



Jersey

# **SERVICE OF PROCESS RULES 1994<sup>1</sup>**

## **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 January 2019 to 27 October 2019



Jersey

## SERVICE OF PROCESS RULES 1994

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Jersey

## SERVICE OF PROCESS RULES 1994

**THE SUPERIOR NUMBER OF THE ROYAL COURT**, in pursuance of Article 13 of the [Royal Court \(Jersey\) Law 1948](#) and of Articles 1, 2 and 11 of the [Service of Process and Taking of Evidence \(Jersey\) Law 1960](#), and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [\[see endnotes\]](#)

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### PART 1

#### PRELIMINARY

#### 1 Interpretation

In these Rules –

“Court” means any division of the Royal Court, the Bailiff or the Judicial Greffier;

“defendant” includes a third party convened in an action and a respondent to proceedings commenced by representation;

“plaintiff” includes a defendant who is convening a third party in an action and the representor in proceedings commenced by representation;

“sealed” and “under seal” mean sealed with the seal of Jersey.

### PART 2

#### SERVICE IN JERSEY OF PROCESS OF A FOREIGN COURT

#### 2 Where there is a letter of request

Where in any civil or commercial matter pending before a court or tribunal of a foreign country a letter of request from such court or tribunal for service on any person within Jersey of any process or citation in such matter is transmitted to the Royal Court by Her Majesty’s Secretary of State for the Home Department with an intimation that it is desirable that effect should be given to the same, the following procedure shall be adopted –

- (a) the letter of request for service shall be accompanied by a translation thereof in the English language and by 2 copies of the process or citation to be served, and by 2 copies thereof in the English language;
- (b) service of the process or citation shall be effected by the Viscount;
- (c) such service shall be effected by delivering to and leaving with the person to be served one copy of the process or citation to be served, and one copy of the translation thereof (if any);
- (d) after service has been effected the Viscount shall return to the Bailiff one copy of the process or citation, together with the Viscount's record of service;
- (e) no court or other fees shall be charged in respect of the service;
- (f) the Bailiff shall transmit to Her Majesty's Secretary of State for the Home Department a copy of the process or citation, together with the Viscount's record of service and a certificate under seal in Form 1 set out in the Schedule.

### **3 Where there is a convention**

Where in any civil or commercial matter pending before a court or tribunal in any foreign country with which a Convention in that behalf has been or shall be made, a request for service of any document on a person within Jersey is received by the Attorney General from the Consular or other authority of such country, the following procedure shall, subject to any special provisions contained in the Convention, be adopted –

- (a) the service shall be effected by the delivery of the original or a copy of the document, as indicated in the request, and a copy of the translation thereof, to the party or person to be served in person by the Viscount;
- (b) no court or other fees shall be charged in respect of the service;
- (c) the Attorney General shall transmit to the Consular or other authority making the request the Viscount's record establishing the fact and the date of the service in person, or indicating the reasons for which it has not been possible to effect it.

## **PART 3**

### **SERVICE OUTSIDE JERSEY OF PROCESS OF JERSEY COURTS**

#### **4 Exclusion of process in matrimonial causes or matters**

This part of these Rules shall not apply to the service of documents in matrimonial causes or matters.

#### **5 Leave to serve outside Jersey**

No summons shall be served outside Jersey without the leave of the Court.

#### **6 Form of summons for service outside Jersey and form of affidavit of service**

- (1) A summons to be served outside Jersey shall be in Form 2A or 2B set out in the Schedule, with such variations as circumstances may require, and may be served by

a party or the party's agent unless such mode of service is expressly excluded by a Convention made with the country in which the summons is to be served.

- (2) An affidavit of service shall be in Form 3 set out in the Schedule, with such variations as circumstances may require, and shall be endorsed on or annexed to a copy of the summons.

