonably incurred and are reasonable in amount.

(5) A litigant who is allowed costs in respect of attending Court to conduct his or her own case shall not be entitled to a witness allowance in addition.

12/7 Lawyers outside the jurisdiction

The cost of advice obtained from or work done by lawyers outside the jurisdiction shall be allowable on taxation to the extent that –

(a) where that advice or work done could, in the context of those proceedings, reasonably have been obtained from or done by a Jersey lawyer, the costs allowable on taxation shall be no greater than those allowable on taxation in respect of a Jersey lawyer's fees; and

(b) where that advice or work done could not, in the context of those proceedings, reasonably have been obtained from or done by a Jersey lawyer, the costs allowable on taxation shall be no greater than those which are reasonable in all the circumstances of the case.

12/8 Costs of the taxation proceedings

(1) Subject to any order made by the Court, the receiving party shall be entitled to his or her costs of the taxation proceedings.

(2) If it appears to the Greffier that, in all the circumstances of the taxation proceedings, some other order should be made as to the whole or any part of the costs of those proceedings, the Greffier shall have in relation to the costs of those proceedings the same powers as the Court has in relation to costs.

12/9 Offer to pay costs

(1) The paying party may make a written offer to pay a specific sum in satisfaction of any order for costs which offer is expressed to be "without prejudice save as to the costs of taxation" at any time, and where such an offer is made, the fact that it has been made shall not be communicated to the Greffier until the question of the costs of the taxation proceedings falls to be decided.

(2) The Greffier may take into account any offer made under paragraph (1) which has been brought to the Greffier's attention.

12/10 Commencement of proceedings

(1) The receiving party must commence proceedings for the taxation of his or her costs –

(a) if the order is made in relation to an interlocutory application, within 2 months of the date of that order; or

(b) if the order is made in relation to the determination of the main cause or action, within 3 months of the date of that order,

and if the receiving party fails to commence proceedings for taxation within those time limits, the paying party may with the leave of the Greffier commence taxation proceedings on such terms as the Greffier shall deem appropriate.

(2) Leave under paragraph (1) must be applied for by letter to the Greffier which must be copied to every other party entitled to be heard on taxation; and if leave is granted

to the paying party, that party shall be entitled to recover the costs of commencing the taxation proceedings.

(3) Proceedings for the taxation of costs shall be commenced by producing to the Greffier –

(a) a copy of the act of Court with the relevant order in respect of costs identified thereon;

(b) if there is more than one bill of costs to be submitted, a statement of the name of every party entitled to submit a bill of costs in the taxation proceedings;

(c) a statement of the name of every party entitled to be heard in the taxation proceedings and each party's address for service;

(d) a bill of costs in such form as shall be specified by practice direction issued from time to time pursuant to Rule 12/14 unless in the circumstances the Greffier is prepared to order that no bill of costs be submitted at that stage in the taxation proceedings; and

(e) all supporting material necessary to vouch the items on the bill of costs unless and to the extent that the Greffier otherwise orders.

(4) If the Greffier grants leave to the paying party to commence taxation proceedings, the receiving party may nevertheless commence proceedings for the taxation of the costs in respect of which leave has been granted to the paying party and thereupon the proceedings, if any, commenced by the paying party shall be stayed pending the determination of issues as to the costs of taxation proceedings in relation to the relevant order for costs.

(5) If the receiving party does not commence taxation proceedings pursuant to paragraph (4) within 21 days of receipt of notice that taxation proceedings have begun, the paying party may apply to the Greffier by summons for directions.

12/11 Subsequent procedure

(1) A receiving party who has begun proceedings for taxation must, within 7 days thereof, give notice to the paying party that taxation proceedings have begun requiring the paying party within 28 days of receipt of the notice to notify the Greffier and the receiving party in writing –

(a) that the paying party wishes to respond to the bill of costs by written objections in which case the paying party must set these out in full within the said period whilst reserving the right to be heard at a taxation hearing;

(b) that the paying party has no objections to the bill of costs; or

(c) that the receiving and paying parties have agreed to a provisional taxation in accordance with Rule 12/13.

(2) If the paying party fails to notify the Greffier and the receiving party in accordance with paragraph (1), the paying party shall be deemed to have no objections to the bill of costs.

(3) If the paying party submits written objections pursuant to paragraph (1)(a) then, where the receiving party wishes to file a reply or the Greffier so orders, the receiving party must file the reply with the Greffier and send a copy to the paying party within 21 days receipt of the said written objections or order as the case may be.

(4) If, at the expiration of 14 days from the date on which either a reply is filed or the period for filing a reply has expired, whichever is the sooner, neither party has notified the Greffier in writing that –

(a) he or she wishes to be heard at a taxation hearing; and

(b) a provisional taxation in accordance with Rule 12/13 has been agreed,

the Greffier shall proceed to tax the bill of costs.

12/12 Date for taxation hearing

The date for a taxation hearing shall be fixed by the Greffier in consultation with the receiving and paying parties.

12/13 Provisional taxation

When taxation proceedings have been commenced in accordance with Rule 12/10(3), if –

(a) the paying party fails to notify the Greffier and the receiving party in accordance with Rule 12/11(1) and the Greffier considers it reasonable to proceed by way of provisional taxation; or

(b) the Greffier has been notified in accordance with paragraph (1)(c) or paragraph (4)(b) of Rule 12/11 that the parties have agreed to proceed by way of provisional taxation,

a provisional taxation of the bill of costs filed in those proceedings shall be undertaken and completed; and the Greffier shall send to the receiving party and to the paying party notice specifying the amount which the Greffier proposes to allow in respect of the bill and requiring the said parties to inform the Greffier within 14 days after receipt of the notice if they wish to raise written objections to the provisional taxation and, if either of them does, to set these out in full within the said period; and after the expiry of the said period of 14 days the Greffier shall proceed to finalise the taxation of the provisional bill of costs on the basis of any such written objections.

12/13A Taxation by way of summary assessment[95]

The mode of proceeding in relation to taxation by way of a summary assessment of costs under Rule 12/3(1A) shall be specified in practice directions issued in accordance with Rule 12/14.

12/14 Practice directions[96]

The Greffier shall, subject to the approval of the Bailiff, issue practice directions from time to time in relation to taxation practice and rates and scales of recoverable costs for the purposes of this Part.

PART 12A[97]

ENFORCEMENT OF COSTS ORDERS IN INJURIES CASES

12A/1 Scope and Interpretation[98]

(1) This Part applies to proceedings which include a claim for damages –

(a) for personal injuries;

(b) under the Fatal Accidents (Jersey) Law 1962; or

(c) which arises out of death or personal injury and survives for the benefit of an estate by virtue of Article 1(1) of the Customary Law Amendment (Jersey) Law 1948,

but does not apply to applications pursuant to Article 2 of the Law Reform (Disclosure and Conduct before Action) (Jersey) Law 1999.

(2) In this Part, "plaintiff" means a person bringing a claim to which this Part applies or an estate on behalf of which such a claim is brought, and includes a person making a counterclaim or an additional claim.

12A/2 Costs orders against certain plaintiffs – limit on enforceability[99]

(1) Subject to Rule 12A/3, orders for costs made against a plaintiff –

(a) may be enforced without the permission of the Court but only to the extent that the aggregate amount in money terms of such orders does not exceed the aggregate amount in money terms of any orders for damages and interest made in favour of the plaintiff; and

(b) may only be enforced after the proceedings have been concluded and the costs have been assessed or agreed.

(2) An order for costs which is enforced only to the extent permitted by paragraph (1)(a) shall not be treated as an unsatisfied or outstanding judgment.

12A/3 Exceptions[100]

(1) Orders for costs made against the plaintiff may be enforced to the full extent of such orders without the permission of the Court where the proceedings have been struck out on the grounds that –

(a) the plaintiff has disclosed no reasonable grounds for bringing the proceedings;

(b) the proceedings are an abuse of the Court's process; or

(c) the conduct of –

(i) the plaintiff, or

(ii) a person acting on the plaintiff's behalf and with the plaintiff's knowledge of such conduct,

is likely to obstruct the just disposal of the proceedings.

(2) Orders for costs made against the plaintiff may be enforced to the full extent of such orders with the permission of the Court where the claim is found on the balance of probabilities to be fundamentally dishonest.

(3) Orders for costs made against the plaintiff may be enforced up to the full extent of such orders with the permission of the Court, and to the extent that it considers just, where –

(a) the proceedings include a claim which is made for the financial benefit of a person other than the plaintiff or a dependant (other than a claim in respect of the gratuitous provision of care, earnings paid by an employer or medical expenses); or

(b) a claim is made for the benefit of the plaintiff other than a claim to which this Part applies.

(4) Where paragraph (3)(a) applies, the Court may, subject to paragraph (5), make an order for costs against a person, other than the plaintiff, for whose financial benefit the whole or part of the claim was made.

(5) Where the Court is considering whether to make an order against a person as described in paragraph (4), that person must –

(a) be added as a party to the proceedings for the purposes of costs only; and

(b) be given a reasonable opportunity to attend a hearing at which the Court will consider the matter further.

(6) For the purpose of paragraph (3)(a) "dependant" means –

(a) the wife or husband or former wife or husband of the deceased;

(b) the civil partner or former civil partner of the deceased;

(c) any person who –

(i) was living with the deceased in the same household immediately before the date of the death, and

(ii) had been living with the deceased in the same household for at least 2 years before that date, and

(iii) was living during the whole of that period as the husband or wife or civil partner of the deceased;

(d) any parent or other ascendant of the deceased;

(e) any person who was treated by the deceased as his or her parent;

(f) any child or other descendant of the deceased;

(g) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;

(h) any person (not being a child of the deceased) who, in the case of any civil partnership in which the deceased was at any time a civil partner, was treated by the deceased as a child of the family in relation to that civil partnership;

(i) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.

PART 13

DIVISION OF ESTATES, AND DOWER

13/1 Division of moveable estate

(1) Actions with regard to the division of moveable estate on an intestacy must be instituted against the administrator of such estate and the division thereof must proceed on the basis of the inventory and accounts prepared by the administrator in pursuance of the Probate (Jersey) Law 1998.

(2) If appointed *arbitre*, the Greffier shall give directions to effect the division of the estate and, if it appears that any question raised by the parties should be determined before the division of the estate can proceed, shall refer such question to the Court.

(3) When the division of the estate has been completed, the Greffier shall prepare a record of the proceedings and either party may action the opposite party to witness confirmation by the Court of such record and the making of an order that it be registered in the Public Registry.

(4) Subject to paragraph (3), if a party actioned fails to appear, the Greffier may allot to such party that part of the moveable estate to which that party appears to be entitled.

13/2 Actions for dower

(1) An action against the legatees for dower must be instituted by summons and, unless the Court otherwise directs, the Greffier shall be appointed *arbitre*.

(2) The legatees must produce to the Greffier an *entier* of the immoveable estate in triplicate.

(3) The claimant must produce to the Greffier a statement that divides the immoveable estate into three parts.[101]

(4) The legatees must choose 2 parts and the claimant shall take his or her *droit usufruitier* in the remaining part.[102]

(5) The right to dower dates from the day on which the summons in the action is served.

(6) The procedural steps in Rule 13/1(2)-(4) shall apply, with the necessary modifications, to an action for dower as they apply to an action with regard to the division of movable estate on intestacy.

PART 14

VUES

14/1 Vue de Vicomte

(1) Upon having fixed a day for a *Vue*, the Viscount shall give at least 14 clear days' notice thereof to the parties to the action.

(2) Written pleadings may be filed with the Viscount and in such case the Viscount shall give such directions as may be appropriate for this purpose, and the Viscount shall have the same powers as the Greffier under Rules 6/11 and 6/26.

(3) A party filing a pleading must, within 24 hours after it is filed, deliver a copy to the other parties to the action or their advocates or solicitors.

(4) The Viscount shall select and summon a panel of 5 experts for the purposes of the *Vue*.[103]

(5) Experts related to each other in a degree closer than, and including, uncle and nephew, whether by blood or marriage, cannot serve on the same panel.

(6) Each of the parties may challenge any expert for cause.[104]

(7) The number of experts required for a *Vue de Vicomte* is 3.[105]

(8) If, for any reason, the number of experts summoned by the Viscount proves insufficient, the Viscount may select additional experts *de circumstantibus*.

(9) The experts shall be sworn by the Viscount, the pleadings shall be read, witnesses may be heard and the parties shall be heard.

(10) The Viscount shall explain to the experts their duty and they shall execute such duty accordingly.

(11) When the experts have arrived at a decision, they shall communicate it to the Viscount and, if they are divided in opinion, the decision shall be that of the majority.

(12) The Viscount shall prepare a record of the proceedings (which shall incorporate any pleadings filed) and either party may action the other party before the Court to witness the confirmation of such record and, if need be, the making of an order that it be registered in the Public Registry.

(13) A party who wishes to challenge the decision made at a *Vue de Vicomte* must do so in Court when actioned to witness the confirmation of the Viscount's record and a party who does so shall be entitled to have the proceedings at the *Vue de Vicomte* reviewed at a *Vue de Justice*.

14/2 Vue de Justice

(1) A *Vue de Justice* shall be held before the Bailiff.

(2) The number of experts required for a *Vue de Justice* is 5, none of whom have participated in the *Vue de Vicomte*.[106]

(3) [107]

(4) When the Bailiff has fixed a date for the *Vue de Justice*, the Viscount must select and summon 7 (or more, if need be) experts for the date fixed, and must give notice of that date to the parties to the proceedings.[108]

(5) Paragraphs (5), (6) and (8) of Rule 14/1 shall apply when the experts summoned are empanelled.[109]

(6) Paragraphs (9), (10), (11) and (12) of Rule 14/1 shall apply to the proceedings, with the substitution of references to the Greffier for references to the Viscount in paragraphs (9) and (12) and with the substitution of references to the Bailiff for references to the Viscount in paragraphs (10) and (11).

(7) The decision made at a *Vue de Justice* is final and without appeal.[110]

14/3 Costs at Vues

Part 1 of the Civil Proceedings (Jersey) Law 1956 shall apply to the costs of and incidental to a *Vue de Vicomte* or a *Vue de Justice* as if they were proceedings in the Royal Court.

PART 14A[111]

CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016

14A/1 Application of Part 14A and overriding objective

(1) This Part applies to proceedings in which the Court exercises jurisdiction under Part 2 or Part 4 of the 2016 Law.

(2) The overriding objective of the Court in proceedings to which this Part applies includes, for the purposes of Rule 1/6(2), ensuring that P's interests and position are properly considered.

14A/2 Interpretation

In this Part unless the context otherwise requires –

"2016 Law" means the Capacity and Self-Determination (Jersey) Law 2016;

"application" (except in Rule 14A/13(2)) means an application under the 2016 Law for the Court to make a declaration, order or appointment which the Court is empowered to make under Part 4 of the 2016 Law.

14A/3 Form of application

Unless otherwise directed by the Court, an application must be made in the form and in the manner specified in practice directions.

14A/4 Dealing with applications

(1) Where permission to make an application is required, the Court may grant or refuse permission without a hearing, or direct a hearing to consider whether permission should be granted.

(2) The Court may deal with an application or any part of an application at a hearing or without a hearing.

(3) In considering whether it is necessary to hold a hearing, the Court shall, as appropriate, have regard to –

(a) the nature of the proceedings and the orders sought;

(b) whether the application is opposed by a person who appears to the Court to have an interest in matters relating to P's best interests;

(c) whether the application involves a substantial dispute of fact;

(d) the complexity of the facts or the law (or both);

(e) any wider public interest in the proceedings;

(f) the circumstances of P and of any party, in particular as to whether their rights would be adequately protected if a hearing were not held;

(g) whether the parties agree that the Court should dispose of the application without a hearing; and

(h) any other matter specified in practice directions.

(4) Where the Court considers that a hearing is necessary it shall give such directions as to the hearing of the application as it considers appropriate in accordance with this Part.

(5) Practice directions are to specify –

(a) which persons (other than the person making the application) are to be respondents to, or given notice of, the application; and

(b) when service upon such persons is to be by personal service or ordinary service.

14A/5 Directions

(1) The Court may in relation to an application –

(a) give directions in writing; or

(b) set a date for a directions hearing; and

(c) do anything else specified in practice directions.

(2) When giving directions, the Court may, without prejudice to its general powers to give directions, require a report under Article 29 of the 2016 Law and give directions as to any such report.

(3) The Court may give directions at any time –

(a) of its own motion; or

(b) on the application of a party.

14A/6 Documents to be lodged with application

An application must be accompanied by –

(a) any evidence on which the applicant intends to rely;

(b) an assessment of capacity form where this is required by practice directions;

(c) any other documents referred to in the application form; and

(d) such other information and material as may be specified in practice directions.

14A/7 Verifying documents by statement on oath

(1) A requirement may be made by the Court, or by practice directions, that an application and documents related to an application be verified by statement on oath.

(2) If an application is not verified by statement on oath in accordance with a requirement referred to in paragraph (1), the applicant may not rely upon the relevant document as evidence of any of the matters set out in it unless the Court permits.

(3) If a witness statement is not verified by statement on oath, it shall not be admissible in evidence unless the Court permits.

14A/8 Participation of P

(1) The Court must in each case, of its own motion or on the application of any person, consider whether it should make one or more of the directions in paragraph (2), having regard to –

(a) the nature and extent of the information before the Court;

(b) the issues raised in the case;

(c) whether a matter is contentious; and

(d) whether P has been notified in accordance with Rule 14A/9 and what, if anything, P has said or done in response to such notification.

(2) The directions are that –

(a) P should be joined as a party;

(b) P's participation should be secured by the appointment of a legal representative to represent P in the proceedings and to discharge such other functions as the Court may direct;

(c) P's participation should be secured by the appointment of a representative whose function shall be to provide the Court with information as to the matters set out in Article 6(3) of the 2016 Law and to discharge such other functions as the Court may direct;

(d) P should have the opportunity to address (directly or indirectly) the Court and, if so directed, the circumstances in which that should occur;

(e) P's interests and position can properly be secured without any direction under sub-paragraphs (a) to (d) being made or by the making of an alternative direction meeting the overriding objective.

(3) Any appointment or directions made pursuant to paragraph (2)(b) to (e) may be made for such period or periods as the Court thinks fit.

(4) Unless P has capacity to conduct the proceedings, an order joining P as a party shall only take effect –

(a) on the appointment of a guardian ad litem on P's behalf; or

(b) if the Court so directs, on or after the appointment of a legal representative.

(5) If the Court has directed that P should be joined as a party but such joinder does not occur because no guardian ad litem or legal representative is appointed, the Court shall record in a judgment or order –

(a) the fact that no such appointment was made; and

(b) the reasons given for that appointment not being made.

14A/9 Notifying P

(1) Unless the Court gives a direction under paragraph (2), P is to be given notice of a matter or document, or to be provided with a document, either under this Rule or in accordance with a direction or order of the Court.

(2) In any case the Court may, either of its own motion or on application, direct that P must not be notified of any matter or document, or provided with any document, whether in accordance with this Rule or at all.

