



Jersey

PETTY DEBTS COURT RULES 2018

Arrangement

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Jersey

PETTY DEBTS COURT RULES 2018

*Made**29th March 2018**Coming into force**9th April 2018*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948¹ and Article 2 of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1967², has made the following Rules –

PART 1

INTRODUCTORY

1 Interpretation

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

“affidavit” means a statement of facts sworn on oath or solemnly affirmed;

“Civil Claims Division” is defined in Rule 6;

“Claim Summary” means a written document stating what the claim is and why the claim has been brought to court, including only the facts that are relevant to the claim;

“company” includes any corporate body;

“counterclaim” means a claim by a defendant in response to a claim by a plaintiff;

“child” means a person who is not yet 18 years old;

“the Court” is a reference to any judge of the Petty Debts Court;

“*ex parte*” in relation to an application means an application which is able to be made by a person without having to give notice to any other person;

“Family Division” is defined in Rule 6;

“defendant” means the person who is defending a claim which a plaintiff has brought to court;

“file” means deliver to the Greffier and “filed” has a corresponding meaning;

“Greffier” means the Judicial Greffier;

“immovable” means Jersey land and any buildings and premises forming part of Jersey land;

“judgment by default” means any judgment which is given against a party in his or her absence;

“land” includes any immovable and any interest in an immovable;

“Magistrate” means the *Magistrat* appointed under Article 1(1) of the Loi (1864) concernant la charge de Juge d’Instruction³;

“month” means a calendar month where it appears in any judgment, order, direction or other document forming part of any proceedings, unless the context otherwise requires;

“originating summons” means a summons which commences proceedings, and includes any application in the Tenancy Division referred to in Rule 8(3);

“plaintiff” means the person who is bringing the claim to court;

“practice directions” means practice directions issued by the Magistrate in accordance with Rule 60;

“proceedings” means any proceedings before the Court however commenced;

“Residential Tenancy Law” means the Residential Tenancy (Jersey) Law 2011⁴;

“small claims proceedings” means proceedings to which Rule 49 applies;

“summons” means a notice to a person to appear before the Court;

“Tenancy Division” is defined in Rule 6.

- (2) A term or expression in the Residential Tenancy Law when used in these Rules in relation to any matter in the Tenancy Division has the same meaning as in that Law.

2 The Overriding Objective

- (1) The overriding objective of the Petty Debts 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 applies or 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.

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) Where 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) Where 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) Where 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) Where, apart from this paragraph, the period in question, being a period of 7 days or less would include a Saturday, Sunday, public holiday or bank holiday, Christmas Day or Good Friday, that day shall be excluded.
- (6) In paragraph (5) “public holiday” and “bank holiday” means a day appointed to be observed as a public holiday or as a bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951⁵.

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

Where 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 closed, or are required to be closed, and for that reason the act cannot be done on that day, the act shall be in time if done on the next day on which those offices are open.

5 Power to extend and abridge time

- (1) The Court, the Greffier or the Viscount may, on whatever terms any of them thinks just, 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, the Greffier or the Viscount may extend any such period as is 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 (given in writing) without an order being made for that purpose.

6 Divisions of the Petty Debts Court

- (1) The Petty Debts Court is composed of –
 - (a) the Civil Claims Division;
 - (b) the Tenancy Division; and
 - (c) the Family Division.
- (2) The Tenancy Division determines all cases involving –
 - (a) residential tenancies and residential tenancy agreements (in accordance with Article 16 of the Residential Tenancy Law);
 - (b) actions under the Loi (1946) concernant l’expulsion des locataires réfractaires⁶ (concerning notices to quit and evictions);

- (c) actions under Article 1(2) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000⁷ (concerning the cancellation of contracts of lease); and
 - (d) claims for arrears of rent or damages in connection with actions under sub-paragraph (b) or (c).
- (3) The Family Division determines all cases involving –
- (a) proceedings under the Separation and Maintenance Orders (Jersey) Law 1953⁸; and
 - (b) proceedings under the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000⁹.
- (4) The Civil Claims Division determines all other cases in Jersey where the Petty Debts Court has jurisdiction.