## **7 In certain cases service of summons allowed out of jurisdiction<sup>2</sup>**

Service out of the jurisdiction of a summons may be allowed by the Court whenever –

- (a) relief is sought against a person domiciled within the jurisdiction;
- (b) an injunction is sought ordering the defendant to do or refrain from doing anything within the jurisdiction (whether or not damages are also claimed in respect of the doing of or failure to do that thing);
- (c) the claim is brought against a person duly served within or out of the jurisdiction and a person out of the jurisdiction is a necessary or proper party thereto;
- (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which –
  - (i) was made within the jurisdiction,
  - (ii) was made by or through an agent trading or residing within the jurisdiction on behalf of a principal trading or residing out of the jurisdiction,
  - (iii) is by its terms, or by implication, governed by Jersey law, or
  - (iv) contains a term to the effect that the Royal Court shall have jurisdiction to hear and determine any action in respect of the contract;
- (e) the claim is brought in respect of a breach committed within the jurisdiction of a contract made within or out of the jurisdiction, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of the jurisdiction that rendered impossible the performance of so much of the contract as ought to have been performed within the jurisdiction;
- (f) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within the jurisdiction;
- (g) the whole subject-matter of the action is land situate within the jurisdiction (with or without rents or profits);
- (h) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land situate within the jurisdiction;
- (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate within the jurisdiction;
- (j) the claim or application is brought within the terms of Article 5 of the [Trusts \(Jersey\) Law 1984](#);
- (k) the claim is made for the administration of the movable estate of a person who died domiciled within the jurisdiction or for any relief which might be obtained in any such action;

- (l) the claim is brought in a probate action;
- (m) the claim is brought to enforce any judgment or arbitral award;
- (n) the claim is brought under the Nuclear Installations (Jersey) Order 1980;
- (o) the claim is made under the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#);
- (p) the action is brought under the Carriage by Air Act 1961 of the United Kingdom, as extended to Jersey by Order in Council;
- (q) the claim is brought for money had and received or for an account or other relief against the defendant as constructive trustee, and the defendant's alleged liability arises out of acts committed, whether by the defendant or otherwise, within the jurisdiction;
- (r) the claim is brought against the natural father in order to obtain maintenance and/or other financial support for an illegitimate child who is resident within the jurisdiction;
- (s) the claim or application is brought under the terms of the [Companies \(Jersey\) Law 1991](#), and the person to be served is a necessary or proper party thereto.

## **8 Agreement on jurisdiction and service**

Notwithstanding anything contained in Rule 7, the parties to any contract may agree –

- (a) that the Royal Court of Jersey shall have jurisdiction to entertain any action in respect of such contract, and, moreover or in the alternative;
- (b) that service of any summons in any such action may be effected at any place within or out of the jurisdiction on any party or on any person on behalf of any party or in any manner specified or indicated in such contract. Service of any such summons at the place (if any) or on the party or on the person (if any) or in the manner (if any) specified or indicated in the contract shall be deemed to be good and effective service wherever the parties are resident and, if no place or mode or person be so specified or indicated, service out of the jurisdiction of such summons may be ordered.

## **9 Application to be supported by evidence**

Every application for leave to serve such summons on a defendant out of the jurisdiction shall be supported by affidavit or other evidence, stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country such defendant is or probably may be found, and the grounds upon which the application is made; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Part.

## **10 Order to fix time for appearance**

Any order giving leave to effect such service shall specify the date upon which such defendant is to appear before the Royal Court of Jersey, or the time within which the defendant is to file an answer, such date or time to depend on the place or country where or within which the summons is to be served, and whether the air mail is available and shall also state whether personal service of the summons on the defendant is required.

## **11 Service abroad by letter of request**

Subject to the provisions of Rule 13, where leave is given to serve a summons in a foreign country whose Government is willing to act as a channel for the service of process, the following procedure may be adopted –

- (a) the party bespeaking service under this Rule shall lodge with the Bailiff a request in Form 4 set out in the Schedule, with such variations as circumstances may require;
- (b) the document to be served shall be sealed and transmitted by the Bailiff to Her Majesty's Secretary of State for the Home Department, together with 2 copies thereof translated into the language of the country in which service is to be effected and with a request for the further transmission of the same to the Government of the country in which leave to serve the document has been given. Such request shall also be sealed and shall be in Form 5 set out in the Schedule, with such variations as circumstances may require;
- (c) an official certificate, or declaration upon oath, or otherwise, transmitted through the diplomatic channel by the Government or Court of the foreign country to the Bailiff, shall, provided that it certifies or declares the document to have been personally served, or to have been duly served upon the defendant in accordance with the law of such foreign country, or words to that effect, be deemed to be sufficient proof of such service;
- (d) where an official certificate or declaration, transmitted to the Bailiff in manner provided in sub-paragraph (c), certifies or declares that efforts to serve a document have been without effect, the Bailiff may, upon an *ex parte* application of the plaintiff, make an order for substituted service of such document. Such order shall be in Form 6 set out in the Schedule to these Rules, with such variations as circumstances may require;
- (e) an application for substituted service of a document under this Rule may be bespoken by the plaintiff by lodging with the Bailiff a request in Form 4 set out in the Schedule, and the document and copy of the same and the order shall be sealed and transmitted to Her Majesty's Secretary of State for the Home Department by the Bailiff in manner aforesaid together with a request, likewise under seal, in Form 7 set out in the Schedule, with such variations as circumstances may require.