(3) Subject to paragraph (4) where P is a child –

(a) if the person to be notified under this Rule is a person with parental responsibility for the child within the meaning of the Children (Jersey) Law 2002 or, if there is no such person, a person with whom the child resides or in whose care the child is;

(b) all references to "P" in this Rule are to be read as referring to the person notified in accordance with sub-paragraph (a).

(4) Paragraph (3) does not apply, and there is no requirement to notify P, where the person referred to in paragraph (3)(a) has already been served or notified of the relevant matter in accordance with another Rule or practice direction.

(5) Where P is to be notified under this Rule, notification must be effected as soon as practicable in the manner specified by practice directions or in such other manner as the Court may direct.

(6) P (whether or not a party) must be notified –

(a) where a direction has been made under Rule 14A/8;

(b) of the appointment of a guardian ad litem or legal or other representative on P's behalf.

(7) P (where P is not a party) must be notified –

(a) that an application has been made to the Court;

(b) that an application has been withdrawn; and

(c) of the date on which a hearing is to be held in relation to the matter, where that hearing is for disposing of the application.

(8) Practice directions under paragraph (5) must provide for explaining to P –

(a) who the applicant is;

(b) the question raised by the application;

(c) what will happen if the Court grants the application;

(d) where notification contains a proposal for the appointment of a person to make decisions on P's behalf in relation to the matter to which the application relates, details of who that person is;

(e) where an application has been withdrawn –

(i) that the application has been withdrawn; and

(ii) the consequences of that withdrawal,

and for informing P that P may seek advice and assistance in relation to any matter of which P is notified.

(9) P must be notified of any decision of the Court relating to P except for a case management decision.

(10) P must be provided with a copy of any order relating to a decision of which P must be notified in accordance with paragraph (9).

(11) Where the Court directs that P is to be notified of any other matter, the person effecting notification must –

(a) explain to P such matters as may be directed by the Court; and

(b) inform P that P may seek advice and assistance in relation to any matter of which P is notified.

(12) Practice directions under this Rule may include provision for lodging a certificate of notification which certifies –

(a) the date on which, and how, P was notified; and

(b) that P was notified in accordance with this Rule.

(13) A person directed by the Court to effect notification may apply to the Court seeking an order –

(a) dispensing with the requirement to comply with the provisions in this Rule; or

(b) requiring some other person to comply with the provisions in this Rule.

14A/10 Hearings in private

(1) Unless otherwise ordered by the Court, a hearing is to be held in private.

(2) A private hearing is a hearing which only the following persons are entitled to attend –

(a) the parties;

(b) P (whether or not a party);

(c) any person acting in the proceedings as a guardian ad litem or a representative appointed to secure P's participation;

(d) any legal representative of any of the parties or of P (whether or not a party); and

(e) any officer of the Court.

(3) In relation to a private hearing, the Court may make an order –

(a) authorising any person, or class of persons, to attend the hearing or a part of it; or

(b) excluding any person, or class of persons, from attending the hearing or a part of it.

14A/11 Hearings in public

Practice directions may specify the circumstances in which the Court will make an order for all or part of a hearing to be held in public, including circumstances in which an order may –

(a) exclude any person, or class of persons, from attending a public hearing or a part of it;

(b) impose restrictions on the publication of the identity of –

(i) any party;

(ii) P (whether or not a party);

(iii) any witness; or

(iv) any other person;

(c) prohibit the publication of any information that may lead to any such person being identified;

(d) prohibit the further publication of any information relating to the proceedings from such date as the Court may specify; or

(e) impose other restrictions on the publication of information relating to the proceedings.

14A/12 Costs

(1) Where the proceedings concern P's property and affairs the general rule is that the costs of the proceedings, or of that part of the proceedings that concerns P's property and affairs, shall be paid by P or charged to P's estate.

(2) Where the proceedings concern P's personal welfare the general rule is that there will be no order as to the costs of the proceedings, or of that part of the proceedings that concerns P's personal welfare.

(3) Where the proceedings concern both property and affairs and personal welfare the Court, in so far as practicable, shall apportion the costs as between the respective issues.

(4) The Court may depart from paragraphs (1) to (3) if the circumstances so justify, and in deciding whether departure is justified the Court will have regard to all the circumstances including –

(a) the conduct of the parties;

(b) whether a party has succeeded on part of that party's case, even if not wholly successful; and

(c) the role of any public body involved in the proceedings.

14A/13 Lasting power of attorney: objection to registration

(1) This Rule applies where –

(a) notice of objection to registration of an instrument has been given in accordance with paragraph 5(1) of Part 2 of the Schedule to the 2016 Law; and

(b) the Judicial Greffe is satisfied that the ground for making the objection is established.

(2) Rule 20/2 shall apply to an application to the Court under paragraph 5(3) of Part 2 of the Schedule to the 2016 Law as it applies to an appeal from an order or decision of the Greffier.

14A/14 Delegate to take oath

A person who is appointed as a delegate shall take oath in the form set out in Schedule 3.

PART 14B[112]

MENTAL HEALTH (JERSEY) LAW 2016

14B/1 Application of Part 14B

This Part applies to proceedings in which the Court exercises jurisdiction under Part 2 of the 2016 Law.

14B/2 Interpretation

In this Part unless the context otherwise requires –

"2016 Law" means the Mental Health (Jersey) Law 2016;

"application" means an application under –

(a) Article 11(1) of the 2016 Law (appointment of nearest person);

(b) Article 12(1) of the 2016 Law (discharge of an appointment of nearest person);

(c) Article 12(2) of the 2016 Law (variation of orders).

14B/3 Form of application

Unless otherwise directed by the Court, an application must be made in the form and in the manner specified in practice directions.

14B/4 Dealing with applications

(1) The Court may deal with an application or any part of an application at a hearing or without a hearing (and practice directions under paragraph (3) of Rule 14A/4 may be made for the purpose of this paragraph as they may be made for the purposes of that paragraph).

(2) Where the Court considers that a hearing is necessary it shall give such directions as to the hearing of the application as it considers appropriate in accordance with this Part.

(3) Practice directions are to specify –

(a) which persons (other than the person making the application) are to be respondents to, or given notice of, the application; and

(b) when service upon such persons is to be by personal service or ordinary service.

14B/5 Directions

(1) The Court may in relation to an application –

(a) give directions in writing; or

(b) set a date for a directions hearing; and

(c) do anything else specified in practice directions.

(2) The Court may give directions at any time –

(a) of its own motion; or

(b) on the application of a party.

14B/6 Documents to be lodged with application

An application must be accompanied by such documents, information and material as may be specified in practice directions.

14B/7 Verifying documents on oath

A requirement may be made by the Court, or by practice directions, that an application and documents related to an application be verified by statement on oath.".

PART 15

APPEALS FROM ADMINISTRATIVE DECISIONS

15/1 Application and interpretation

(1) Except where provision is otherwise made, this Part applies to appeals to the Court from an administrative decision of a person, or body, in exercise of a right of appeal conferred by or under any enactment (including an Act of the Parliament of the United Kingdom or instrument thereunder extended by Order in Council to, or otherwise having effect in, Jersey).

(2) In this Part, unless the context otherwise requires –

"appeal" means an appeal to which this Part applies and "appellant" shall be construed accordingly;

"High Hedges Law appeal" means an appeal under Article 12 or 13 of the High Hedges Law and 'appellant' in relation to such an appeal shall be construed accordingly;

"High Hedges Law" means the High Hedges (Jersey) Law 2008;

"modified procedure" in relation to a High Hedges Law appeal, means the procedure set out in paragraphs (2), (3) and (4) of Rule 15/3F;

"ordinary procedure" in relation to a High Hedges Law appeal means the procedure set out in paragraphs (2), (3) and (4) of Rule 15/3;

"the respondent" means the person, or body, whose decision is appealed from.[113]

15/2 Notice of Appeal and fixing day for trial

(1) An appeal to the Court shall be brought by serving, through the intermediary of the Viscount, on the respondent a notice of appeal –

(a) in the case of an appeal other than a High Hedges Law appeal, in the form set out in Schedule 4;

(b)

(c) in the case of a High Hedges Law appeal, in the form set out in Schedule 4A,

and every such notice must specify the grounds of the appeal with sufficient particularity to make clear the nature of the appellant's case.[114]

(2) The appellant shall not, except with the leave of the Court, be entitled to rely on any ground of appeal unless it is specified in the notice of appeal.

(3) The appellant must –

(a) within 2 days after service of the notice of appeal furnish a copy of the notice to the Greffier together with a copy of the record of the Viscount certifying that the notice of appeal has been duly served;

(b) within 5 days after the service of the notice of appeal apply to the Bailiff's Secretary for a day to be fixed for the hearing of the appeal.

(4) If the appellant does not apply for a day to be fixed for the hearing of the appeal in accordance with paragraph (3)(b), the appeal shall be deemed to have been withdrawn.

(5) Except with the leave of the Bailiff, the day fixed for the hearing of the appeal shall be not more than 4 months from the date of service of the notice of appeal.

15/3 Documents for use of the Court

(1) Within 28 days after receiving notice of appeal, the respondent must lodge with the Greffier and serve on the appellant an affidavit setting out –

(a) a statement of the decision from which the appeal is brought; and

(b) the facts material to the decision and the reasons for it and exhibiting all documentary evidence relating thereto.

(1A) [115]

(1B) When paragraph (1) has been complied with in relation to a High Hedges Law appeal, Rule 15/3E shall apply to the remaining procedural steps in the appeal.[116]

(2) Within 21 days after service of the affidavit on the appellant in accordance with paragraph (1), the appellant must lodge with the Greffier and serve on the respondent an affidavit in response.

(3) The respondent may, within 14 days after service of the appellant's affidavit in accordance with paragraph (2), lodge with the Greffier and serve on the appellant an affidavit in reply thereto.

(4) Not less than 14 days before the date of the hearing of the appeal, the appellant and the respondent must each furnish to the Court (and serve upon one another) a written statement of the submissions that the appellant or the respondent, as the case may be, will make at the hearing concerning the issues in dispute between them.

15/3A [117]

15/3B [118]

15/3C [119]

15/3D [120]

15/3E High Hedges Law appeals[121]

(1) In this Rule –

(a) 'Article 12 appeal' means an appeal under Article 12 of the High Hedges Law;

(b) 'Article 13 appeal' means an appeal under Article 13 of the High Hedges Law;

(c) 'respondent's affidavit' means the affidavit filed by the respondent in accordance with Rule 15/3(1).

(2) The appellant shall, when the notice of appeal is served on the respondent in accordance with Rule 15/20), cause a copy of it to be served –

(a) in the case of an Article 12 appeal, on the owner or occupier of the neighbouring land;

(b) in the case of an Article 13 appeal, on the complainant.

(3) The respondent shall, when the respondent's affidavit is served on the appellant, cause a copy of it to be served on the owner or occupier, or on the complainant, as the case may be.

(4) Within 14 days of receiving the copy of the respondent's affidavit, the owner or occupier, or the complainant, as the case may be, if he or she wishes to be heard at the appeal –

(a) must inform the Greffier in writing; and

(b) may lodge with the Greffier and cause to be served on the appellant and on the respondent an affidavit setting out anything relevant to the determination of the appeal not contained in the respondent's affidavit.

(5) An owner or occupier, or a complainant, as the case may be, who informs the Greffier that he or she wishes to be heard at the appeal shall thereupon be joined as a party to the appeal and the Greffier shall inform the appellant and the respondent that the owner or occupier, or the complainant, as the case may be, has been so joined.

(6) Within 5 days of the owner or occupier, or the complainant, as the case may be having lodged an affidavit under paragraph (4)(b), or the time within which to do so having expired, the Greffier shall consider the notice of appeal, the respondent's affidavit and, if lodged, that of the owner or occupier, or the complainant, as the case may be and any accompanying documents and, having regard to –

(a) the nature and complexity of the issues raised;

(b) the questions of law (if any) involved;

(c) the extent to which any matter of public interest may arise in the proceedings; and

(d) any other circumstances of the appeal,

shall, subject to Rule 15/3G, notify the parties in writing whether the Greffier is minded to treat the appeal as an appeal to be dealt with under the ordinary procedure or under the modified procedure and shall give the parties the opportunity to make written representations in that regard within such time as the Greffier may determine.

(7) The Greffier shall consider any such representations and determine whether the appeal is to be dealt with under the ordinary procedure or under the modified procedure.

(8) The appeal shall then proceed in accordance with that determination, but paragraph (2) does not affect the power of the Court at any stage of the proceedings of its own motion or on the application of any of the parties to order that the appeal be dealt with under whichever procedure the Court thinks fit.

(9) Rule 15/4 shall be taken to empower the Court to allow the owner or occupier, or the complainant, as the case may be, who has lodged an affidavit under paragraph (4)(b), on terms as to costs or otherwise to file supplementary affidavits.

15/3F Modified procedure in High Hedges Law appeals[122]

(1) If the Greffier determines that a High Hedges Law appeal is to be dealt with under the modified procedure, the Greffier shall give such directions as the Greffier thinks fit with a view to bringing the appeal on for hearing at the earliest opportunity.

(2) Not less than 14 days before the hearing of the appeal, the appellant must furnish to the Court (and serve upon the other parties to the appeal) a written statement of the submissions that the appellant will make at the hearing concerning the issues in dispute in the appeal.

(3) Not less than 7 days before the hearing of the appeal the respondent and, if he or she wishes to be heard, the owner or occupier, or the complainant, as the case may be must furnish to the Court (and serve upon the other parties to the appeal) a written statement of the submissions he or she will make at the hearing concerning the issues in dispute in the appeal.

(4) An appellant and, if he or she wishes to be heard, the owner or occupier, or the complainant, as the case may be may, at the hearing of the appeal, appear and be heard by a representative who, if not an advocate, shall be –

(a) a solicitor (*écrivain*) of the Royal Court;

(b) an architect registered under the Architects (Registration) (Jersey) Law 1954; a member of the Royal Institution of Chartered Surveyors, a chartered member of the Landscape Institute or a member of the Royal Town Planning Institute;

(c) a person approved by the Greffier or by the Bailiff as a person appropriate to represent the appellant.

(5) The respondent may, at the hearing of the appeal, appear and be heard in the same manner as in a planning appeal under the modified procedure in Rule 15/3B.

(6) Provision may be made by practice directions in respect of the mode and duration of hearings of, and awards of costs in, a High Hedges Law appeal under the modified procedure.

15/3G High Hedges Law appeals 'on the papers'[123]

(1) When, in accordance with paragraph (6) of Rule 15/3E, the Greffier has considered the notice of appeal and the respondent's affidavit and, if lodged, that of the owner or occupier, or the complainant, as the case may be and any accompanying documents and has had regard to the matters referred to in sub-paragraphs (a) to (d) of that paragraph, the Greffier may, if the requirements of paragraph (2) are met, consider and determine the appeal on the basis of the documents filed with the Court and without oral arguments by the parties.

(2) The requirements are that –

(a) the appellant has in the notice of appeal stated that the appellant does not require an oral hearing of the appeal;

(b) the Greffier has notified the parties in writing that the Greffier is minded to consider and determine the appeal under paragraph (1) and has given them the opportunity to make representations in that regard; and

(c) the Greffier has considered any such representations.

(3) If the Greffier decides to consider and determine the appeal under paragraph (1), the Greffier may give such directions to the parties as may be necessary for the filing of further written statements or submissions.

(4) Provision may be made by practice directions in respect of awards of costs in relation to High Hedges Law appeals considered and determined in accordance with this Rule.

15/4 Amendment of notice of appeal, etc.

The Court may at any stage of the proceedings allow the appellant to amend his or her notice of appeal, or the appellant or the respondent to file supplementary affidavits, on such terms as to costs or otherwise as may be just.

15/5 Dismissal of appeal for non-prosecution

(1) Without prejudice to Rule 15/2(4), if the appellant or the respondent fails to comply with any requirement of this Part or with an order of the Court made in connexion with the appeal, the Court may, on the application of either party to the appeal, make such order as it thinks fit, including an order as to costs and, in the case of an application by the respondent, an order that the appeal be dismissed.

(2) If, after 6 months have elapsed from the day the appeal was brought, the appeal has not been heard, the Court may, of its own motion, after giving not less than 28 days notice in writing to the appellant and to the respondent, order that the appeal be

dismissed, and the Court may make such consequential order as to costs or otherwise as it thinks fit.

15/6 Withdrawal etc. of appeal

Rule 6/31 applies to the discontinuance or withdrawal of an appeal for the purposes of this Part as it applies to the discontinuance or withdrawal of an action for the purposes of Part 6.[124]

PART 15A[125]

APPEALS UNDER THE PLANNING AND BUILDING (JERSEY) LAW 2002

15A/1 Application of Part 15A and interpretation

(1) This Part applies to an appeal to the Royal Court on a point of law under Article 12(6) or Article 116(5) of the Planning and Building (Jersey) Law 2002.

(2) In this Part, unless the context otherwise requires –

(a) "appeal" means an appeal to which this Part applies (and "appellant" shall be construed accordingly);

(b) "determination" means the determination by the Minister under the Planning and Building (Jersey) Law 2002 to which the appeal relates;

(c) "Minister" means the Minister for the Environment;

(d) a party includes a person served or to be served by direction of the Court under Rule 15A/2(8);

(e) a person affected by the determination –

(i) in relation to an appeal under Article 12(6) of the Planning and Building (Jersey) Law 2002, is any person (other than the appellant) who is a third party,

(ii) in relation to an appeal under Article 116(5) of the said Law, is any person (other than the appellant or the Greffier) to whom the Minister was required under Article 116(3) of the said Law to give notice of his or her determination;

(f) "third party" means a person who –

(i) has an interest in, or is resident on, land any part of which lies within 50 metres of any part of the site to which the determination related, and

(ii) prior to the determination, made a representation in writing in respect of it.[126]

15A/2 Procedure on an appeal

(1) An appeal shall be brought by serving through the Viscount a notice of appeal in the form set out in Schedule 4B.

(2) The notice of appeal must set out –

(a) the name and address for service of the person bringing the appeal;

(b) the interest of the person bringing the appeal;

(c) the nature and content of the determination (and a copy of any written reasons given for the determination must be included); and

(d) the point of law involved.

(3) The appellant shall not, except with the leave of the Court, be entitled to rely on any point of law as a ground of appeal unless it is specified in the notice of appeal.

(4) The notice of appeal must be served on the Minister and on all persons affected by the determination.

(5) The person bringing the appeal must within 2 days after service of the notice of appeal furnish a copy of the notice to the Greffier together with a copy of the record of the Viscount certifying that the notice has been duly served.

(6) Within 5 days of receiving the notice of appeal the Greffier shall inform the parties that a date is to be fixed for a directions hearing and, in consultation with the parties, shall fix a date for the hearing.

(7) At the hearing the Greffier shall give directions –

(a) for the lodging of written submissions and any other material by the parties; and

(b) for the hearing and disposal by the Court of the appeal.

(8) If at any stage the Court is of opinion that any person who ought to have been served has not been served, the Court may adjourn the appeal on such terms (if any) as it may direct in order that that person may be served.

15A/3 Withdrawal etc.

(1) Subject to paragraph (2) the Court may allow a party to withdraw a notice or anything else under this Part on such terms as to costs or otherwise as may be just.