PART 2

STARTING PROCEEDINGS

7 Proceedings by and against children

- (1) A child may commence, prosecute, defend, intervene in, or make any application in, any proceedings before the Court by a guardian ad litem appointed for that purpose.
- (2) An application for the appointment of a guardian ad litem may be made *ex parte* to the Court in chambers, and where such application is made by a child it must be made through his or her next friend.
- (3) In this Rule –
 - (a) “guardian ad litem” means a person appointed by the Court to protect the interests of a child; and
 - (b) “next friend” means a person able to act in place of the child to make an application to the Court to appoint a guardian ad litem.

8 Form of originating summons

- (1) Every originating summons must specify –
 - (a) the date (agreed with the Greffier, if need be, under Rule 24) upon which appearance is required;
 - (b) the plaintiff’s address for service in Jersey; and
 - (c) any claim for interest.
- (2) Every originating summons in the Civil Claims Division must –
 - (a) if general damages are claimed, include a statement of how much money is claimed and how that sum has been calculated;
 - (b) specify the total of the claim, and –
 - (i) any interest,

- (ii) stamp duty, and
 - (iii) costs,claimed as at the date of the first hearing in the proceedings; and
 - (c) be in the appropriate form specified in practice directions.
- (3) Subject to paragraphs (4) and (5), an application in the Tenancy Division under any of the following Articles of the Residential Tenancy Law –
- (a) Article 8(2), (3) or (5), 9(b) or 10(4) for an order to vary or terminate a residential tenancy agreement;
 - (b) Article 11 for the eviction of a tenant who has failed to move out of the property after the residential tenancy has terminated;
 - (c) Article 12(2) for an order for the termination of a residential tenancy agreement and the eviction of a tenant who has breached the agreement and failed to comply with a notice in respect of such breach;
 - (d) Article 14(1) for an order to delay enforcing an eviction; or
 - (e) Article 14(4) for an order to vary, revoke or impose conditions on an order to stay the execution of an eviction,
- must be in the appropriate form specified in practice directions.
- (4) Where an application under Article 14(1) of the Residential Tenancy Law for an order to stay the execution of an eviction is made in conjunction with an application under Article 11 or 12(2) of that Law, the form for the application under Article 14(1) may be merged with the form for the application under Article 11, or 12(2), as the case may be.
- (5) Where an application under Article 11 or 12(2) of the Residential Tenancy Law has been made, an application under Article 14(1) of that Law by the tenant for an order to stay the execution of the eviction, if not made in the appropriate form specified in practice directions, must be made in such form as the Court may direct.

9 Address for service

- (1) If a plaintiff does not give an address for service in Jersey in accordance with Rule 8(1)(b) but has at any time been legally represented in relation to the proceedings, the plaintiff's address for service shall be the address of his or her last advocate or solicitor.
- (2) Every defendant who appears personally or through an advocate or solicitor before the Court in proceedings that are not then concluded must give an address for service in Jersey, provided that, if the defendant fails to do so, but has at any time been legally represented in relation to the proceedings, his or her address for service shall be the address of his or her last advocate or solicitor.
- (3) The address for service of a Minister (including the Chief Minister) shall, unless a different address for service is given, be the address specified for the time being by Order pursuant to Article 51A of the States of Jersey Law 2005¹⁰.

- (4) Where the address in Jersey of a managing agent has been specified in a residential tenancy agreement, that address –
 - (a) may be given by the landlord as the landlord's address for service in Jersey; and
 - (b) shall be taken to be the landlord's address for service in Jersey if no other address is given.

10 Service of documents generally

Except where Rules of Court or any other enactment otherwise expressly provide, or the Court orders otherwise, service of any document in any proceedings before the Court may be carried out by personal service or ordinary service.