## **12 Service abroad for the purpose of an action under the Carriage by Air Act 1961**

- (1) Where, for the purpose of an action under the Carriage by Air Act 1961 of the United Kingdom, as extended to Jersey by Order in Council and the Convention set out in the said Act, leave is given to serve a summons upon a High Contracting Party to the Convention, the provisions of this Rule shall apply.
- (2) The party bespeaking service under this Rule shall lodge with the Bailiff a request in Form 4 set out in the Schedule.
- (3) The summons shall specify the date upon which appearance before the Royal Court of Jersey is to be made or the time within which an answer is to be filed as fixed in pursuance of Rule 10.
- (4) The summons shall be sealed and transmitted by the Bailiff to Her Majesty's Secretary of State for the Home Department together with 2 copies thereof translated into the language of the country of the defendant, and with a request, likewise under seal, for the further transmission of the same to the Government of that country.



- (5) The request shall be in Form 8 set out in the Schedule, with such variations as circumstances may require.
- (6) An official certificate transmitted by one of Her Majesty's Principal Secretaries of State to the Bailiff certifying that the summons was delivered on a specified date to the Government of the country of the defendant shall be deemed to be sufficient proof of service.
- (7) After the defendant has appeared before the Royal Court or, if the defendant does not so appear, after the date fixed for the defendant's appearance or after the expiration of the time limited for filing an answer, the action may proceed to judgment in all respects as if the defendant had for the purposes of the action waived all privilege and submitted to the jurisdiction of the Court.
- (8) Where it is desired to serve or deliver an order or notice in the proceedings on the defendant outside Jersey, the provisions of this Rule shall apply with such variations as circumstances may require.

### **13 Service of documents in countries with which a convention has been made**

Where leave is given in a civil or commercial matter or where such leave is not required, and it is desired to serve any summons, originating summons, notice or other document in any foreign country with which a Convention in that behalf has been or shall be made, the following procedure shall, subject to any special provisions contained in the Convention, be adopted –

- (a) the party bespeaking such service shall lodge with the Bailiff a request in Form 4 set out in the Schedule, which form may be varied as may be necessary to meet the circumstances of the particular case in which it is used. Such request shall state the medium through which it is desired that the service shall be effected, i.e., whether –
  - (i) directly through the British Consul, or
  - (ii) through the foreign judicial authority, and shall be accompanied by the original document and 2 copies of a translation thereof in the language of the country in which service is to be effected, a copy of the original document and of such translation for every person to be served and any further copies which the Convention may require, unless the service is required to be made on a British subject directly through the British Consul, in which case no translation or copies thereof need accompany the request unless the Convention expressly requires that they should do so;
- (b) the documents to be served shall be sealed and forwarded by the Bailiff to Her Majesty's Secretary of State for the Home Department for transmission to the foreign country;
- (c) an official certificate, transmitted through the diplomatic channel by the foreign judicial authority, or by a British Consular authority, to the Bailiff, establishing the fact and the date of the service of the document, shall be deemed to be sufficient proof of such service.

### **14 Translation certificate**

Any translation prepared for the purposes of Rule 11, 12 or 13 shall be certified by the translator who shall state in his or her certificate his or her qualifications for making the translation.

**15 Alternate modes of service**

Rule 13 shall not apply to or render invalid or insufficient any mode of service in any foreign country with which a Convention has been or shall be made which is otherwise valid or sufficient according to Jersey procedure and which is not expressly excluded by the Convention made with such foreign country.