(2) An appeal may not be withdrawn unless all persons served have been given an opportunity to be heard.

PART 15B[127]

APPEALS FROM THE EMPLOYMENT AND DISCRIMINATION TRIBUNAL

15B/1 Application and interpretation[128]

(1) This Part applies to appeals from the Jersey Employment and Discrimination Tribunal under Article 94 of the 2003 Law, on a question of law or against an order or decision made by the Tribunal under paragraph (3) of that Article.

(2) In this Part –

(a) "2003 Law" means the Employment (Jersey) Law 2003;

(b) "appeal" means an appeal to which this Part applies;

(c) "appellant" means a person to whom leave to appeal has been granted (whether by the Tribunal under Article 94(1) or by the Court under Article 94(6) of the 2003 Law) or, as the case may be, a person who appeals to the Royal Court under Article 94(4) of the 2003 Law;

(d) "leave to appeal" means leave to appeal to the Royal Court under Article 94 of the 2003 Law;

(e) "respondent" means any party to the proceedings before the Tribunal to which an appeal relates, other than the party who is bringing the appeal;

(f) "transcript" means the transcript or other record of the proceedings before the Tribunal to which an appeal relates.

15B/2 Application for leave to appeal (where Tribunal has refused leave)[129]

(1) This Rule applies where the Tribunal has refused leave to appeal.

(2) An application under Article 94(6) of the 2003 Law for leave to appeal may be made *ex parte* to the Bailiff within 14 days of the date on which the decision of the Tribunal to refuse leave was given or, if later, the date on which the applicant received written reasons for that decision.

(3) The application is made by delivering to the Bailiff –

(a) a notice in writing specifying the grounds of the application; and

(b) a copy of the decision or order of the Tribunal to which the intended appeal relates, together with any written reasons given by the Tribunal for the decision or order.

(4) Within 1 day of delivering those documents to the Bailiff, the applicant shall file a copy of the same with the Greffier.

(5) The Bailiff may –

(a) determine the application without a hearing; or

(b) give such directions for the hearing of the application as the Bailiff thinks fit.

(6) If the Bailiff refuses the application without a hearing, the Bailiff shall inform the Greffier who shall communicate the decision to the applicant.

(7) If the Bailiff grants leave to appeal, the Bailiff may give directions as to the further conduct of the appeal.

15B/3 Appeal[130]

(1) This Rule applies where –

(a) the Tribunal has granted leave to appeal; or

(b) the Bailiff has granted leave to appeal.[131]

(2) The appeal shall be brought within 14 days of the date on which leave was granted or, in the case of an appeal under Article 94(4) of the 2003 Law, of the date on which the Tribunal's decision or order was given, by serving through the intermediary of the Viscount –

(a) a notice of appeal in writing setting out the grounds of the appeal; and

(b) a copy of the order granting leave (where leave has been granted).

(3) The documents referred to in paragraph (2) must be served on the respondent.

(4) The appellant must –

(a) within 2 days after service of the notice of appeal file with the Greffier –

(i) a copy of the notice together with the record of the Viscount certifying that the notice of appeal has been served,

(ii) a copy of the decision or order of the Tribunal which is the subject of the appeal, and

(iii) a copy of any written reasons given by the Tribunal for its decision or order;

(b) within 10 days after the service of the notice of appeal apply to the Bailiff's Secretary for a day to be fixed for the hearing of the appeal.

(5) If the appellant does not apply for a day to be fixed for the hearing of the appeal in accordance with paragraph (4)(b), the appeal shall be deemed to have been withdrawn.

(6) If a party to the appeal so requests, a transcript shall, subject to paragraph (7), be made available to the parties to the appeal and to the Court.

(7) Before a transcript is made available in accordance with paragraph (6), the party requesting it shall pay the appropriate transcription fee.

(8) The appellant shall within 21 days of having fixed a day for the hearing of the appeal in accordance with paragraph (4)(b), deliver to the respondent a copy of the contentions to be urged and the authorities to be cited by the appellant in support of the appeal.

(9) The appellant shall at the same time file 4 copies of the same with the Greffier.

(10) A respondent who wishes to resist the appeal shall within 21 days of having received the appellant's contentions deliver to the appellant –

(a) an answer in writing setting out the grounds on which the respondent will resist the appeal; and

(b) a copy of the contentions to be urged and the authorities to be cited by the respondent at the hearing of the appeal.

(11) The respondent shall at the same time file 4 copies of the same with the Greffier.

(12) This Rule is subject to –

(a) any directions given by the Bailiff under Rule 15B/2(7); and

(b) the discretion of the Court to make such order or give such directions as it thinks fit in relation to an appeal.

(13) Notices, pleadings and documents delivered or filed for the purposes of this Part shall be in such form and comply with such requirements as the Greffier may set out and publish from time to time in practice directions, in consultation with the Bailiff.

PART 15C[132]

APPEALS FROM THE MENTAL HEALTH REVIEW TRIBUNAL

15C/1 Application and interpretation

(1) This Part applies to appeals from the Mental Health Review Tribunal under–

(a) Article 54 of the Mental Health (Jersey) Law 2016; and

(b) Article 58 of the Capacity and Self-Determination (Jersey) Law 2016,

on a point of law.

(2) In this Part –

(a) "appeal" means an appeal to which this Part applies;

(b) "appellant" means the person who is bringing the appeal;

(c) "respondent" means any party to the proceedings before the Tribunal to which an appeal relates, other than the party who is bringing the appeal;

(d) "transcript" means the transcript or other record of the proceedings before the Tribunal to which an appeal relates.

15C/2 Procedure on appeal

(1) The appeal shall be brought within 28 days of the date on which the Tribunal's decision or order was given, by serving through the intermediary of the Viscount a notice of appeal in writing setting out the grounds of the appeal.

(2) The notice of appeal must be served on the respondent.

(3) The appellant must –

(a) within 2 days after service of the notice of appeal file with the Greffier –

(i) a copy of the notice together with the record of the Viscount certifying that the notice of appeal has been served,

(ii) a copy of the decision or order of the Tribunal which is the subject of the appeal, and

(iii) a copy of any written reasons given by the Tribunal for its decision or order;

(b) within 10 days after the service of the notice of appeal apply to the Bailiff's Secretary for a day to be fixed for the hearing of the appeal.

(4) If the appellant does not apply for a day to be fixed for the hearing of the appeal in accordance with paragraph (3)(b), the appeal shall be deemed to have been withdrawn.

(5) If a party to the appeal so requests, a transcript shall, subject to paragraph (6), be made available to the parties to the appeal and to the Court.

(6) Before a transcript is made available in accordance with paragraph (5), the party requesting it shall pay the appropriate transcription fee.

(7) The appellant shall within 21 days of having fixed a day for the hearing of the appeal in accordance with paragraph (3)(b), deliver to the respondent a copy of the

contentions to be urged and the authorities to be cited by the appellant in support of the appeal.

(8) The appellant shall at the same time file 4 copies of the same with the Greffier.

(9) A respondent who wishes to resist the appeal shall within 21 days of having received the appellant's contentions deliver to the appellant –

(a) an answer in writing setting out the grounds on which the respondent will resist the appeal; and

(b) a copy of the contentions to be urged and the authorities to be cited by the respondent at the hearing of the appeal.

(10) The respondent shall at the same time file 4 copies of the same with the Greffier.

(11) This Rule is subject to the discretion of the Court to make such order or give such directions as it thinks fit in relation to an appeal.

(12) Notices, pleadings and documents delivered or filed for the purposes of this Part shall be in such form and comply with such requirements as the Greffier may set out and publish from time to time in practice directions, in consultation with the Bailiff.

PART 16

APPLICATIONS FOR JUDICIAL REVIEW[133]

16/1 Application and interpretation

(1) Except in cases where an appeal is available against a decision of a public authority or body, and subject to paragraph (3), an application for a declaration, injunction or any other order in any public law matter must be brought by way of an application for judicial review made in accordance with this Part unless the Court otherwise orders.

(2) For the purposes of this Part, an application is made in a public law matter if the application relates to the validity of a judgment, decision, order or other action of a public authority or body, or seeks relief to compel a public authority or body to perform a duty owed by it in public law or seeks to restrain it from acting in a way that would be invalid.

(3) In determining whether an application falls within paragraph (1), the Bailiff or Court shall have regard to –

(a) the nature of the matters in respect of which relief is sought;

(b) the nature of the persons and bodies against whom relief is being sought; and

(c) all the circumstances of the case.

(4) [134]

16/2 Grant of leave to apply for judicial review

(1) No application for judicial review may be made unless the leave of the Bailiff has been obtained in accordance with this Rule.

(2) An application for leave must be made *ex parte* to the Bailiff, sitting as sole judge and constituting the Inferior Number of the Royal Court, by filing with the Bailiff –

(a) a notice substantially in the appropriate form set out in Schedule 5 containing a statement of –

(i) the name and description of the applicant,

(ii) the interest of the applicant in the matter to which the application relates,

(iii) the judgment, decision, order or other proceeding in respect of which relief is sought,

(iv) the relief sought and the grounds upon which it is sought,

(v) any alternative remedies which are or were available to the applicant, and if they have not been pursued, the reasons why,

(vi) the reasons for any delay in making the application for judicial review,

(vii) the name and address of the applicant's advocate or solicitor (if any), and

(viii) the applicant's address for service; and

(b) an affidavit setting out the facts relied on.

(3) The Bailiff may determine the application without a hearing, unless a hearing is requested in the notice of application.

(4) The Bailiff may, after considering the application for leave, direct that it be listed for oral hearing and may direct that any person against whom relief is sought be given notice of the hearing.

(5) At any oral hearing of an application for leave, the Bailiff may permit any person against whom relief is sought to make representations and, if the Bailiff considers that that person may not have received notification of the hearing of an application for leave, the Bailiff may adjourn the hearing and direct that any person against whom relief is sought be notified of the hearing of the application for leave.

(6) The Bailiff need not sit in open court in considering an application under this Rule.

(7) If any such application is determined in the absence of the Greffier, the Bailiff shall record his order in writing and send the original thereof, together with the originals of the documents filed pursuant to paragraph (2), to the Greffier.

(8) The Bailiff may grant leave generally or on one or more grounds only and may grant leave in respect of one or more judgments, orders, decisions or other proceedings.

(9) An applicant may not rely on any ground where leave has been refused in relation to that ground and may not seek relief in respect of any judgment, order, decision or proceeding in respect of which leave was refused unless the Court otherwise directs.

(10) The Bailiff may allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as the Bailiff thinks fit.

(11) The Bailiff shall not grant leave unless the Bailiff considers that the applicant has a sufficient interest in the matter to which the application relates.

(12) If leave is sought to apply for an order to quash any judgment, order or other proceeding which is subject to appeal and a time is limited for the bringing of the

appeal, the Bailiff may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

(13) If the Bailiff grants leave, the Bailiff may impose such terms as to costs and as to giving security as the Bailiff thinks fit and shall specify the persons on whom the proceedings shall be served pursuant to Rule 16/4(2).

(14) If leave to apply for judicial review is granted, the Bailiff may direct that the grant shall operate as a stay of any proceedings to which the application relates or may at any time make such interim order on such terms and conditions, including conditions as to the giving of cross-undertakings in damages whether in respect of any person against whom relief is sought or any other person, as the Bailiff considers appropriate.

(15) Notice of the application for a stay or interim order (whether such application is made in the application for leave or otherwise) must, except in cases of urgency, be served on any person against whom relief is being sought and any other person who would be directly affected by the grant or stay or interim order 2 days before the hearing of the application. The application must set out a brief description of the stay or interim order sought and the grounds upon which it is sought, and be accompanied by an affidavit verifying the facts relied upon in support of the application.

(16) If leave has not been granted or if the persons referred to in paragraph (15) have not been served with notice of the application, the Bailiff may grant a stay or make such interim order as is referred to in paragraph (14) for such period and on such terms and conditions as the Bailiff thinks fit if satisfied that the matter is urgent and that in the circumstances it was not practicable to serve the notice for the application for leave to be made or determined prior to the grant of a stay or the making of an interim order.

16/3 Delay in applying for relief

(1) Subject to paragraphs (2) and (3), an application for leave to apply for judicial review must be made promptly and in any event not later than 3 months from the date when grounds for the application first arose.

(2) The Bailiff may refuse an application made within the period of 3 months if satisfied –

(a) that the application is not sufficiently prompt; and

(b) that if the relief sought were granted, on an application made at this stage, it would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration.

(3) An application may be made after the end of the period of 3 months if the Bailiff is satisfied –

(a) that there is good reason for the application not having been made within that period; and

(b) that if the relief sought were granted, on an application made at this stage, it would not be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration.

(4) The Court hearing the substantive application may reconsider whether there was good reason for extending the period of 3 months and may refuse any relief if it considers that granting such relief would cause substantial hardship to, or

substantially prejudice the rights of, any person or be detrimental to good administration.

(5) If the relief sought is an order in respect of any judgment, order or other proceeding, the date when grounds for the application first arose shall be taken to be the date of that judgment, order or proceeding.

16/4 Mode of applying for judicial review

(1) When leave has been granted to make an application for judicial review, the application must be brought, within 14 days from the date on which leave was granted, by serving through the Viscount a notice substantially in the appropriate form set out in Schedule 5, together with a copy of the order granting leave and a copy of the statement and accompanying affidavit in support of an application for leave under Rule 16/2.

(2) The documents referred to in paragraph (1) must be served on all persons directly affected and where they relate to any proceedings in or before a court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made therein, the documents must also be served on the Greffier and, if any objection to the conduct of the Judge is to be made, on the Judge.

(3) Unless the Bailiff has otherwise directed, there must be at least 10 days between the service of the documents referred to in paragraph (2) and the hearing.

(4) The applicant must, within 2 days of service of the documents referred to in paragraph (2), furnish a copy of the said documents to the Greffier together with a copy of the record of the Viscount certifying that the said documents have been duly served.

(5) If on the hearing of the application the Court is of opinion that any person who ought, whether under this Rule or otherwise, to have been served has not been served, the Court may adjourn the hearing on such terms (if any) as it may direct in order that the documents referred to in paragraph (2) may be served on that person.

16/5 Statements and affidavits

(1) Subject to paragraphs (8), (9) and (10) of Rule 16/2 and paragraph (2) of this Rule, no grounds may be relied upon or any relief sought at the hearing of the application except the grounds and relief set out in the statement in support of the application for leave.

(2) The Court may on hearing the application allow the applicant to amend the statement, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as it thinks fit and may allow further affidavits to be used by the applicant.

(3) If the applicant intends to ask to be allowed to amend the statement or to use further affidavits, the applicant must give notice of such intention, together with a copy of any amended statement or further affidavits, to every other party.

(4) Any respondent who intends to use an affidavit at the hearing must file it with the Greffier and furnish a copy of it to every other party as soon as practicable and in any event, unless the Bailiff or the Court otherwise directs, within 56 days after service upon the respondent of the documents required to be served by Rule 16/4(2).

16/6 Setting aside of leave

(1) Any person served under Rule 16/4(2) who did not appear before the Bailiff to make representations prior to the granting of leave may, within 14 days of service, apply to the Bailiff sitting as sole judge and constituting the Inferior Number to have the leave set aside by making an application substantially in the appropriate form set out in Schedule 5 and the Bailiff may make an order setting aside the leave if satisfied that the applicant did not disclose all material facts in the application or that for some other substantial reason it is just to make such an order.

(2) Notice of any application made under paragraph (1) must be accompanied by an affidavit verifying any facts relied upon. The notice and any accompanying affidavits must be served on the applicant and any other person served under Rule 16/4(2).

16/7 Summons for directions and interlocutory applications

(1) The applicant must, within 14 days from –

(a) the date on which the time limited for the filing of the respondents' affidavits in accordance with Rule 16/5(4) shall expire; or

(b) the date by which every respondent shall have filed their affidavit,

whichever date is the earlier, apply to the Bailiff in chambers for a day to be fixed for the hearing of a summons for directions, for the hearing of such interlocutory applications as the applicant may wish to make and for the fixing of the day for the hearing in relation to the application for judicial review.

(2) Any respondent who intends to make an interlocutory application in relation to the application for judicial review must, within the period of 14 days referred to in paragraph (1), apply to the Bailiff in chambers for a day to be fixed for the hearing of a summons for the hearing of such interlocutory application.

(3) In this Rule "interlocutory application" includes an application for an order under Rule 6/17, for an order for the attendance for cross-examination of a person making an affidavit or for an order that *viva voce* evidence be heard in relation to any particular issue in the proceedings.

(4) The applicant and every respondent must, at least 2 clear days before the hearing of the summons referred to in paragraph (1), furnish to the other parties and file their estimate of the length of the hearing of the application for judicial review.

(5) No order under Rule 6/17 or requiring any person making an affidavit to attend for cross-examination or order that *viva voce* evidence be heard in relation to any particular issue in the proceedings or any like order may be made unless the Court considers that, for some substantial reason, the application cannot be disposed of fairly unless a document or class of document is produced for inspection or there is cross-examination of a deponent or deponents or *viva voce* evidence is heard in relation to a particular issue or any other order sought is made.

16/8 Dismissal of application for non-prosecution

If, at the expiration of the date on which the applicant is required to apply for a day to be fixed for the hearing of the summons referred to in Rule 16/7(1), the applicant has not so applied –

(a) any respondent may, after giving not less than 4 days' notice to the Greffier and to the applicant, apply to the Court for the application to be dismissed, and the Court may dismiss the application or make such order as it thinks fit; or

(b) the Court may give notice to the applicant and to every respondent that in the absence of any application being made within 14 days from the date of such notice for a day to be fixed for the hearing of the summons, the Court will order, of its own motion and without further notice, that the application be dismissed and that the applicant be condemned to pay the costs of and incidental to the application.

16/9 Claim for damages

(1) On an application for judicial review the Court may, subject to paragraph (2), award damages, restitution or recovery of money to the applicant if –

(a) there has been included in the statement in support of the application for leave under Rule 16/2 a claim for damages, restitution or recovery of money arising from any matter to which the application relates; and

(b) the Court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making the application, the applicant could have been awarded damages, restitution or recovery of money.

(2) Rule 6/8 shall apply to a statement relating to a claim for damages, restitution or recovery of money as it applies to a pleading.

16/10 Hearing of application for judicial review

(1) On the hearing of an application for judicial review, any person who desires to be heard in opposition to the application, and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that that person has not been served with notice of the application.

(2) When the relief sought is or includes an order to quash any proceedings, the applicant may not question the validity of any order or record unless before the hearing of the motion or summons the applicant has filed a copy thereof verified by affidavit or accounts for failure to do so to the satisfaction of the Court hearing the application.

(3) If the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it, remit the matter to the court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.

(4) If the relief sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review but might have been granted had it been sought in an action begun by order of justice by the applicant at the time of making the application, the Court may, instead of refusing the application, order the proceedings to continue as if they had been begun by order of justice and the Court may make such orders as to the future procedure in the proceedings as shall be appropriate.