**PART 4****GENERAL****16 Substituted service**

- (1) The Court may make all such orders for substituted service or otherwise as may be necessary to give effect to these Rules.
- (2) The prescription of a right of action shall be interrupted on the making of an order for substituted service under paragraph (1):

Provided that prescription shall not be interrupted where –

- (a) the service is invalid;
- (b) the action is discontinued; or
- (c) the defendant is discharged (*déchargé*) from the action.

**17 Citation**

These Rules may be cited as the Service of Process Rules 1994.

**SCHEDULE****FORMS****FORM 1**

(Rule 2(f))

**CERTIFICATE OF SERVICE OF FOREIGN PROCESS**

I, \_\_\_\_\_ Bailiff of Jersey and President of the Royal Court of Jersey hereby certify that the documents annexed hereto are as follows –

- (1) a copy of the [*process*][*citation*] received with a Request for Service, dated the \_\_\_\_\_ ; and
- (2) the Viscount's record of service upon ..... the person named in the [*process*][*citation*].

And I certify that such service so proved, and the proof thereof, are such as are required by the law and practice of the Royal Court of Jersey regulating the service of Jersey legal process in Jersey, and the proof thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

L.S.

*Bailiff of Jersey.*

**FORM 2A**

(Rule 6(1))

**SUMMONS****IN THE ROYAL COURT OF JERSEY**

.....Division.

Between A.B.

Plaintiff

AND

C.D.

Defendant

To C.D of

in the

of

TAKE NOTICE that A.B., of , has commenced proceedings against you, C.D., in the Royal Court of Jersey by process whereof a copy is annexed and that you are required to appear in the Royal Court of Jersey, on the .....day of 20 , to defend the said proceedings; and in default of your so doing, the said A.B. may proceed therein, and judgment may be given in your absence.

You may appear either personally or by an advocate of the Royal Court of Jersey.

(Signed)

X.Y. of etc.

Advocate/Solicitor for A.B., Jersey.

Dated this ..... day of..... 20 .

**FORM 2B**

(Rule 6(1))

**SUMMONS (THIRD PARTY)****IN THE ROYAL COURT OF JERSEY**

.....Division

Between A.B.

Plaintiff

AND

C.D.

Defendant

AND

E.F.

Third Party

To E.F. of

in the

of

TAKE NOTICE that A.B., of, , has commenced an action against C.D., in the Royal Court of Jersey by process whereof a copy is annexed and that you, E.F., have been convened as a Third Party to the action.

You are required to file an answer within days from the date of service on you and in default of your so doing, the said A.B. may proceed in his or her action or the said C.D. may proceed in his or her Third Party claim and judgment may be given against you.

(Signed)

X.Y. of etc.

Advocate/Solicitor for C.D.,  
Jersey.

Dated this

day of

20

.

**FORM 3**

(Rule 6(2))

**AFFIDAVIT OF SERVICE****IN THE ROYAL COURT OF JERSEY**

.....Division

Between A.B.

Plaintiff

AND

C.D.

Defendant

I,.....  
of.....

make oath and say –

That a copy of the summons hereunto annexed was duly served by me on C.D., the above-named defendant on ..... the .....day of ..... 20 , at ..... in the..... of ....., by delivering to the said C.D. personally a copy thereof.

*[Means of knowledge of identity of the person served must be inserted here]*

SWORN etc.

**FORM 4**

(Rules 11,12,13)

**REQUEST FOR SERVICE IN A FOREIGN COUNTRY****IN THE ROYAL COURT OF JERSEY**

.....Division.

Between A.B.

Plaintiff

AND

C.D.

Defendant

I [*or we*] hereby request that a summons in this action be transmitted through the proper channels to <sup>(1)</sup> for service <sup>(2)</sup> on the defendant at.....or elsewhere in <sup>(1)</sup> .....

(1) Name of country.

(2) Or substituted service

(3) If under Rule 13 add either “directly through the British Consul” or “by the foreign judicial authority” or “directly through the British Consul or, if inexpedient, by the foreign judicial authority”.

And I [*or we*] hereby personally undertake to be responsible for all expenses incurred by any of Her Majesty’s Principal Secretaries of State in respect of the service hereby requested, and on receiving due notification of the amount of such expenses I [*or we*] undertake to pay the same.

Dated this ..... day of ..... 20 .