PART 16A[135]

PROCEEDINGS UNDER THE SANCTIONS AND ASSET-FREEZING AND THE MONEY LAUNDERING AND WEAPONS DEVELOPMENT LAWS[136]

16A/1 Application and interpretation

(1) This Part applies to –

(a) any appeal to the Court under Article 40(2) of the 2019 Law;

(b) any application to the Court –

(i) under Article 41(2) of the 2019 Law, or

(ii) under Article 10(1) of the 2012 Law.[137]

(2) Rules 16A/2 and 16A/3 apply to such appeals, subject to Rules 16A/7 to 16A/17.

(3) Rules 16A/4 to 16A/6 apply to such applications, subject also to Rules 16A/7 to 16A/17.

(4) In this Part –

"2012 Law" means the Money Laundering and Weapons Development (Directions) (Jersey) Law 2012;

"2019 Law" means the Sanctions and Asset-Freezing (Jersey) Law 2019;

"appeal" means an appeal to which this Part applies and "appellant" shall be construed accordingly;

"application", unless the context otherwise requires, means an application to which this Part applies and "applicant" shall be construed accordingly;

"closed material" means –

(a) material, evidence or submissions to the Court upon which the Chief Minister wishes to rely in proceedings;

(b) material which adversely affects the Chief Minister's case or supports another party's case; or

(c) information which the Chief Minister is required to lodge pursuant to an order under Rule 16A/5(7),

but which the Chief Minister objects to disclosing to another party and that party's legal representative;

"decision" means the decision of the Chief Minister to which the appeal or application, as the case may be, relates;

"legal representative" in relation to a party to proceedings other than the Chief Minister does not include special counsel;

"material" means anything in which information of any description is recorded;

"party" includes the Chief Minister unless otherwise stated or unless the context otherwise requires;

"special counsel" means a person appointed under paragraph 5 of Schedule 1 to the 2019 Law or under paragraph 5 of the Schedule to the 2012 Law as the case may be; and

"specially represented party" means a party, other than the Chief Minister, whose interests special counsel represents.[138]

16A/2 Appeal – notice of appeal and fixing day for trial[139]

(1) An appeal shall be brought by serving on the Chief Minister a notice of appeal within one month from the date on which the decision was communicated to the appellant.

(2) The appellant's notice must set out the details of –

(a) the decision;

(b) how the appellant is affected by the decision; and

(c) the grounds of the appeal.

(3) The appellant must serve the following documents with the appellant's notice –

(a) a copy of the written notice of the decision; and

(b) any evidence, including witness statements in support of any application included in the appellant's notice.

(4) The appellant must also serve a copy of the notice of appeal and documents referred to in paragraph (3) on the Attorney General.

(5) Paragraphs (3), (4) and (5) of Rule 15/2 apply to an appeal for the purposes of this Part.

16A/3 Appeal – general[140]

Rules 15/3, 15/4 and 15/5 apply to an appeal for the purposes of this Part except that –

(a) references to the respondent are to be read as references to the Chief Minister; and

(b) Rule 15/3(1A) is omitted.

16A/4 Application – notice of application and directions hearing[141]

(1) An application shall be treated as an application for judicial review in respect of which the leave of the Bailiff under Rule 16/2 has been obtained.

(2) The application must be brought by serving through the Viscount within one month from the date on which the decision was communicated to the applicant a notice setting out –

(a) the details of the decision;

(b) how the applicant is affected by the decision; and

(c) the grounds on which the applicant seeks to set aside the decision.

(3) The applicant must serve the following documents with the applicant's notice –

(a) a copy of the written notice of the decision; and

(b) any evidence, including witness statements on which the applicant relies at that stage.

(4) The notice referred to in paragraph (2) and the documents referred to in paragraph (3) must be served on –

(a) the Chief Minister; and

(b) the Attorney General.

(5) The applicant must –

(a) within 2 days after service of the notice furnish a copy of the notice and documents referred to in paragraph (3) to the Greffier together with a copy of the record of the Viscount certifying that the notice and documents have been duly served;

(b) within 5 days after the service of the notice apply to the Bailiff in chambers for a day to be fixed for a directions hearing.

(6) At the directions hearing, the Court may give directions, in particular –

(a) for the holding of a further hearing to determine the application;

(b) fixing a date, time and place for the further hearing at which the parties, their legal representatives (if any) and any special counsel can be present; and

(c) as to the order in which, and the time within which, the following are to be lodged –

(i) any response to be lodged by the Chief Minister under Rule 16A/5(1), (2) and (4),

(ii) any application to be made under Rule 16A/5(5),

(iii) any information to be lodged by the Chief Minister pursuant to an order under Rule 16A/5(7),

(iv) any evidence to be lodged by the applicant under Rule 16A/6(1)(a),

(v) any evidence to be lodged by the Chief Minister under Rule 16A/6(2),

(vi) any application by the Chief Minister under Rule 16A/5(3), 16A/5(8) or 16A/6(3), and

(vii) any further evidence, including witness statements, written submissions or skeleton arguments, to be lodged by the parties and any special counsel.

(7) At the directions hearing, the Court may also determine any application under Rule 16A/8(1) for the appointment of special counsel.

16A/5 Application – response by the Chief Minister[142]

(1) Where the Chief Minister intends to oppose the application to set aside the decision, he or she must lodge with the Court –

(a) the grounds for contesting the application; and

(b) any relevant evidence of which the Chief Minister is aware at that stage.

(2) Unless the Chief Minister objects to the grounds and evidence in paragraph (1) being disclosed to the applicant and the applicant's legal representative, the Chief Minister must serve a copy of the grounds and evidence on the applicant at the same time as lodging the grounds.

(3) Where the Chief Minister objects to the grounds and evidence in paragraph (1) being disclosed to the applicant and the applicant's legal representative, the Chief Minister must make an application in accordance with Rule 16A/12.

(4) Where special counsel has been appointed, the Chief Minister must serve on that special counsel a copy of the grounds and evidence lodged under paragraph (1).

(5) The applicant and any special counsel may apply to the Court for an order directing the Chief Minister to lodge and serve further information about the Chief Minister's grounds lodged under paragraph (1)(a).

(6) The application under paragraph (5) must set out –

(a) what information is sought; and

(b) why the information sought is necessary for the determination of the application to set aside the decision.

(7) The Court may make an order on an application under paragraph (5) where it considers that the information sought –

(a) is necessary for the determination of the application to set aside the decision; and

(b) may be provided without disproportionate cost, time or effort.

(8) Where the Chief Minister objects to serving on the applicant and the applicant's legal representative the information sought under paragraph (5), the Chief Minister must make an application in accordance with Rule 16A/12.

16A/6 Application – lodging and service of evidence[143]

(1) An applicant may not rely on evidence in support of the application if the evidence was not lodged with the Greffier with the notice of application unless the applicant –

(a) has lodged and served that evidence, including any witness statement, on the Chief Minister and any special counsel not less than 14 days before the application is heard; or

(b) has obtained the leave of the Court.

(2) Where the applicant serves evidence in support of the application, the Chief Minister must lodge and serve, subject to paragraph (3), any further evidence, including any witness statement, on the applicant and any special counsel.

(3) Where the Chief Minister seeks to withhold disclosure of any closed material from the applicant and the applicant's legal representative, the Chief Minister must make an application in accordance with Rule 16A/12.

(4) The Chief Minister must serve any closed material upon special counsel.

(5) The parties and, where relevant, any special counsel must lodge and serve any further evidence, including witness statements, written submissions or skeleton arguments as directed by the Court.

16A/7 Appeals and applications – hearings

(1) All appeals and applications must be determined at a hearing except where –

(a) the appellant or applicant, as the case may be, withdraws the appeal or application;

(b) the Chief Minister consents to the appeal or application being allowed; or

(c) the parties agree to a determination without a hearing.

(2) Where the Court considers it necessary for a party other than the Chief Minister and that party's legal representative to be excluded from a hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, the court shall –

(a) direct accordingly; and

(b) conduct the hearing, or that part of it from which the party and that party's legal representative are excluded, in private but attended by special counsel to represent the interests of the excluded party.

16A/8 Special counsel, communications, etc.

(1) Where an appeal or application is pending but no person has been appointed as special counsel, any party, or the Attorney General, may request the Court to make such an appointment.[144]

(2) A request referred to in paragraph (1) must be made as soon as practicable.

(3) The function of special counsel is to represent the interests of a party other than the Chief Minister by, for example –

(a) making submissions to the Court at any hearing from which the party and that party's legal representative are excluded;

(b) adducing evidence and cross-examining witnesses at such a hearing;

(c) making applications to the Court or seeking directions from the Court where necessary; and

(d) making written submissions to the Court.

(4) Special counsel may communicate with the specially represented party or that party's legal representative at any time before the Chief Minister serves closed material on special counsel.

(5) After the Chief Minister serves closed material on special counsel, special counsel must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (6) or a direction of the Court pursuant to a request under paragraph (7).

(6) Special counsel may, without directions from the Court, communicate about the proceedings with –

(a) the Court;

(b) the Chief Minister;

(c) the Attorney General or any other person acting for the Chief Minister; and

(d) any other person, except for –

(i) the specially represented party and that party's legal representative, and

(ii) any other party to the proceedings (other than the Chief Minister) and that party's legal representative,

with whom it is necessary for administrative purposes for special counsel to communicate about matters not connected with the substance of the proceedings.

(7) Special counsel may request directions from the Court authorizing special counsel to communicate with the specially represented party or that party's legal representative or with any other person.

(8) Where special counsel makes a request for directions under paragraph (7) –

(a) the Court shall notify the Chief Minister of the request; and

(b) the Chief Minister must, within a period specified by the Court, lodge and serve on special counsel notice of any objection which the Chief Minister has to the proposed communication, or to the form in which it is proposed to be made.

(9) Paragraph (5) does not prohibit the specially represented party from communicating with special counsel after the Chief Minister has served closed material on special counsel as mentioned in paragraph (4), but –

(a) that party may only communicate with special counsel through a legal representative in writing; and

(b) special counsel must not reply to the communication other than in accordance with directions given by the Court, except that special counsel may without such directions send a written acknowledgment of receipt to the specially represented party's legal representative.

(10) Where the Chief Minister objects under paragraph (8)(b) to a proposed communication by special counsel the Court shall fix a hearing for the Chief Minister and special counsel to make oral representations, unless –

(a) special counsel gives notice to the Court that he or she does not challenge the objection;

(b) the Court –

(i) has previously considered an objection under paragraph (8)(b) to the same or substantially the same communication, and

(ii) is satisfied that it would be just to uphold or dismiss that objection without a hearing; or

(c) the Chief Minister and special counsel consent to the Court deciding the issue without a hearing.

(11) If special counsel does not challenge the objection, special counsel must give notice of that fact to the Court and to the Chief Minister –

(a) within 14 days after the Chief Minister serves on special counsel a notice under paragraph (8)(b); or

(b) within such other period as the Court may direct.

(12) Where the Court fixes a hearing under paragraph (10) –

(a) special counsel may lodge with the Court and serve on the Chief Minister a reply to the Chief Minister's objection;

(b) the Chief Minister may lodge with the Court and serve on special counsel a response to special counsel's reply; and

(c) the Chief Minister and special counsel must lodge with the Court at least 7 days before the hearing a schedule identifying the issues which cannot be agreed between them and which must –

(i) give brief reasons for their contentions on each issue in dispute, and

(ii) set out any proposals for the court to resolve the issues in dispute.

(13) A hearing under paragraph (10) must take place in the absence of the specially represented party and that party's legal representative.

16A/9 Modification of the general rules of evidence and disclosure

(1) So much of Part 6 as relates to disclosure and inspection of documents, and so much of these Rules as relates to evidence, do not apply to appeals and applications for the purposes of this Part.

(2) Subject to this Part and to any directions of the Court, the evidence of a witness may be given either –

(a) orally before the Court; or

(b) in a witness statement.

(3) The Court may also receive evidence in documentary or any other form.

(4) A party is entitled to adduce evidence and to cross-examine witnesses during any part of a hearing from which a party and that party's legal representative are not excluded.

(5) Special counsel is entitled to adduce evidence and to cross-examine witnesses.

(6) The Court may require a witness to give evidence on oath or by solemn affirmation.

16A/10 Search for, lodging of and service of material

(1) A party (the disclosing party) must –

(a) make a reasonable search for material relevant to the matters under consideration in the proceedings to which this Part applies; and

(b) lodge and serve on the other party and any special counsel material other than closed material –

(i) on which the disclosing party relies,

(ii) which adversely affects the disclosing party's case,

(iii) which adversely affects the other party's case, or

(iv) which supports the other party's case.

(2) Paragraph (1)(b)(iii) does not apply to an appeal.

(3) The factors relevant in deciding the reasonableness of a search under paragraph (1)(a) include –

(a) the amount of material involved;

(b) the nature and complexity of the proceedings;

(c) whether the material is in the control of the party making the search;

(d) the ease and expense of retrieval of any material; and

(e) the significance of any material which is likely to be located during the search.

(4) The duty to search for, lodge and serve material under paragraph (1) continues until the appeal or the application, as the case may be, has been determined.

(5) Where material, other than closed material, to which the duty under paragraph (1) extends comes to a party's attention before the appeal or the application has been determined, that party must immediately –

(a) lodge it with the Court;

(b) serve it on the other party; and

(c) serve it on any special counsel.

16A/11 Redacted material

Where the Chief Minister serves on another party any evidence (including a witness statement) or material which has been redacted on grounds other than those of legal professional privilege, the Chief Minister must –

(a) notify the party that the evidence or material has been redacted and on what grounds it has been redacted;

(b) lodge the evidence or material with the Court in an unredacted form together with an explanation of the redaction.

16A/12 Permission to withhold closed material

(1) The Chief Minister –

(a) must apply to the Court for permission to withhold closed material from another party and that party's legal representative in accordance with this rule; and

(b) may not rely on closed material at a hearing unless special counsel has been appointed and attends the hearing to represent the interests of that party.

(2) The Chief Minister must lodge with the Court and serve, at such time as the Court directs, on special counsel –

(a) the closed material;

(b) a statement of the reasons for withholding that material from the specially represented party; and

(c) if the Chief Minister considers it possible to summarise that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the specially represented party or that party's legal representative.

(3) Where the Chief Minister serves on special counsel any closed material which has been redacted on grounds other than those of legal professional privilege –

(a) the Chief Minister must lodge with the Court the material in an unredacted form together with an explanation of the redactions; and

(b) the Court shall give a direction to the Chief Minister as to what may be redacted and what, if any, must be served on special counsel in an unredacted form.

(4) The Chief Minister may at any time amend or supplement material lodged under this Rule, but only with –

(a) the agreement of special counsel; or

(b) the permission of the Court.

16A/13 Consideration of application to withhold material

(1) Where the Chief Minister applies in accordance with Rule 16A/12 for permission to withhold closed material the Court shall fix a hearing for the Chief Minister and special counsel to make oral representations, unless –

(a) special counsel gives notice to the Court that special counsel does not challenge the application;

(b) the Court –

(i) has previously considered an application for permission to withhold the same or substantially the same material, and

(ii) is satisfied that it would be just to give permission without a hearing; or

(c) the Chief Minister and special counsel consent to the Court deciding the issue without a hearing.

(2) If special counsel does not challenge the application, special counsel must give notice of that fact to the Court and to the Chief Minister –

(a) within 14 days after the Chief Minister serves on special counsel the material under Rule 16A/12(2); or

(b) within such other period as the Court may direct.

(3) Where the Court fixes a hearing under paragraph (1) –

(a) special counsel may lodge with the Court and serve on the Chief Minister a reply to the Chief Minister's application;

(b) the Chief Minister may lodge with the Court and serve on special counsel a response to special counsel's reply; and

(c) the Chief Minister and special counsel must lodge with the Court at least 7 days before the hearing a schedule identifying the issues which cannot be agreed between them and which must –

(i) give brief reasons for their contentions on each issue in dispute, and

(ii) set out any proposals for the court to resolve the issues in dispute.

(4) A hearing under this Rule must take place in the absence of the specially represented party and that party's legal representative.

(5) The Court shall give permission to the Chief Minister to withhold closed material where it considers that disclosure of that material would be contrary to the public interest.

(6) Where the Court gives permission to the Chief Minister to withhold closed material, the Court shall –

(a) consider whether to direct the Chief Minister to serve a summary of that material on the specially represented party or that party's legal representative; but

(b) ensure that such a summary does not contain material, the disclosure of which would be contrary to the public interest.

(7) Where the Court does not give permission to the Chief Minister to withhold closed material from, or directs the Chief Minister to serve a summary of that material on, the specially represented party or that party's legal representative –

(a) the Chief Minister is not required to serve that material or summary; but

(b) if the Chief Minister does not do so, at a hearing on notice, the Court may –

(i) where it considers that the material or anything that is required to be summarised might adversely affect the Chief Minister's case or supports the case of the specially represented party, direct that the Chief Minister must not rely on such material in the Chief Minister's case, or must make such concessions or take such other steps, as the Court may specify, or

(ii) in any other case, direct that the Chief Minister does not rely on the material or (as the case may be) on that which is required to be summarised.

16A/14 Failure to comply with directions

(1) Where a party or special counsel fails to comply with a direction of the Court, the Court may serve on that party or special counsel a notice which states –

(a) the respect in which that party or special counsel has failed to comply with the direction;

(b) a time limit for complying with the direction; and

(c) that the Court may proceed to determine the proceedings before it, on the material available to it, if the party or special counsel fails to comply with the relevant direction within the time specified.

(2) Where a party or special counsel fails to comply with such a notice, the Court may proceed in accordance with paragraph (1)(c).

16A/15 Judgments

(1) When the Court gives judgment in any appeal or application, it may withhold all or some of its reasons if and to the extent that it is not possible to give reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the Court does not include the full reasons for its decision, the Court shall serve on the Chief Minister and special counsel a separate written judgment including those reasons.

(3) Where the Court serves a separate written judgment under paragraph (2), special counsel may apply to the Court to amend that judgment and the judgment under paragraph (1) on the grounds that the separate written judgment under paragraph (2) contains material not in the judgment under paragraph (1) the disclosure of which would not be contrary to the public interest.

(4) Special counsel must serve a copy of the application under paragraph (3) on the Chief Minister.

(5) The Court shall give special counsel and the Chief Minister an opportunity to lodge written submissions and may determine the application with or without a hearing.

16A/16 Reconsideration of order, direction or judgment

(1) This Rule applies where the Court proposes, in proceedings on any application or appeal where special counsel has been appointed, to serve on a party other than the Chief Minister –

(a) notice of any order or direction made or given in the absence of that other party; or

(b) any written judgment.

(2) Before the Court serves any such notice or judgment on a party other than the Chief Minister, it shall first serve notice on the Chief Minister of its intention to do so.

(3) The Chief Minister may, within 5 days of being served with notice under paragraph (2), apply to the Court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Chief Minister considers –

(a) the Chief Minister's compliance with the order or direction; or

(b) the notification to another party of any matter contained in the judgment, order or direction,

would cause information to be disclosed contrary to the public interest.

(4) Where the Chief Minister makes an application under paragraph (3), the Chief Minister must at the same time serve on special counsel –

(a) a copy of the application;

(b) a copy of the relevant document referred to in paragraph (1)(a) or (b); and

(c) a copy of the notice served on the Chief Minister pursuant to paragraph (2).

(5) Rule 16A/13 (except for paragraphs (6) and (7)) applies with any necessary modifications to the consideration of an application under paragraph (3) of this Rule.

(6) The Court shall not serve notice on a party other than the Chief Minister as mentioned in paragraph (1) before the time for the Chief Minister to make an application under paragraph (3) has expired.

16A/17 Supply of court documents

Unless the Court directs otherwise, no person may obtain from the records of the Court a copy of any document relating to proceedings to which this Part applies.

PART 16B[145]

PROCEEDINGS UNDER THE COUNTER-TERRORISM AND SECURITY ACT 2015

16B/1 Application and interpretation

(1) This Part applies to TEO proceedings in the Court.

(2) In this Part –

"the Act" means the Counter-Terrorism and Security Act 2015 as extended to Jersey by the Counter-Terrorism and Security (Jersey) Order 2017;

"closed material" means any relevant material that the Minister objects to disclosing to a relevant party on the grounds that disclosure is contrary to the public interest;

"legal representative" is to be construed in accordance with paragraph 4(4)(b) of Schedule 3 to the Act;

"the Minister" means the Minister for Justice and Home Affairs;

"open material" means any relevant material that the Minister does not object to disclosing to a relevant party on the grounds that disclosure is contrary to the public interest;

"relevant material" means the material described in paragraph 3(1)(a) to (c) of Schedule 3 to the Act;

"relevant party" means any party to the proceedings other than the Minister;

"review application" has the meaning given in Rule 16B/5(1);

"special counsel" means a person appointed under paragraph 10(1) of Schedule 3 to the Act;

"TEO" means a temporary exclusion order (which has the same meaning as in section 2 of the Act);

"TEO proceedings" has the same meaning as in paragraph 1 of Schedule 3 to the Act;

"TEO subject" means an individual on whom the Minister has imposed, or is proposing to impose, a TEO.[146]

(3) For the purposes of this Part, disclosure is contrary to the public interest if it is made contrary to the interests of national security, international relations or the detection and prevention of crime, or in any other circumstances where disclosure is likely to harm the public interest.

16B/2 Modification of the overriding objective

(1) Where any of the Rules in this Part applies, the overriding objective in Rule 1/6, and so far as possible any other Rule, must be read and given effect in a way which is compatible with the duty set out in paragraph (2).

(2) The Court must ensure that information is not disclosed contrary to the public interest.

(3) Subject to paragraph (2), the Court must satisfy itself that the material available to it enables it properly to determine proceedings.

16B/3 Application for permission to impose a TEO

An application under section 3(1)(b) of the Act for permission to impose a TEO must be made by the Minister by filing with the Court –

(a) a statement of reasons to support the application;

(b) any relevant material of which the Minister is aware at that stage; and

(c) any written submissions.

16B/4 Reference of TEO imposed without permission

A reference under paragraph 3(1) of Schedule 2 to the Act of the imposition of a TEO imposed without permission must be made by the Minister by representation that includes –

(a) a statement of reasons for imposing the TEO;

(b) any relevant material of which the Minister is aware at that stage; and

(c) any written submissions.

16B/5 Review applications – initial procedures

(1) An application to the Court to review a decision under section 11 of the Act ("a review application") shall be treated as an application for judicial review in respect of which the leave of the Bailiff under Rule 16/2 has been obtained.

(2) A review application must be brought by serving through the Viscount within one month from the date on which the decision was communicated to the TEO subject a notice setting out –

(a) the details of the decision which it is sought to review;

(b) details of how the TEO subject is affected by the TEO; and

(c) the grounds on which the TEO subject seeks to review the decision.

(3) The TEO subject must serve the following documents with his or her notice –

(a) a copy of –

(i) the written notice under section 4 of the Act of the imposition of the TEO; or

(ii) where relevant, any notice under section 9 of the Act imposing any or all of the permitted conditions; and

(b) any evidence, including witness statements, on which the TEO subject relies at that stage.

(4) The notice referred to in paragraph (2) and the documents referred to in paragraph (3) must be served on –

(a) the Minister and (if appointed) on special counsel; and

(b) the Attorney General.

(5) The TEO subject must –

(a) within 2 days after service of the notice furnish a copy of the notice and documents referred to in paragraph (3) to the Greffier together with a copy of the record of the Viscount certifying that the notice and documents have been duly served;

(b) within 5 days after the service of the notice apply to the Bailiff in chambers for a day to be fixed for a directions hearing.

(6) At the directions hearing, the Court may give directions, in particular –

(a) for the holding of a further hearing to determine the application;

(b) fixing a date, time and place for the further hearing at which the parties, their legal representatives (if any) and any special counsel can be present; and

(c) as to the order in which, and the time within which, the following are to be lodged –

(i) any response to the application to be lodged by the Minister under Rule 16B/6(1), (2) and (4),

(ii) any application to be made under Rule 16B/6(5),

(iii) any information to be lodged by the Minister pursuant to an order under Rule 16B/6(7),

(iv) any evidence to be lodged by the TEO subject under Rule 16B/7(1)(a),

(v) any evidence to be lodged by the Minister under Rule 16B/7(2),

(vi) any application by the Minister under Rule 16B/6(3), 16B/6(8) or 16B/7(3), and

(vii) any further evidence, including witness statements, written submissions or skeleton arguments, to be lodged by the parties and any special counsel.

16B/6 Review application – response by the Minister

(1) Where the Minister intends to oppose the exercise of any of the Court's powers under section 11(3) or (4) of the Act, the Minister must lodge with the Court –

(a) the grounds for opposing the exercise of those powers; and

(b) any relevant evidence (including any relevant material) of which the Minister is aware at that stage.

(2) Unless the Minister objects to the grounds and evidence in paragraph (1) being disclosed to the TEO subject and the TEO subject's legal representative, the Minister

must serve a copy of the grounds and evidence on the TEO subject at the same time as lodging the grounds.

(3) Where the Minister objects to the grounds and evidence in paragraph (1) being disclosed to the TEO subject and the TEO subject's legal representative, the Minister must make an application in accordance with Rule 16B/13.

(4) Where special counsel has been appointed, the Minister must serve on that special counsel a copy of the grounds and evidence lodged under paragraph (1).

(5) The TEO subject and any special counsel may apply to the Court for an order directing the Minister to lodge and serve further information about the Minister's grounds lodged under paragraph (1)(a).

(6) An application under paragraph (5) must be made as soon as reasonably practicable and must set out –

(a) what information is sought; and

(b) why the information sought is necessary for the determination of the review application.

(7) The Court may make an order on an application under paragraph (5) where it considers that the information sought –

(a) is necessary for the determination of the review application; and

(b) may be provided without disproportionate cost, time or effort.

(8) Where the Minister objects to serving on the TEO subject and the TEO subject's legal representative the information sought under paragraph (5), the Minister must make an application in accordance with Rule 16B/13.

16B/7 Review application – lodging and service of evidence

(1) Where the TEO subject wishes to rely on evidence in support of the review application and –

(a) such evidence was not lodged with the Court on the making of the application; or

(b) such evidence was lodged with the Court on the making of the application but the TEO subject wishes to rely on further evidence,

the TEO subject must lodge and serve that evidence, including any witness statement, on the Minister and any special counsel.

(2) Where the TEO subject serves evidence in support of the application, the Minister must lodge and serve, subject to paragraph (3), any further evidence, including any witness statement, on the TEO subject and any special counsel.

(3) Where the Minister seeks to withhold disclosure of any closed material from the TEO subject and the TEO subject's legal representative, the Minister must make an application in accordance with Rule 16B/13.

(4) The Minister must serve any closed material upon special counsel.

(5) The parties and, where relevant, any special counsel must lodge and serve any further evidence, including witness statements, written submissions or skeleton arguments as directed by the Court.

16B/8 Hearing of proceedings

(1) The following proceedings must be determined at a hearing –

(a) a review application;

(b) a hearing under 16B/14(2).

(2) Where the Court considers it necessary for any party and that party's legal representative to be excluded from any hearing or part of a hearing in order to secure that information is not disclosed contrary to the public interest, it must –

(a) direct accordingly; and

(b) conduct the hearing, or that part of it from which that party and that party's legal representative are excluded, in private but attended by special counsel to represent the interests of the excluded party.

(3) The Court may conduct a hearing or part of a hearing in private for any other good reason.

16B/9 Appointment of a special counsel

(1) Subject to paragraph (2), the Minister must immediately give notice of the proceedings to the Attorney General (who, under paragraph 10(1) of Schedule 3 to the Act, has the power to appoint special counsel), on –

(a) making an application under section 3(1)(b) of the Act (application for permission to impose a TEO);

(b) making a reference under paragraph 3(1) of Schedule 2 to the Act (reference of urgent TEO imposed without permission); or

(c) being served with a copy of any application, claim or notice of appeal in proceedings to which this Part applies.

(2) Paragraph (1) applies unless –

(a) the Minister does not intend to –

(i) oppose the application, claim or appeal; or

(ii) withhold closed material from a relevant party; or

(b) special counsel has already been appointed to represent the interests of the relevant party in the proceedings and such special counsel is not prevented from communicating with that party by virtue of Rule 16A/10.

(3) Where any proceedings to which this Part applies are pending but no special counsel has been appointed, a relevant party or the Minister may request that the Attorney General appoint a special counsel, and failing such appointment a relevant party may apply to the Court to require such appointment.

16B/10 Role of special counsel

(1) The functions of special counsel are to represent the interests of a relevant party by –

(a) making submissions to the Court at any hearing or part of a hearing from which the relevant party and the relevant party's legal representative are excluded;

(b) adducing evidence and cross-examining witnesses at any such hearing or part of a hearing;

(c) making applications to the Court or seeking directions from the Court where necessary; and

(d) making written submissions to the Court.

(2) Special counsel may communicate with the relevant party or the relevant party's legal representative at any time before the Minister serves closed material on special counsel.

(3) After the Minister serves closed material on special counsel, special counsel must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (4) or (7)(b) or with a direction of the Court pursuant to a request under paragraph (5).

(4) Special counsel may, without directions from the Court, communicate about the proceedings with –

(a) the Court;

(b) the Minister or any person acting for the Minister;

(c) the Attorney General or any person acting for the Attorney General; or

(d) any other person, except the relevant party or the relevant party's legal representative, with whom it is necessary for administrative purposes for special counsel to communicate about matters not connected with the substance of the proceedings.

(5) Special counsel may request directions from the Court authorising special counsel to communicate with the relevant party or the relevant party's legal representative or with any other person.

(6) Where special counsel makes a request for directions under paragraph (5) –

(a) the Court must notify the Minister of the request and of the content of the proposed communication and the form in which it is proposed to be made; and

(b) the Minister must, within a period specified by the Court, lodge with the Court and serve on special counsel notice of any objection which the Minister has to the proposed communication or to the form in which it is proposed to be made.

(7) Paragraph (2) does not prohibit the relevant party from communicating with special counsel after the Minister has served material on special counsel, but –

(a) the relevant party may only communicate with special counsel in writing through the relevant party's legal representative; and

(b) special counsel must not reply to the communication other than in accordance with directions of the Court, except that special counsel may without such directions send a written acknowledgment of receipt to the relevant party's legal representative.

16B/11 Modification of the general Rules of evidence and disclosure

(1) So much of Part 6 as relates to disclosure and inspection of documents and so much of these Rules as relates to evidence, do not apply to any proceedings to which this Part applies.

(2) Subject to this Part, the evidence of a witness may be given either –

(a) orally before the Court; or

(b) in writing, in which case it must be given in such manner and at such time as the Court directs.

(3) The Court may also receive evidence in documentary or any other form.

(4) The Court may receive evidence that would not, but for this Rule, be admissible in a court of law.

(5) Every party is entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party's legal representatives are not excluded.

(6) Special counsel is entitled to adduce evidence and to cross-examine a witness only during a hearing or part of a hearing from which the relevant party and the relevant party's legal representatives are excluded.

(7) The Court may require a witness to give evidence on oath or by solemn affirmation.

16B/12 Lodging and service of relevant material

The Minister must –

(a) make a reasonable search for relevant material; and

(b) lodge and serve that material in accordance with this Part.

16B/13 Permission to withhold closed material

(1) The Minister –

(a) must apply to the Court for permission to withhold closed material from a relevant party or the relevant party's legal representative in accordance with this Rule; and

(b) may not rely on closed material at a hearing on notice unless special counsel has been appointed to represent the interests of the relevant party.

(2) The Minister must lodge with the Court and, at such time as the Court directs, serve on special counsel –

(a) the closed material;

(b) a statement of the Minister's reasons for withholding that material from the relevant party and the relevant party's legal representatives; and

(c) if the Minister considers it possible to provide a summary of that material without disclosing information contrary to the public interest, a summary of that material in a form which can be served on the relevant party.

(3) The Minister may at any time amend or supplement material lodged under this Rule, but only with –

(a) the agreement of special counsel; or

(b) the permission of the Court.

16B/14 Consideration of the Minister's objection or application

(1) This Rule applies where the Minister has –

(a) objected under Rule 16/B/10(6)(b) to a proposed communication by special counsel or to the form in which it is proposed to be made; or

(b) applied under Rule 16B/13 for permission to withhold closed material.

(2) The Court must fix a hearing for the Minister and special counsel to make oral representations, unless –

(a) special counsel gives notice that he or she does not challenge the application or objection;

(b) the Court has previously considered –

(i) an objection under Rule 16/B/10(6)(b) to the same or substantially the same proposed communication; or

(ii) an application under Rule 16B/13(1) for permission to withhold the same or substantially the same material;

and is satisfied that it would be just to give permission or uphold the objection without a hearing; or

(c) the Minister and special counsel consent to the Court deciding the objection or application without a hearing.

(3) If special counsel does not challenge the objection or the application, he or she must give notice of that fact to the Court and the Minister no later than the end of –

(a) 14 days after the date on which the Minister serves on special counsel the notice under Rule 16/B/10(6)(b) or the material under Rule 16B/13(2); or

(b) such other period as the Court may direct.

(4) Where the Court fixes a hearing under this Rule, the Minister and special counsel must before the hearing lodge with the Court a schedule identifying the issues which cannot be agreed between them, which must also –

(a) give brief reasons for their contentions in relation to each issue; and

(b) set out any proposals for the Court to resolve those issues.

(5) A hearing under this Rule shall take place in the absence of the relevant party and the relevant party's legal representative.

(6) Where the Court gives permission to the Minister to withhold sensitive material, the Court must –

(a) consider whether to direct the Minister to serve a summary of that material on the relevant party and the relevant party's legal representative; but

(b) ensure that any such summary does not contain material the disclosure of which would be contrary to the public interest.

(7) Where the Court has not given permission to the Minister to withhold sensitive material from, or has directed the Minister to serve a summary of that material on, the relevant party and the relevant party's legal representative –

(a) the Minister shall not be required to serve that material or summary; but

(b) if the Minister does not do so, at a hearing on notice the Court may –

(i) if it considers that the material or anything that is required to be summarized might be of assistance to the relevant party in relation to a matter under consideration by the Court, direct that the matter is withdrawn from its consideration or that the Minister makes such concessions or takes such other steps as the Court may direct; and

(ii) in any other case, direct that the Minister must not rely in the proceedings on that material or (as the case may be) on what is required to be summarized.

(8) The Court must give permission to the Minister to withhold sensitive material where it considers that disclosure of that material would be contrary to the public interest.

16B/15 Order of lodging and serving material and written submissions

Subject to any directions given by the Court, the parties must lodge and serve any material and written submissions, and special counsel must lodge and serve any written submissions, in the following order –

(a) the Minister must lodge with the Court any relevant material of which the Minister is aware;

(b) the Minister must serve on –

(i) the relevant party or the relevant party's legal representative; and

(ii) special counsel (as soon as counsel is appointed) or those instructing special counsel,

any open material;

(c) the relevant party must lodge with the Court and serve on the Minister and special counsel (if appointed) or those instructing special counsel any written evidence which the relevant party wishes the Court to take into account at the hearing;

(d) the Minister must lodge with the Court any further relevant material;

(e) the Minister must serve on –

(i) the relevant party or the relevant party's legal representative; and

(ii) special counsel (as soon as counsel is appointed) or those instructing special counsel,

any open material lodged with the Court under sub-paragraph (d);

(f) the Minister must serve on special counsel (if appointed) any closed material;

(g) the parties and special counsel (if appointed) must lodge and serve any written submissions as directed by the Court.

16B/16 Failure to comply with directions

(1) Where a party or special counsel fails to comply with a direction of the Court, the Court may serve on that person a notice which states –

(a) the respect in which that person has failed to comply with the direction;

(b) a time limit for complying with the direction; and

(c) that the Court may proceed to determine the proceedings before it on the material before it if that person fails to comply with the direction within that time limit.

(2) Where a party or special counsel fails to comply with the direction after such a notice, the Court may proceed in accordance with paragraph (1)(c).

16B/17 Judgments

(1) Where the Court gives judgment in any proceedings to which this Part applies, it may withhold any, or any part, of its reasons if and to the extent that it is not possible to give those reasons without disclosing information contrary to the public interest.

(2) Where the judgment of the Court does not include the full reasons for its decision, the Court must serve on the Minister and special counsel a separate written judgment giving those reasons.

16B/18 Application by the Minister for reconsideration of decision

(1) If the Court proposes, in any proceedings to which this Part applies, to serve on a relevant party –

(a) notice of any order or direction made or given in the absence of the Minister; or

(b) any written judgment;

then before the Court serves any such notice or judgment on the relevant party, it must first serve notice on the Minister of its intention to do so.

(2) The Minister may, within 5 days of being served with notice under paragraph (1), apply to the Court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Minister considers that –

(a) the Minister's compliance with the order or direction; or

(b) the notification to the relevant party of any matter contained in the judgment, order or direction,

would cause information to be disclosed contrary to the public interest.

(3) Where the Minister makes an application under paragraph (2), the Minister must at the same time serve on special counsel (if appointed) –

(a) a copy of the application; and

(b) a copy of the notice served on the Minister pursuant to paragraph (1).

(4) Rule 16B/14, except for paragraphs (6) and (7) of that Rule, applies where special counsel has been appointed and with any necessary modifications to the consideration of an application under paragraph (2) of this Rule.

(5) The Court must not serve notice or a written judgment on the relevant party as mentioned in paragraph (1) before the time for the Minister or relevant person to make an application under paragraph (2) has expired.

16B/19 Applications for anonymity

(1) The TEO subject or the Minister may apply for an order requiring anonymity for the TEO subject.

(2) An application under paragraph (1) may be made at any time, irrespective of whether any TEO proceedings have been commenced.

(3) An application may be made without notice to the other party.

(4) The reference in this Rule to an order requiring anonymity for the TEO subject is to be construed in accordance with paragraph 6(3) of Schedule 3 to the Act.

16B/20 Supply of Court documents

Unless the Court directs otherwise, no person may obtain from the records of the Court a copy of any document relating to proceedings to which this Part applies.

PART 17

TRANSACTION OF BUSINESS IN CHAMBERS

17/1 Non-contentious business which may be transacted before the Bailiff and Jurats

The following non-contentious business may be transacted in chambers before the Bailiff and two Jurats, namely, applications in pursuance of Article 51(1) and applications for leave in pursuance of Article 51(3) of the Trusts (Jersey) Law 1984, and the making of adoption orders.