*(Signature of the plaintiff or of the plaintiff’s advocate or solicitor).*

**FORM 5**

(Rule 11(b))

**REQUEST TO SECRETARY OF STATE TO TRANSMIT  
SUMMONS TO FOREIGN GOVERNMENT FOR SERVICE**

THE BAILIFF OF JERSEY, President of the Royal Court of Jersey, presents the Bailiff's compliments to Her Majesty's Secretary of State for the Home Department, and has the honour to enclose a summons in an action of                      versus                      in the Royal Court of Jersey for transmission to the Ministry of Foreign Affairs in [name of country] with the request that the same may be served personally upon [name of defendant to be served] against whom proceedings have been taken in the Jersey Court, and with the further request that such evidence of the service of the same upon the said defendant may be officially certified to the Jersey Court, or declared upon oath, or otherwise, in such manner as is consistent with the usage or practice of the courts of [name of country] in proving service of legal process.

And the Bailiff requests that in the event of efforts to effect personal service of the said summons proving ineffectual the Government or Court of the said country be requested to certify the same to the Jersey Court.

Dated this                      day of                      20

L.S.

*Bailiff of Jersey.*



**FORM 6**

(Rule 11(d))

**ORDER FOR SUBSTITUTED SERVICE****IN THE ROYAL COURT OF JERSEY**Between A.B. Plaintiff

AND

C.D. DefendantUpon reading the [*certificate*][*declaration*] of ;

It is ordered that service of a copy of this order, and a copy of the summons in this action by sending the same by a prepaid ordinary post letter addressed to the defendant at , [*or such other substituted service as may be ordered*] shall be good and sufficient service of the summons.

Dated this                      day of                      20   .

L.S.

*Bailiff of Jersey.*

**FORM 7**

(Rule 11(e))

## LETTER FORWARDING REQUEST FOR SUBSTITUTED SERVICE

THE BAILIFF OF JERSEY, President of the Royal Court of Jersey, presents compliments to Her Majesty's Secretary of State for the Home Department, and has the honour to enclose a summons in the case of       versus       in which the plaintiff has obtained an order of the Jersey Court (which is also enclosed) directing that, etc., etc.

The Bailiff requests that the said summons and order may be forwarded to the proper authority in [name of country] with the request that the same may be transmitted by post addressed to the defendant at (*the last known place of abode or the place of business*) of the said defendant, or there delivered in such manner as may be consistent with the usage or practice of the Courts of [name of country] for service of legal process where personal service cannot be effected; and with the further request that the same may be officially certified to the Jersey Court, or declared upon oath, or otherwise, in such manner as is consistent with the practice of the Courts of [name of country] in proving service of legal process.

Dated this                      day of                      20   .

L.S.

*Bailiff of Jersey.*

**FORM 8**

(Rule 12(5))

**REQUEST TO SECRETARY OF STATE TO TRANSMIT A  
SUMMONS TO A FOREIGN GOVERNMENT**

THE BAILIFF OF JERSEY, President of the Royal Court of Jersey, presents compliments to Her Majesty's Secretary of State for the Home Department and has the honour to enclose a summons in an action of  
versus the [insert name of the defendant High Contracting Party] in the Royal Court of Jersey, for delivery to the Government of [insert name of the country of the High Contracting Party] and to request that an official certificate may in due course be attached to the Jersey Court stating that the summons has been so delivered and on what date.

Dated this                      day of                      20     .  
L.S.

*Bailiff of Jersey.*

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Service of Process (Jersey) Rules 1994	<a href="#">R&amp;O.8715</a>	25 August 1994
Service of Process (Amendment No. 2) Rules 2010	<a href="#">R&amp;O.62/2010</a>	28 June 2010
Service of Process (Amendment No. 3) Rules 2018	<a href="#">R&amp;O.96/2018</a>	24 September 2018

### Table of Renumbered Provisions

Original	Current
PART I	PART 2
1(1)	17
(2)	1
2(1)-(6)	2(a)-(f)
3(1)-(3)	3(a)-(c)
11(1)-(5)	11(a)-(e)
13(1)(a) and (b)	13(a)(i) and (ii)
13(2)-(3)	13(b)-(c)
PART II	PART 3
PART III	PART 4

### Table of Endnote References

<sup>1</sup> These Rules were revoked by the Service of Process Rules 2019 on 28 October 2019.

<sup>2</sup> Rule 7 amended by R&O.62/2010, R&O.96/2018