17/2 Non-contentious business which may be transacted before the Bailiff

(1) The following non-contentious business of the Court may be transacted in chambers before the Bailiff alone, namely –

(a) the registration of the Viscount's report on an inquest held on the body of a deceased person;

(b) the making of an order seeking aid from a court outside Jersey exercising jurisdiction in relation to insolvency; and

(c) the making of an order providing for obtaining evidence in Jersey under the Evidence (Proceedings in Other Jurisdictions) Act 1975, as extended to Jersey by the Evidence (Proceedings in Other Jurisdictions) (Jersey) Order 1983.

(2) If any such business is transacted in the absence of the Greffier, the Bailiff shall make the order in writing and transmit it to the Greffier.

17/3 Non-contentious business which may be transacted before the Greffier

(1) The following non-contentious business may be transacted in chambers before the Greffier, namely –

(a) the grant of an application for the registration of a will of immoveables;

(b) the hearing and determination of an application for the registration of a power of attorney or of an instrument revoking or abandoning a power of attorney;

(c) the hearing and determination of an application for registration, and the making (and where so provided in the relevant legislation, the rescission) of orders for the cancellation of such registration, as an architect under the Architects (Registration) (Jersey) Law 1954, a registered person under the Dentistry (Jersey) Law 2015, a medical practitioner under the Medical Practitioners (Registration) (Jersey) Law 1960, an optometrist or a dispensing optician under the Opticians (Registration) (Jersey) Law 1962, or a veterinary surgeon under the Veterinary Surgeons (Jersey) Law 1999;

(d) the following matters under the Loi (1862) sur les teneures en fidéicommis et l'incorporation d'associations –

(i) the acceptance of a declaration with regard to the appointment of a new trustee made in accordance with Article 3,

(ii) the approval by the Court of any modification of the constitution (*objet et règles*) of an association pursuant to the third paragraph of Article 4,

(iii) the acceptance of a declaration of the name of the person charged to represent an association made in accordance with the first or second paragraph of Article 5,

of that Law;

(e) the hearing and determination of an application for –

(i) the registration of a deed poll;

(ii) a gender recognition certificate under Article 2, 3 or 5, or a corrected certificate under Article 6, of the Gender Recognition (Jersey) Law 2010;

(f) the grant of an application for the registration of a notice served under the Electricity (Jersey) Law 1937, Article 10(5) of the Drainage (Jersey) Law 2005, Article 2(2) of the Roads (Drainage) (Jersey) Law 1962, or Article 3(1) of the Water (Jersey) Law 1972;

(g) under the Judgments (Reciprocal Enforcement) (Jersey) Law 1960 –

(i) the registration under Article 4 of the Law of judgments to which Part 2 of the Law applies;

(ii) the issue of certified copies of judgments and certificates under Article 11 of the Law;

(h) the hearing and determination of an application for the rectification of the register under Article 10 of the Patents (Jersey) Law 1957, Article 11 of the Registered Designs (Jersey) Law 1957 and Article 16 of the Trade Marks (Jersey) Law 2026 (rectification of the register of trade marks);

(i) the grant of an application under Article 15 of the Compulsory Purchase of Land (Jersey) Law 1961 for the registration of an award of the Board of Arbitrators;

(j) the hearing and determination of an application for the registration of a co-ownership declaration (*déclaration de copropriété*) under Article 3 of the Loi (1991) sur la copropriété des immeubles bâtis or of any amendment to such a declaration;

(k) the grant of the applications for the registration of –

(i) a planning obligation under Article 25(15), and

(ii) an agreement modifying or discharging a planning obligation under Article 25(16),

of the Planning and Building (Jersey) Law 2002;

(l)

(m) a declaration pursuant to Article 213 of the Companies (Jersey) Law 1991 that the dissolution of a company is void;

(n) a declaration pursuant to Article 19 of the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 that the dissolution of an entity is void;

(o) a declaration pursuant to Article 22(6) of the Limited Liability Partnerships (Jersey) Law 2017 that a certificate of dissolution issued under that Law or under the Limited Liability Partnerships (Dissolution and Winding Up) (Jersey) Regulations 2018 is void;

(p) a declaration pursuant to Article 39 of the Foundations (Winding up) (Jersey) Regulations 2009 that the dissolution of a foundation is void.[147]

(2) Every such application or declaration except in respect of paragraph (1)(b) must be in writing and be signed by the applicant or declarant or by an advocate or solicitor on behalf of the applicant or declarant.

(3) A power of attorney, for the purposes of Rule 17/3(1)(b) –

(a) includes a power of attorney given outside Jersey that is not revoked by the subsequent legal incapacity of the donor; but

(b) does not include a power of attorney (wherever given) naming an attorney without whom the donor may not act in respect of moveable or immoveable property.[148]

(4) The content and form of a full certificate and an interim certificate for the purposes of the Gender Recognition (Jersey) Law 2010 are specified in Schedule 5A.[149]

PART 18

REGISTRATION OF TITLE, HYPOTHECS, ETC., PROCEDURE ON CAVEATS, ETC.

18/1 Mode of registration and indexing

(1) Subject to paragraph (2), registration of a document which is to be retained at the Judicial Greffe may be effected by placing the document in a file, and registration by enrolment may be effected either by any mechanical means, including photography or similar process, on individual sheets which are subsequently filed or bound or by keeping an image of the document on a computer.

(2) Registration by enrolment of a document in any of the registers of the Public Registry and the indexing thereof may be effected on a computer.

(3) Entries in the indices shall be made –

(a) in relation to a married woman, both under her maiden name and under the name of her husband;

(b) in relation to a guarantee in a contract, under the name of the guarantor;

(c) in relation to a widow who abandons her right of dower, both under her maiden name and under the name of the man from whom she derives her dower; and

(d) in relation to the registration of a will of immoveables, under the names of the testator and the devisees.[150]

18/2 Registration of sundry acts, instruments and judgments

(1) Acts directing the registration of –

(a) wills and codicils disposing of immoveable property;

(b) co-ownership declarations (*déclarations de copropriété*) under Article 3 of the Loi (1991) sur la copropriété des immeubles bâtis or amendments to such declarations;

(c) notices served under Article 10(5) of the Drainage (Jersey) Law 2005, or under Article 3(1) of the Water (Jersey) Law 1972,

shall be enrolled in the Register of Contracts and in no other register.

(2) An instrument repealing or abandoning a power naming an attorney without whom the donor may not transact in respect of moveable or immoveable property, and a judgment given by a court of competent jurisdiction affecting –

(a) the validity of any such power; or

(b) the appointment of a curator, guardian or administrator,

shall be enrolled in the Register of Procurations.[151]

(3) Deeds poll registered in the Royal Court and executed by persons whose names appear in the Register of Contracts or the Register of Procurations or as a defendant in the Register of Obligations shall be enrolled in whichever of those registers their name appears, and the application for registration of the deed poll shall contain all such information as may be necessary for this purpose.

(4) A judgment affecting the validity of an hereditary contract or testamentary disposition of immoveable property given by a court of competent jurisdiction shall be enrolled in the Register of Contracts.[152]

(5) An order of the Family division relating to immoveable property shall be enrolled in the Register of Contracts.

18/3 Registration of instruments relating to the title of immoveable property

(1) No instrument relating to the title of immoveable property is valid unless registered in the Public Registry.

(2) Any such instrument shall be deemed to be so registered if it is in the custody of the Greffier for the purposes of registration, and its effective date shall be deemed to be, if a contract, the date on which it was passed before Court or, if another instrument, the date on which its registration in the Public Registry was ordered by the Court.

18/4 Judicial hypothecs

(1) When the Court gives an act or judgment of a kind referred to in Article 13 of the Loi (1880) sur la propriété foncière, the Court, on the application of the plaintiff, shall order the registration of the act or judgment in the Register of Obligations and, in such a case, the judicial hypothec resulting from the registration shall bear the same date as that of the act or judgment and shall confer on the plaintiff the same rights as the plaintiff would have had had the plaintiff remitted it to the Greffier within 15 days of the date thereof in accordance with the provisions of the said Article 13.

(2) Actions for the acknowledgement of a debt by consent (*reconnaissances*) must be brought before the Greffier in chambers.

(3) An action for the acknowledgement of a debt by consent shall be instituted by the delivery to the Greffier of an acknowledgement document which must –

(a) state the full names of all parties to the action (including, in the case of a married woman, her maiden name);

(b)

(c) be executed by each defendant or by that defendant's duly authorized attorney or by an advocate or solicitor on the defendant's behalf and by the plaintiff or by an advocate or solicitor on the plaintiff's behalf;

(d) state the date for which registration of the relevant act is requested by the plaintiff or, where immediate registration of the act is not being sought, the date of the act recording acknowledgement only, which date shall in either case be –

(i) a date upon which public passing of contracts takes place, or

(ii) where the borrowing relates to a contract *passé dans le particulier*, the date of passing the contract;

(e) conform to such other requirements as to form, layout and content as are specified by practice directions;

(f)

(g) exhibit at the rear of the document evidence that the appropriate stamp duty under the Stamp Duties and Fees (Jersey) Law 1998 has been or will be paid;

(h)

(i) be presented to the Greffier after 9 a.m. on the date referred to in sub-paragraph (d), provided that no acknowledgement document may be presented to the Greffier after 4 p.m. on the said date except with the leave of the Bailiff.[153]

(4) If the plaintiff requests immediate registration of the act in relation to the action the Greffier shall register it in the Public Registry in accordance with paragraph (10).

(5) If the plaintiff requests an act recording acknowledgement only, the Greffier shall, subject to the provisions of paragraph (9), make such an act in the terms of the acknowledgement document.

(6) No attestation of the execution by a defendant of an acknowledgement document shall be necessary except such attestation, in the case of a body corporate, as its constitution may require.

(7) A debt acknowledged in the manner prescribed by paragraph (3) shall be deemed, unless otherwise stated in the acknowledgement, to be without prejudice to any indebtedness of the debtor to the creditor previously or concurrently secured by hypothec or acknowledged before Court, and the hypothecs relating to the respective debts shall be without prejudice to one another.

(8) If the bond, note of hand, guarantee or other similar document to which an action for the acknowledgement of a debt refers is required to be marked (*merché*) by the Greffier, it must be presented to the Greffier for marking at the same time as the acknowledgement document is delivered to the Greffier and the Greffier shall mark it and hand it back forthwith to the person who presented it.

(9) An action for the acknowledgement of a debt instituted in accordance with paragraph (3) may, at any time not later than 4 p.m. on the date referred to in paragraph (3)(d), be withdrawn by the advocate or solicitor acting for the plaintiff.

(10) In the case referred to in paragraph (4) the Greffier shall, after the time within which an action for the acknowledgement of a debt delivered for registration on a particular date may be withdrawn, sign and seal the acknowledgement document which shall thereupon become an act and be enrolled in the Register of Obligations in accordance with the provisions of Article 13 of the Loi (1880) sur la propriété foncière.

(11) At the beginning of each working week, the Greffier shall place in the Public Registry copies of all acts in relation to actions for the acknowledgement of a debt registered in the manner prescribed in paragraphs (4) and (10) and all other acts of Court, which were ordered to be registered in the Public Registry during the preceding week, and shall attach to the said copies a statement of the number of such copies.

(12) [154]

18/4A Social Security hypothecs[155]

(1) In this Rule –

"arrangement" means an arrangement with the Minister resulting in the creation of a legal hypothec;

"legal hypothec" means a hypothec arising pursuant to Article 2(1) of the Social Security Hypothecs (Jersey) Law 2014;

"Minister" means the Minister for Social Security.

(2) The Greffier, on the application of the Minister in accordance with this Rule, shall register a form of notification of legal hypothec in the Register of Obligations and, in such a case, the legal hypothec shall bear the date of such registration.

(3) The form of notification of legal hypothec must –

(a) state the full names of all those whose immovable property is subject to the legal hypothec (including, in the case of a married woman, her maiden name);

(b) be in or substantially in the form set out in Schedule 6A;

(c) be executed by the Minister;

(d) exhibit at the rear of the form evidence that the appropriate stamp duty under the Stamp Duties and Fees (Jersey) Law 1998 has been or will be paid;

(e) be presented to the Greffier after 9 a.m. on the date for which its registration is requested, provided that no form of notification of legal hypothec may be presented to the Greffier after 4 p.m. on the said date.[156]

(4) The form of notification of legal hypothec must be accompanied by documentary evidence sufficient to satisfy the Greffier that –

(a) the person who has entered into the arrangement; and

(b) any person whose immovable property is subject to the legal hypothec,

are aware of the hypothec and have acknowledged the right of the Minister to apply for it to be registered.

(5) The Greffier shall, on the date of such registration, sign and seal the form of notification of legal hypothec which shall thereupon be enrolled in the Register of Obligations.

(6) The Greffier shall treat a written confirmation from the Minister that the debt secured by the legal hypothec has been extinguished as evidence of the extinguishment of the debt secured by the legal hypothec.

18/5 Lodging and effect of a caveat (*opposition*)

(1) A caveat (*opposition*) against the alienation of a person's immoveable property may not be lodged without the leave of the Bailiff.

(2) An application for leave under paragraph (1) must be made in writing and be supported by an affidavit, and the application may be made *ex parte*.

(3) If the Bailiff grants the application, the Bailiff shall notify the applicant and the Greffier in writing that the caveat has been lodged.[157]

(3A) On receipt of that notification –

(a) the applicant shall give written notice of the lodging of the caveat to every person whose immovable property is affected by it; and

(b) the Greffier shall cause it to be placed, until the caveat has been lifted or is no longer in force, in a file forming part of the Public Registry.[158]

(4) A caveat renders void any contract of alienation of immoveable property passed while it is in force by or in the name of the person against whom it has been lodged and, for this purpose, it does not come into force until the date on which it is placed in the file referred to in paragraph (3A)(b).[159]

(5) Any person prejudiced by the continuation in force of a caveat may summons the caveator to appear before the Court to show cause why the caveat should not be lifted.

(6) A summons under paragraph (5) must be in the form in Schedule 7 supported by an affidavit verifying the facts on which it is based and be tabled in accordance with Rule 6/5 but, when the case is called, the Court, notwithstanding Rule 6/6, shall not (unless cause to do so is shown by the defendant) place the action on the pending list, but may adjourn or otherwise hear or dispose of the summons as it thinks fit and, without prejudice to the generality of the foregoing, may order the payment of damages.

18/6 Injunctions against transactions in immovables

(1) When the Greffier receives notification from a plaintiff that the Court has granted an injunction restraining any person from disposing of or hypothecating immovable property, the Greffier shall cause a copy thereof to be placed, until the injunction expires or is lifted, in the file referred to in Rule 18/5(3).

(2) A contract of alienation of immovable property passed while an injunction against such alienation is in force, or a hypothec obtained against immovable property while an injunction against the hypothecation thereof is in force (other than by virtue of the registration of an act or judgment relating to a debt incurred before the granting of the injunction), is void and, for this purpose, the injunction does not come into force until the date on which it is placed on the file referred to in Rule 18/5(3).

18/7 [160]

18/8 Signing of contracts *(Acte authentique)*

An hereditary contract is duly authenticated if signed or initialled on either the first or the last page thereof by the persons before whom it has been passed.

18/9 Engrossment of contracts

(1) In this Rule, "contract" includes a receipt for the reimbursement of a *rente* or simple conventional hypothec, a document evidencing the discharge of an obligation imposed by virtue of a will in respect of immoveable property, a power of attorney and letters of appointment of a guardian or administrator.

(2) The following provisions apply in relation to the engrossment of contracts –

(a) the contract shall be engrossed on single sheets of A4 paper each of a minimum weight of 100g/m^2;

(b) there shall be a margin, to be left blank, of at least 1¼ inches in width on the left hand side, and at least 1¼ inches at the head and foot, of each page of the contract;

(c) if the Greffier considers that a contract is unsuitable for reproduction, the Greffier may require an engrossment suitable for reproduction to be lodged;

(d) contracts shall be coded on a separate sheet;

(e) when a contract is typewritten, the spacing between the lines shall be that known as "1½ spacing";

(f) boundaries of immoveable property may be described by reference to a plan forming part of the contract, and any such plan shall be drawn in black, without the use of colour, on paper of the size and quality prescribed by sub-paragraph (a);

(g) at the rear of the contract, evidence must be exhibited that the appropriate stamp duty under the Stamp Duties and Fees (Jersey) Law 1998 has been or will be paid.[161]

(3) However, the Greffier may accept a contract for registration which does not comply with paragraph (2) if the Greffier thinks fit.

18/10 Co-ownership declarations

(1) In this Rule "1991 Law" means the Loi (1991) sur la copropriété des immeubles bâtis.

(2) The Court may refuse to grant an application for the registration of a co-ownership declaration under Article 3 of the 1991 Law if the declaration does not –

(a) state the name of –

(i) the owner of the property to which the declaration relates, and

(ii) the co-owners' association to be constituted under Article 5 of the 1991 Law;

(b) contain a description of the property in respect of which the declaration is made sufficient to identify the boundaries and title (*provenance*) thereof;

(c) state the number of shares (*lots*) into which the property is to be divided;

(d) contain a sufficient statement (whether by reference to a plan forming part of the declaration or otherwise) of –

(i) how the ownership of the property has been divided (*l'état déscriptif de division*),

(ii) the *destination* of both the private units and the common parts, as well as the conditions of their enjoyment,

(iii) subject to the provisions of the 1991 Law, the rules relating to the administration of the common parts,

(iv) in respect of each share (*lot*) the proportionate interest in the common parts and the proportionate liability with regard to each category of the common expenses.

(3) An application for the registration of a co-ownership declaration under Article 3 of the 1991 Law may also be refused if in the opinion of the Court –

(a) the name of the co-owners' association is in any way misleading or is otherwise undesirable; or

(b) the declaration is unsuitable for reproduction.

(4) Paragraphs (2) and (3) apply to the registration of any amendment of a co-ownership declaration as they apply to the registration of the original declaration.

(5) The requirements of Rule 18/9(2) apply in relation to the engrossment of co-ownership declarations and amendments thereof (subject to paragraph (3) of that Rule) as they apply in relation to the engrossment of contracts save that –

(a) sub-paragraph (c) shall not apply;

(b) the reference to boundaries of immoveable property in sub-paragraph (f) shall include the *état déscriptif de division* of the property to which the declaration relates and the common parts, the collective services, common facilities and any singular or reciprocal right or servitude as between the shares (*lots*) of which that property comprises;

(c) sub-paragraph (g) shall not prevent the registration of a co-ownership declaration (or any amendment thereof) to which is annexed a schedule making detailed provision in relation to any matter required to be stated in the declaration or otherwise for the administration of the property to which the

declaration relates, if that schedule forms part of the declaration and otherwise complies with the said paragraph (2).

18/11 Passing of hereditary contracts for and on behalf of the Public

(1) The Attorney General or the Solicitor General, as the case may be, may appoint an advocate or solicitor employed in the Law Officers' Department to be party to hereditary contracts in his or her place for and on behalf of the Public of the Island.

(2) An appointment under paragraph (1) –

(a) may be made in relation to contracts generally or in relation to one contract or several contracts specifically; and

(b) must be notified in writing to the Greffier as soon as it is made,

but shall be taken to have been withdrawn if the person appointed ceases to be employed in the Law Officers' Department.

PART 19[162]

PART 20

MISCELLANEOUS

20/1 Applications for orders and hearing of summonses

(1) Every application for an order under these Rules must be made, and any leave or directions must be obtained, by summons.

(2) The day for the hearing of a summons which is to be heard before the Greffier shall be fixed by the Greffier in such manner as the Greffier shall direct, and the summons shall be countersigned by the Greffier.

(3) The day for the hearing of a summons to be heard before the Court shall be fixed by application made to the Bailiff in Chambers, and the summons shall be countersigned by the Bailiff or the Bailiff's Secretary.

(4) Rule 6/29(2) shall apply to an application under paragraph (3) as it applies to an application under that Rule.

(5) A summons may be heard on any day on which the Court may sit.

(6) If the summons is heard before the Greffier, the Greffier may make such order as he or she thinks fit, or may adjourn the summons or any question arising therefrom to the Court for its decision and, pending the final determination of the summons, may make an interim order upon such terms as he or she thinks just.

(7) If the summons is heard before the Court, the Court may make such order as it thinks fit.

20/2 Appeal from order or decision of Greffier

(1) A party to proceedings before the Greffier may appeal by summons to the Court from an order or decision made or given by the Greffier in those proceedings.

(2) To the summons referred to in paragraph (1) there must be appended a notice of appeal setting out the grounds of appeal and the relief sought and these must be filed with the Greffier and served on every other party to the proceedings in respect of which the appeal is being made within 10 days of the making of the order or decision complained of.

(3) Paragraphs (3) and (5) of Rule 20/1 shall apply in relation to appeals under this Rule as they apply in relation to summonses to the Court.

(4) The party issuing a summons under paragraph (1) must, not later than 10 days after giving notice of appeal under paragraph (2), apply to the Bailiff in chambers for a day to be fixed for the hearing of the appeal and, if that party fails to do so, the appeal shall be deemed to have been abandoned.

20/3 Proceedings before the Viscount or Greffier

(1) The Viscount and the Greffier may administer oaths to witnesses who appear to give evidence in proceedings before them.

(2) In proceedings before the Greffier in any cause or matter a party may be represented by an advocate or a solicitor.

20/4 Change of advocate or solicitor

Any party may change his or her advocate or solicitor at any stage of the proceedings but, until notice of any such change is filed by the new advocate or solicitor and copies of the notice are served on every other party to the proceedings (not being a party in default), the former advocate or solicitor shall be taken to be the advocate or solicitor of the party.[163]

20/5 Signing of orders of justice

(1) An order of justice must be signed by the Bailiff or by an advocate or solicitor unless an interim injunction, *arrêt entre mains* or other judicial act is sought therein, in which case it shall be signed by the Bailiff.

(2) Any solicitor who applies to the Bailiff for an order of justice containing an interlocutory injunction must give a written undertaking to the Bailiff that he or she has instructed an advocate in relation to the proceedings.

20/6 Duration of orders of justice, provisional orders and caveats (*oppositions*)

(1) An *ordre provisoire* shall remain in force for one year from the date of issue.

(2) An order of justice shall remain in force for one year from the date of issue but, if issued by the Bailiff, may be renewed annually by the Bailiff.

(3) A caveat (*opposition*) against the passing of a contract of alienation of immoveable property shall bear the date of its being lodged with the Bailiff and shall remain in force for 6 months from that date but may be renewed from time to time upon application being made in accordance with Rule 18/5(2).

20/7 Correction of judgments or orders

Clerical mistakes in acts, judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court either of its own motion or upon application by summons.

20/8 Affidavits

(1) An affidavit for the purposes of these Rules may be sworn before any person authorized to take affidavits in the country where it is made.

(2) Any affidavit or statutory declaration may be sworn before or signed in the presence of the Viscount or the Greffier.

20/9 Use of English

(1) Subject to this Rule, anything done or written in English in connection with any cause or matter in the Court is as valid and effectual as if done or written in French.

(2) All contracts passed before the Royal Court shall henceforth be in English but in the form that was customary when they were drafted in French.[164]

(3) In paragraph (2) "contracts" includes anything under which simple contractual hypothecs or *rentes* are created or reimbursed.[165]

(4) Practice directions may include for the purposes of paragraph (2) –

(a) provisions specifying with which expression in French an expression in English is to be taken to correspond; and

(b) any other requirement or provision necessary or expedient for carrying the directions into effect.[166]

(5) In paragraph (4)(a) "expression" includes words or phrases.[167]

(6) An application referred to in Rule 17/3(1)(a), (f), (j) or (k) shall be in English.[168]

20/10 Seal of the Court and sealing of documents

(1) The Superior Number shall cause a seal to be made for the use of the divisions of the Court other than those for which a seal is prescribed by any enactment, and may cause the same from time to time to be broken, altered and renewed at its discretion.

(2) All acts, judgments, orders and other instruments, and copies thereof, purporting to be sealed with such seal shall be received in evidence without further proof thereof.

(3) Contracts and other like documents shall be sealed with such seal.

20/11 Practice directions[169]

The Bailiff may issue directions in exercise of the inherent jurisdiction of the Royal Court to regulate its own process.

PART 21

CONCLUDING PROVISION

21 Citation

These Rules may be cited as the Royal Court Rules 2004.

SCHEDULE 1[170]

(Rule 1/1(1))

PROVISIONS OF THESE RULES IN WHICH REFERENCES TO THE COURT DO NOT INCLUDE REFERENCES TO THE GREFFIER.

Rule 6/3

Rule 6/7

Rule 6/9(1)

Rule 6/24

Rule 6/30

Rule 6/39

Rule 9/2

Rule 9/3

Rule 9/4(8)

Rule 10/1

Rule 10/4

Rule 11/1

Rule 11/4

Rule 14A/10(2)(e)

Rule 14A/13(2)

Rule 15/1

Rule 15/2(1)

Rule 15B/1(2)(c)

Part 16

Rule 16A/1(1)

Rule 16B/1(1)

Rule 16B/5(1)

Rule 18/5

Rule 18/6

Rule 20/1

Rule 20/2

SCHEDULE 1A[171]

(Rule 2/5)

SERMENT DES JUSTICIERS GUERNÉSIAIS

Vous jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge de Juré-Justicier en la Cour Royale de notre Souverain Seigneur Charles Trois, par la Grâce de Dieu, Roi de la Grande Bretagne, de l'Irlande du Nord et des Dominions Britanniques d'outre mer, Défenseur de la Foi, en cette son Isle de Jersey, la Majesté de laquelle vous reconnoissez sous Dieu, suprême Gouverneur en tous ses Royaumes, Provinces, et Dominions, renonçant à toutes supériorités foraines et étrangères; Vous garderez le droit de Sa Majesté, et de ses sujets, et soutiendrez l'honneur et gloire de Dieu, et de sa pure et sacrée parole; Vous administrerez bonne et briève justice également tant aux riches qu'aux pauvres, sans acception de personne, suivant les Loix, Coutumes et Usages confirmés par les Privilèges de l'Isle, en les soutenant avec ses libertés et franchises, vous opposant à quiconque les voudroit enfreindre. Item vous ferez punir et châtier tous Traîtres, Meurtriers, Larrons, Blasphémateurs du sacré Nom de Dieu, Yvrognes et autres personnes scandaleuses, chacun selon son démérite, vous opposant à tous séditieux, à ce que la force demeure au Roi et à sa Justice. Vous assisterez à la Cour, donnant votre avis, opinion et conseil, selon la pureté de votre conscience. Vous honorerez et ferez respecter la Cour, et garderez et ferez garder le droit des Veuves, Orphélins, Etrangers et autres personnes indéfendues; finalement en vos conclusions, vous vous rangerez et conformerez au meilleur et plus sain avis de Monsieur le Bailly, et de Messieurs de la Justice; Vous le promettez sur votre conscience.

SCHEDULE 2

(Rule 5/14)

FORMS OF SUMMONSES AND RECORDS OF SERVICE

Form of summons to defend an action

To A.B. of.....(address)

You are required to appear in the Royal Court, Royal Square, Saint Helier, on …..... (day of the week), the …….... day of ..... 20..., at ..... o'clock in the afternoon to defend the action of which particulars appear below.

If you do not appear, judgment may be given in your absence.

(Insert here a copy of the *billet*)

(*Signed*).....
Advocate/Solicitor

Dated the ..... day of ....., 20...

Form of summons to witness the confirmation of an order of justice

To A.B. of .....

You are required to appear in the Royal Court, Royal Square, Saint Helier, on …..... (day of the week), the …….... day of ..... 20..., at ..... o'clock in the afternoon to witness the confirmation of the order of justice, a copy of which is annexed.

If you do not appear, judgment may be given in your absence.

(*Signed*) .....
Viscount Substitute

Dated the ..... day of ....., 20...

Forms of record of ordinary service

SERVICE BY POST

(To be indorsed on the *billet*)

The summons in this action to appear in the Royal Court on …..... (day of the week), the …..... day of ..... 20..., was posted by me in a letter addressed to the defendant at …….. on ……..... (day of the week), the ..... day of ..... 20...,

(*Signed*) .....

Clerk to …….
Advocate/Solicitor

Dated the ..... day of ....., 20...

Service by other means

The summons in this action to appear in the Royal Court on …..... (day of the week), the …..... day of ....., 20..., was served by me by delivering it at the defendant's address for service, namely, ……..…….. (or, as the case may be) on …….... (day of the week), the ..... day of ..... 20...,

(*Signed*) .....

Clerk to …….
Advocate/Solicitor

Dated the ..... day of ....., 20...

Form of record of personal service

SERVICE OF ORDER OF JUSTICE

(To be indorsed on the original document)

I certify that a copy of this order of justice together with a summons to appear in the Royal Court on …..... (day of the week), the …..... day of ....., 20..., were served by me on A.B. on ……......, (day of the week), the ..... day of ....., 20..., by delivering those documents to him personally at …….

(Means of knowledge of the identity of the person served must be inserted here).

(*Signed*) .....
Viscount Substitute

Dated the ..... day of ....., 20...

Service of other summonses

(To be endorsed on the *billet*)

The summons in this action to appear in the Royal Court on …..... (day of the week), the …..... day of ....., 20..., was delivered by me to A.B. personally on …….....…, (day of the week), the ..... day of ....., 20..., at …….

(Means of knowledge of the identity of the person served must be inserted here).

(*Signed*) .....
Viscount Substitute
(or as the case may be)

Dated the ..... day of ....., 20...

SCHEDULE 3[172]

(Rule 14A/14)

OATH OF DELEGATE UNDER THE CAPACITY AND SELF-DETERMINATION (JERSEY) LAW 2016

You swear and promise before God that well and faithfully you will discharge the duties of delegate under the Capacity and Self-Determination (Jersey) Law 2016 to which you have been appointed.

SCHEDULE 4[173]

(Rule 15/2(1)(a))

FORM OF NOTICE OF APPEAL FROM ADMINISTRATIVE DECISION

In the Royal Court of Jersey

Between Appellant

and [(1)] Respondent

TAKE NOTICE that in exercise of the right of appeal conferred by [(2)]

I am appealing to the Royal Court against your decision on 20 [(3)] to

[(4)]

on the ground/s that

[(5)]

AND FURTHER TAKE NOTICE that I shall apply to the Bailiff's Secretary at [am][pm] on the day of , 20 [(6)] to fix a day for the hearing on this appeal.

(*signed*) ……[(7)]

The Appellant's address for service is:

……

……

……

……

To the above-named Respondent

(1) Insert the name of the person, or body, whose decision is appealed from.

(2) State the statutory provision which confers the right of appeal.

(3) State the date of the decision.

(4) Give details of the decision. The reasons for the decision should not be given.

(5) State the grounds of appeal with sufficient particularity to make clear the nature of the appellant's case.

(6) Insert date of application not more than five days from the date of service of this notice of appeal.

(7) To be signed by the appellant or his or her advocate or solicitor.

SCHEDULE 4A[174]

(Rule 15/2(1)(c))

FORM OF NOTICE OF APPEAL UNDER THE HIGH HEDGES (JERSEY) LAW 2008

In the Royal Court of Jersey

Between (*full name*) Appellant

And The Minister for the Environment Respondent

PART A (*to be completed by all appellants*)

TAKE NOTICE that in exercise of the right of appeal conferred by Article [12] [13][1] of the High Hedges (Jersey) Law 2008 I am appealing to the Royal Court against your decision on (*date of decision*) 20 to (*give details of, not reasons for, the decision*)

on the grounds that (*state grounds of appeal with sufficient particularity to make clear the nature of your case*)

AND FURTHER TAKE NOTICE that I shall apply to the Bailiff's Secretary at [a.m.][p.m.] on 20 (which will be within 5 days of this notice having been served) to fix a time and place for the hearing on this appeal.

AND FURTHER TAKE NOTICE that I [do] [do not] require an oral hearing of this appeal.

(*signed*) **Date**
[Appellant] [Advocate/solicitor for the appellant][1]

To the above-named Respondent[2]

[1] *Delete as appropriate*
[2] ***N.B.*** *a copy of this notice must also be served (a) in the case of an appeal under Article 12 of the Law, on the owner or occupier of the neighbouring land; or (b) in the case of an appeal under Article 13 of the Law, on the complainant*

PART B (*complete this Part **only if** you require an oral hearing of the appeal at which you do not wish to represent yourself or to have an advocate represent you*)

I WISH TO APPOINT (*full name of intended representative*)

of (*address of intended representative*)

to represent me at the hearing of the appeal.

My intended representative is (*delete whichever does not apply*)

[a solicitor (*écrivain*) of the Royal Court] [an architect registered under the Architects (Jersey) Law 1954] [a member of the Royal Institution of Chartered Surveyors] [a chartered member of the Landscape Institute] [a Member of the Royal Town Planning Institute]

OR (*if the intended representative is none of the above)*

I APPLY for my intended representative to be approved as a person appropriate to represent me at the hearing of the appeal. My intended representative is –

(*please specify the experience and qualifications of the intended representative in sufficient detail to enable the Court to determine whether he/she is a person appropriate to represent you at the appeal*)

……

……

……

……

……

……

……

(*signed*)

(Appellant)

SCHEDULE 4B[175]

(Rule 15A/2(1))

FORM OF NOTICE OF APPEAL UNDER THE PLANNING AND BUILDING (JERSEY) LAW 2002

Between	(*give full name*)	Appellant
And	The Minister for the Environment	Respondent

TAKE NOTICE that, in exercise of the right of appeal conferred by Article [12] [116][(1)] of the Planning and Building (Jersey) Law 2002, I am appealing to the Royal Court against your determination on[(2)] 20 that[(3)]

The appeal is brought on the following point(s) of law:[(4)]

My interest in the subject matter of this appeal is:[(5)]

I append a copy of the written reasons given by the Minister for the determination.[(6)]

(*signed*)

[Appellant] [Advocate/solicitor for the appellant] **Date:**

To the above-named Respondent [and …….[(7)]]

(1) *Delete as appropriate*
(2) *Give the date of the Minister's determination*
(3) *State what was the nature and content of the determination*
(4) *State the point(s) of law involved*
(5) *Set out what is your interest in the appeal*
(6) *Omit if no written reasons were given*
(7) *The notice must also be served on all persons directly affected by the determination of the Minister*

The Appellant's address for service is:

.....

.....

.....

.....

.....

.....

SCHEDULE 5

(Rule 16/2(2))

FORM OF NOTICE FOR APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW

In the Royal Court of Jersey
(Samedi Division)

To the Bailiff

Name and address of applicant (s)	
The interest of the applicant (s)	
Judgment, order, decision or other proceeding in respect of which relief is sought	
Relief sought	
Name and address of applicant's advocate or solicitor, if any, and/or the address for service of the applicant	
If there are or were alternative remedies available state these and if they have not been pursued state why	
If there has been delay, state the reasons for this	

GROUNDS ON WHICH RELIEF IS SOUGHT

Signed	Dated

Note – Grounds must be supported by an affidavit setting out the facts relied on.

(Rule 16/4(1))

FORM OF NOTICE OF APPLICATION FOR JUDICIAL REVIEW

In the Royal Court of Jersey

(Samedi Division)

Between .....Applicant

And ..... Respondent

TAKE NOTICE that by virtue of the leave given to me by order of the Bailiff/Court of Appeal dated 20 (a copy of which order is attached hereto) I am applying for judicial review in the manner set out in the Notice of Application for Leave to Apply for Judicial Review dated 20 (a copy of which Notice together with the supporting affidavit is attached hereto).

.....

To the above-named Respondent (s)

(Rule 16/6(1))

FORM OF APPLICATION TO HAVE LEAVE TO APPLY FOR JUDICIAL REVIEW SET ASIDE

In the Royal Court of Jersey
(Samedi Division)

To the Bailiff

Name, address and description of respondent (s)	
Grant of leave which is sought to be set aside	
Name and address of applicant's advocate or solicitor, if any, and/or the address for service of the applicant	
Grounds on which application to set aside is made	

Signed	Dated

Note – Grounds must be supported by an affidavit setting out the facts relied on.

SCHEDULE 5A[176]

(Rule 17/3(4))

CONTENT AND FORM OF GENDER RECOGNITION CERTIFICATES

Form of full gender recognition certificate issued under Article 3(2)(a), 4 or 5 of the Gender Recognition (Jersey) Law 2010

IN THE ROYAL COURT OF JERSEY

Identifier ……..

GENDER RECOGNITION CERTIFICATE

NAME

DATE OF BIRTH

GENDER

DATE OF ISSUE

The above named person is, from the date of issue, of the gender shown.

Judicial Greffier

WARNING: A CERTIFICATE IS NOT EVIDENCE OF IDENTITY

This Certificate is issued in pursuance of the Gender Recognition (Jersey) 2010 ('the Law'). By Article 8 of the Law, the person to whom this Certificate has been issued becomes for all purposes the gender shown.

Valid only if sealed with the seal of the Royal Court of the Island of Jersey.

Form of interim gender recognition certificate issued under Article 3(2)(b) of the Gender Recognition (Jersey) Law 2010

IN THE ROYAL COURT OF JERSEY

Identifier ……..

INTERIM GENDER RECOGNITION CERTIFICATE

1. Name at Birth	
2. Currently known as	
3. Date of Birth	
4. Date of Issue	
5. Name to appear on full Gender Recognition Certificate	
6. Gender to appear on full Gender Recognition Certificate	

The person to whom this certificate has been issued has not legally become of the gender shown above. However, the above named person has met the criteria for legal recognition in the acquired gender in Article 2 of the Gender Recognition (Jersey) Law 2010.

Judicial Greffier

WARNING: A CERTIFICATE IS NOT EVIDENCE OF IDENTITY

This Certificate is issued in pursuance of the Gender Recognition (Jersey) 2010 ('the Law'). This interim Gender Recognition Certificate can be converted into a full Gender Recognition Certificate on the terms provided in Article 4 or 5 of the Law. By Article 8 of the Law the person to whom a full Gender Recognition Certificate has been issued becomes for all purposes the gender shown above.

Valid only if sealed with the seal of the Royal Court of the Island of Jersey.

SCHEDULE 6[177]

SCHEDULE 6A[178]

(Rule 18/4A(3))

FORM OF NOTIFICATION OF LEGAL HYPOTHEC

I hereby confirm that[1]

[]

[has/have][2] entered into an arrangement with the Minister for Social Security which has resulted in the creation of a legal hypothec in favour of the Minister for Social Security pursuant to the Social Security Hypothecs (Jersey) Law 2014.

I hereby confirm that[1]

[]

[has/have][2] been advised to take independent professional advice prior to entering into such arrangement.

[His or her partner (as partner is defined in the Social Security Hypothecs (Jersey) Law 2014) who lives with him or her but is not a party to the arrangement has also been advised to take independent professional advice in respect of the arrangement.][3]

(signed)

Minister for Social Security **Date**

1 Insert name(s) of person(s) whose immovable property is subject to a legal hypothec

2 Delete as appropriate

3 Delete if no partner who is not party to the arrangement

SCHEDULE 7

(Rule 18/5(6))

FORM OF SUMMONS TO LIFT A CAVEAT

To A.B. of …….(address)

You are required to appear in the Royal Court, Royal Square, Saint Helier, on …..... (day of the week), the ……... day of ……... 20…, at …..... o'clock in the afternoon to show cause why the caveat lodged with the Bailiff on the ..... day of ……..... 20... against the passing of a contract of alienation of my immoveable property should not be lifted on the ground(s) that

.....

.....

If you do not appear, the said caveat may be lifted and damages awarded against you in your absence.

(*Signed*) …..……

Advocate/Solicitor

Dated the ……day of ……..20 .

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Royal Court Rules 2004	R&O.161/2004	1 February 2005
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Royal Court (Amendment) Rules 2005	R&O.191/2005	26 December 2005
Royal Court (Amendment No. 2) Rules 2006	R&O.28/2006	30 March 2006 except Rule 3, in force 1 June 2006
Royal Court (Amendment No. 3) Rules 2006	R&O.63/2006	1 July 2006
Royal Court (Amendment No. 4) Rules 2006	R&O.125/2006	10 December 2006
Royal Court (Amendment No. 5) Rules 2007	R&O.44/2007	1 April 2007
Royal Court (Amendment No. 6) Rules 2007	R&O.68/2007	21 May 2007
Royal Court (Amendment No. 7) Rules 2007	R&O.131/2007	29 October 2007
Royal Court (Amendment No. 8) Rules 2009	R&O.5/2009	1 February 2009
Royal Court (Amendment No. 9) Rules 2010	R&O.14/2010	21 May 2010
Royal Court (Amendment No. 10) Rules 2010	R&O.61/2010	5 July 2010
Royal Court (Amendment No. 11) Rules 2010	R&O.129/2010	1 January 2011
Royal Court (Amendment No. 12) Rules 2011	R&O.56/2011	10 May 2011
Royal Court (Amendment No. 13) Rules 2012	R&O.21/2012	1 March 2012
Royal Court (Amendment No. 14) Rules 2012	R&O.45/2012	2 April 2012
Royal Court (Amendment No. 15) Rules 2012	R&O.136/2012	5 December 2012
Royal Court (Amendment No. 16) Rules 2013	R&O.1/2013	17 January 2013
Royal Court (Amendment No. 17) Rules 2014	R&O.65/2014	17 June 2014
Royal Court (Amendment No. 18) Rules 2014	R&O.190/2014	1 December 2014
Royal Court (Amendment No. 19) Rules 2015	R&O.58/2015	28 May 2015

Legislation	Year and No	Commencement
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016
Dentistry (Jersey) Law 2015	L.17/2015	24 February 2016 (R&O.22/2016)
Opticians (Registration) (Amendment No.2) (Jersey) Law 2017	L.13/2017	19 May 2017
Royal Court (Amendment No. 20) Rules 2017	R&O.36/2017	1 June 2017
Royal Court (Amendment No. 21) Rules 2017	R&O.60/2017	22 June 2017
Royal Court (Amendment No. 22) Rules 2018	R&O.42/2018	5 April 2018
Royal Court (Amendment No. 23) Rules 2018	R&O.95/2018	1 October 2018
Royal Court (Amendment No. 24) Rules 2019	R&O.93/2019	28 October 2019
Royal Court (Amendment No. 26) Rules 2021	R&O.114/2021	1 October 2021
Royal Court (Amendment No. 27) Rules 2022	R&O.11/2022	10 February 2022
Sanctions and Asset-Freezing (Amendment No. 3) (Jersey) Law 2023	L.8/2023	17 July 2023 (R&O.59/2023)
States of Jersey (Transfer of Justice Functions – Chief Minister to Justice and Home Affairs) Order 2023	R&O.76/2023	21 September 2023
Royal Court Amendment Rules 2025	R&O.8/2025	27 February 2025
Children and Civil Status Amendment Rules 2025	R&O.71/2025	24 November 2025
Royal Court Amendment Rules 2026	R&O.17/2026	9 March 2026
Trade Marks (Jersey) Law 2026	L.5/2026	1 August 2026 (R&O.54/2026)

Table of Renumbered Provisions

Original	Current
21/1	Spent, omitted
21/2	21
Schedule 4B	Schedule 4A
Schedule 8	Spent, omitted

Table of Endnote References

1 *These Rules have been amended by the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of*

	Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government
[2] *Part 1*	*heading substituted by R&O.36/2017*
[3] *Rule 1(1)*	*amended by R&O.28/2006, R&O.131/2007; R&O.36/2017, R&O.114/2021*
[4] *Rule 1/1A*	*inserted by R&O.114/2021*
[5] *Rule 1/6*	*inserted by R&O.36/2017*
[6] *Rule 1/6(8)*	*deleted by R&O.114/2021*
[7] *Rule 2/5*	*inserted by R&O.1/2013*
[8] *Rule 3/1*	*heading amended by R&O.95/2018*
[9] *Rule 3/1(1)*	*amended by R&O.131/2007*
[10] *Rule 3/1(2)*	*amended by R&O.45/2012, R&O.114/2021, R&O.71/2025*
[11] *Rule 3/1(3)*	*substituted by R&O.95/2018*
[12] *Rule 3/1(4)*	*amended by R&O.95/2018*
[13] *Rule 3/3 heading*	*amended by R&O.131/2007*
[14] *Rule 3/3*	*amended by R&O.131/2007*
[15] *Rule 3/5*	*deleted by R&O.114/2021*
[16] *Rule 4/2 heading*	*amended by R&O.131/2007*
[17] *Rule 4/2(1)*	*amended by R&O.131/2007*
[18] *Rule 4/2A*	*inserted by R&O.21/2012*
[19] *Rule 5/4*	*amended by R&O.114/2021*
[20] *Rule 5/6(1)*	*amended by R&O.36/2017*
[21] *Rule 5/6(2)*	*amended by R&O.190/2014*
[22] *Rule 5/6(4)*	*repealed by R&O.36/2017*
[23] *Rule 5/6(5)*	*repealed by R&O.36/2017*
[24] *Rule 5/9*	*substituted by R&O.190/2014*
[25] *Rule 5/10(1)*	*substituted by R&O.5/2009*
[26] *Rule 6/1*	*amended by R&O.114/2021*
[27] *Rule 6/2 heading*	*amended by R&O.131/2007*
[28] *Rule 6/4(2)*	*amended by R&O.131/2007*
[29] *Rule 6/7(3)*	*amended by R&O.36/2017*
[30] *Rule 6/14(1)*	*amended by R&O.131/2007*
[31] *Rule 6/14(2)*	*amended by R&O.131/2007*
[32] *Rule 6/14(3)*	*amended by R&O.131/2007*
[33] *Rule 6/14(4)*	*substituted by R&O.131/2007*
[34] *Rule 6/14(5)*	*amended by R&O.131/2007*
[35] *Rule 6/14(6)*	*amended by R&O.131/2007*
[36] *Rule 6/15*	*substituted by R&O.36/2017*
[37] *Rule 6/16*	*substituted by R&O.36/2017*
[38] *Rule 6/17*	*substituted by R&O.36/2017*
[39] *Rule 6/20(1)*	*amended by R&O.131/2007*
[40] *Rule 6/20(2)*	*amended by R&O.36/2017*
[41] *Rule 6/20(3)*	*amended by R&O.131/2007*
[42] *Rule 6/20(4)*	*substituted by R&O.36/2017, R&O.114/2021*
[43] *Rule 6/20(4A)*	*inserted by R&O.36/2017*
[44] *Rule 6/20(4B)*	*inserted by R&O.36/2017*
[45] *Rule 6/20(5)*	*amended by R&O.114/2021*
[46] *Rule 6/20(6)*	*deleted by R&O.114/2021*
[47] *Rule 6/20(7)*	*amended by R&O.114/2021*
[48] *Rule 6/20(7A)*	*inserted by R&O.36/2017*

[49] *Rule 6/20(7B)*	*inserted by R&O.36/2017*
[50] *Rule 6/21(3)*	*amended by R&O.131/2007, R&O.36/2017*
[51] *Rule 6/23A*	*repealed by R&O.36/2017*
[52] *Rule 6/25 heading*	*substituted by R&O.131/2007*
[53] *Rule 6/25(1)*	*amended by R&O.131/2007, R&O.36/2017*
[54] *Rule 6/25(2)*	*amended by R&O.36/2017*
[55] *Rule 6/25(3)*	*amended by R&O.131/2007*
[56] *Rule 6/26(1)*	*substituted by R&O.36/2017*
[57] *Rule 6/26(2)*	*substituted by R&O.36/2017*
[58] *Rule 6/26(12)*	*amended by R&O.36/2017*
[59] *Rule 6/26(14)*	*inserted by R&O.131/2007*
[60] *Rule 6/26(15)*	*inserted by R&O.131/2007*
[61] *Rule 6/26(16)*	*inserted by R&O.131/2007*
[62] *Rule 6/26A*	*inserted by R&O.36/2017*
[63] *Rule 6/29(4)*	*inserted by R&O.36/2017*
[64] *Rule 6/32(3)*	*inserted by R&O.131/2007*
[65] *Rule 6/33(1)*	*amended by R&O.131/2007*
[66] *Rule 6/33(3)*	*amended by R&O.131/2007*
[67] *Rule 6/33(4)*	*amended by R&O.131/2007*
[68] *Rule 6/33(5)*	*amended by R&O.131/2007*
[69] *Rule 6/37*	*inserted by R&O.131/2007*
[70] *Rule 6/38*	*inserted by R&O.129/2010, deleted by R&O.114/2021*
[71] *Rule 6/39*	*inserted by R&O.36/2017*
[72] *Rule 6/40*	*inserted by R&O.36/2017*
[73] *Part 7*	*substituted by R&O.36/2017*
[74] *Rule 7/1*	*substituted by R&O.36.2017*
[75] *Rule 7/2*	*substituted by R&O.36/2017*
[76] *Rule 7/3*	*substituted by R&O.36/2017*
[77] *Rule 7/4*	*substituted by R&O.36/2017*
[78] *Rule 7/5*	*substituted by R&O.36/2017*
[79] *Rule 7/6*	*substituted by R&O.36/2017*
[80] *Part 9A*	*inserted by R&O.125/2006*
[81] *Rule 9A/5*	*inserted by R&O.60/2017*
[82] *Rule 10/1*	*heading and Rule amended by R&O.114/2021*
[83] *Rule 10/2*	*deleted by R&O.114/2021*
[84] *Rule 10/3*	*amended by R&O.114/2021*
[85] *Rule 11/1*	*substituted by R&O.36/2017*
[86] *Part 12*	*Rule 3(3) of R&O.21/2012 makes the following provision –* *Part 12 of the principal Rules as amended by this Rule applies to the assessment of costs incurred after this Rule comes into force irrespective of when the relevant proceedings were instituted.*
[87] *Rule 12/1*	*amended by R&O.21/2012*
[88] *Rule 12/2(3)*	*inserted by R&O.36/2017*
[89] *Rule 12/2(4)*	*inserted by R&O.36/2017*
[90] *Rule 12/3(1A)*	*inserted by R&O.5/2009*
[91] *Rule 12/3(4)*	*inserted by R&O.5/2009*
[92] *Rule 12/3(5)*	*inserted by R&O.5/2009*
[93] *Rule 12/6(2)*	*amended by R&O.21/2012*
[94] *Rule 12/6(3)*	*substituted by R&O.21/2012*
[95] *Rule 12/13A*	*inserted by R&O.5/2009*
[96] *Rule 12/14*	*amended by R&O.5/2009*
[97] *Part 12A*	*inserted by R&O.36/2017*

[98] *Rule 12A/1* *inserted by R&O.36/2017*
[99] *Rule 12A/2* *inserted by R&O.36/2017*
[100] *Rule 12A/3* *inserted by R&O.36/2017*
[101] *Rule 13/2(3)* *amended by R&O.45/2012*
[102] *Rule 13/2(4)* *amended by R&O.45/2012*
[103] *Rule 14/1(4)* *amended by R&O.17/2026*
[104] *Rule 14/1(6)* *substituted by R&O.17/2026*
[105] *Rule 14/1(7)* *amended by R&O.17/2026*
[106] *Rule 14/2(2)* *amended by R&O.17/2026*
[107] *Rule 14/2(3)* *deleted by R&O.17/2026*
[108] *Rule 14/2(4)* *substituted by R&O.17/2026*
[109] *Rule 14/2(5)* *amended by R&O.17/2026*
[110] *Rule 14/2(7)* *substituted by R&O.17/2026*
[111] *Part 14A* *inserted by R&O.95/2018*
[112] *Part 14B* *inserted by R&O.95/2018*
[113] *Rule 15/1(2)* *amended by R&O.63/2006, R&O.61/2010, R&O.58/2015*
[114] *Rule 15/2(1)* *substituted by R&O.61/2010, amended by R&O.65/2014, R&O.58/2015*
[115] *Rule 15/3(1A)* *deleted by R&O.58/2015*
[116] *Rule 15/3(1B)* *inserted by R&O.61/2010*
[117] *Rule 15/3A* *deleted by R&O.58/2015*
[118] *Rule 15/3B* *deleted by R&O.58/2015*
[119] *Rule 15/3C* *deleted by R&O.58/2015*
[120] *Rule 15/3D* *deleted by R&O.58/2015*
[121] *Rule 15/3E* *inserted by R&O.61/2010*
[122] *Rule 15/3F* *inserted by R&O.61/2010*
[123] *Rule 15/3G* *inserted by R&O.61/2010*
[124] *Rule 15/6* *inserted by R&O.93/2019*
[125] *Part 15A* *inserted by R&O.58/2015*
[126] *Rule 15A/1(2)* *amended by R&O.158/2015*
[127] *Part 15B* *inserted by R&O.36/2017*
[128] *Rule 15B/1* *inserted by R&O.36/2017*
[129] *Rule 15B/2* *inserted by R&O.36/2017*
[130] *Rule 15B/3* *inserted by R&O.36/2017*
[131] *Rule 15B/3(1)* *amended by R&O.93/2019*
[132] *Part 15/C* *inserted by R&O.95/2018*
[133] *Part 16* *heading amended by R&O.114/2021*
[134] *Rule 16/1(4)* *deleted by R&O.114/2021*
[135] *Part 16A* *inserted by R&O.56/2011*
[136] *Part 16A* *heading amended by R&O.136/2012, heading substituted by L.8/2023*
[137] *Rule 16A/1(1)* *amended by R&O.136/2012, substituted by L.8/2023*
[138] *Rule 16A/1(4)* *amended by R&O.136/2012, L.8/2023*
[139] *Rule 16A/2* *heading amended by R&O.136/2012*
[140] *Rule 16A/3* *heading amended by R&O.136/2012*
[141] *Rule 16A/4* *heading amended by R&O.136/2012*
[142] *Rule 16A/5* *heading amended by R&O.136/2012*
[143] *Rule 16A/6* *heading amended by R&O.136/2012*
[144] *Rule 16A/8(1)* *amended by R&O.136/2012*
[145] *Part 16B* *inserted by R&O.95/2018*
[146] *Rule 16B/1(2)* *amended by R&O.76/2023*

[147] *Rule 17/3(1)*	*amended by R&O.191/2005, R&O.5/2009, R&O.14/2010, R&O.65/2014, R&O.58/2015, L.17/2015, L.13/2017, R&O.93/2019, R&O.11/2022, R&O.8/2025, L.5/2026*
[148] *Rule 17/3(3)*	*inserted by R&O.5/2009*
[149] *Rule 17/3(4)*	*inserted by R&O.14/2010*
[150] *Rule 18/1(3)*	*amended by R&O.45/2012*
[151] *Rule 18/2(2)*	*amended by R&O.129/2010*
[152] *Rule 18/2(4)*	*amended by R&O.129/2010*
[153] *Rule 18/4(3)*	*amended by R&O.45/2012, R&O.42/2018, R&O.95/2018*
[154] *Rule18/4(12)*	*deleted by R&O.42/2018*
[155] *Rule 18/4A*	*inserted by R&O.65/2014*
[156] *Rule 18/4A (3)*	*amended by R&O.95/2018*
[157] *Rule 18/5(3)*	*substituted by R&O.68/2007*
[158] *Rule 18/5(3A)*	*inserted by R&O.68/2007*
[159] *Rule18/5(4)*	*amended by R&O.68/2007*
[160] *Rule 18/7*	*repealed by R&O.129/2010*
[161] *Rule 18/9(2)*	*amended by R&O.129/2010, R&O.95/2018*
[162] *Part 19*	*revoked by R&O.65/2014*
[163] *Rule 20/4*	*amended by R&O.131/2007*
[164] *Rule 20/9(2)*	*substituted by R&O.28/2006, Rule 5(4) of which contains a transitional provision applicable to the substituted paragraph until 31 October 2006*
[165] *Rule 20/9(3)*	*substituted by R&O.28/2006*
[166] *Rule 20/9(4)*	*inserted by R&O.28/2006*
[167] *Rule 20/9(5)*	*inserted by R&O.28/2006*
[168] *Rule 20/9(6)*	*inserted by R&O.28/2006*
[169] *Rule 20/11*	*inserted by R&O.28/2006*
[170] *Schedule 1*	*amended by R&O.63/2006, R&O.36/2017, R&O.95/2018, R&O.114/2021*
[171] *Schedule 1A*	*inserted by R&O.1/2013, revised on 11 January 2024 by Law Revision Board item 2023/1*
[172] *Schedule 3*	*inserted by R&O.95/2018*
[173] *Schedule 4*	*substituted by R&O.131/2007, amended by R&O.61/2010*
[174] *Schedule 4A*	*renumbered by R&O.58/2015, amended by R&O.158/2015*
[175] *Schedule 4B*	*inserted by R&O.58/2015, amended by R&O.158/2015*
[176] *Schedule 5A*	*inserted by R&O.14/2010*
[177] *Schedule 6*	*deleted by R&O.42/2007*
[178] *Schedule 6A*	*inserted by R&O.65/2014*