11 Personal service – when required

Subject to Rules 18, 19 and 20, personal service is required for a summons in respect of –

- (a) an action under the Loi (1946) concernant l'expulsion des locataires réfractaires concerning a notice to quit or an eviction;
- (b) an application under the Residential Tenancy Law –
 - (i) for an order to vary or terminate a residential tenancy agreement,
 - (ii) for the eviction of a tenant who has failed to give vacant possession after the residential tenancy has terminated, or
 - (iii) for the termination of a residential tenancy agreement and the eviction of a tenant who has breached the agreement and failed to comply with a notice in respect of such breach;
- (c) an action under Article 1(2) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000 for the cancellation of a contract of lease; and
- (d) in respect of proceedings under –
 - (i) the Separation and Maintenance Orders (Jersey) Law 1953; or
 - (ii) Article 10 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000.

12 Service through the Viscount's Department – when required

Service through the Viscount's Department is required –

- (a) where personal service is required; and
- (b) for a summons to witness the confirmation of a provisional order for the arrest of a person's goods.

13 Personal service – how it is done

Personal service of a document may only be done through the Viscount's Department; and is carried out by leaving it with the person to be served.

14 Personal service on company

Personal service of a document on a company may, in cases where provision is not otherwise made by any enactment, be carried out by leaving it with the president or chairman, or a director, secretary, treasurer or other similar officer of the company, or by leaving it at or delivering it to the registered office of the company.

15 Personal service on the States or a Minister

- (1) Personal service of a document on the States may, in cases where provision is not otherwise made by any enactment, be carried out by leaving it with the Greffier of the States.
- (2) Personal service of a document on a Minister (including the Chief Minister) is carried out by leaving it at the proper address of that Minister specified in the States of Jersey (Proper Addresses for Ministers) (Jersey) Order 2014¹¹.

16 Ordinary service

- (1) Subject to Rule 17, ordinary service of a document on an individual is carried out –
 - (a) by leaving it at his or her last known address or last known place of business;
 - (b) by sending it by post to his or her last known address or last known place of business;
 - (c) by leaving it at the business address of the advocate or solicitor (if any) who has undertaken in writing to accept service on his or her behalf; or
 - (d) in such other manner as the Court may direct.
- (2) Subject to Rule 17, ordinary service of a document is carried out in the case of a company –
 - (a) by leaving it at the registered or principal office of the company;
 - (b) by sending it by post to the registered or principal office of the company;
 - (c) by leaving it at the last known place of business of the company;
 - (d) by sending it by post to the last known place of business of the company;
 - (e) by leaving it at the business address of an advocate or solicitor who has undertaken in writing to accept service on behalf of the company; or
 - (f) in such other manner as the Court may direct.

- (3) Unless a reason is shown to assume otherwise, a document posted locally to an address in Jersey shall be assumed to have been served on the second day after it was posted, not counting days on which there is no postal service.

17 Litigants in person – Ordinary Service through the Greffier

- (1) This Rule applies where the plaintiff is a litigant in person.
- (2) Ordinary service must be carried out through the Greffier at the Magistrate's Court Greffe.
- (3) The originating summons and Claim Summary together with a stamped addressed envelope must be delivered to the Greffier not later than 3 p.m. on the last working day before the one on which an originating summons can be posted to an address in Jersey so as to be served in time for the date for which the defendant is being summoned to appear.
- (4) The Greffier shall countersign and post the originating summons and shall make a record of when it was posted it.

18 Substituted service

- (1) If, in the case of any document which is required to be served personally on any person, it appears to the Court that it is impracticable for any reason to serve that document personally on that person, the Court may make an order for substituted service of that document.
- (2) An application for an order for substituted service must be made by affidavit stating the facts on which the application is founded.
- (3) An order giving permission to effect substituted service of a document which requires the person to be served to appear before the Court shall specify the date on which the appearance is required.
- (4) Substituted service of a document, in relation to which an order is made under this Rule, is carried out by taking whatever steps the Court may direct to bring the document to the notice of the person to be served.

19 Service of process on agent of overseas principal

- (1) Where the Court is satisfied on an *ex parte* application that –
 - (a) a contract has been entered into in Jersey with or through an agent who is either an individual residing or carrying on business in Jersey or a company having a registered office or place of business in Jersey;
 - (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 company; and
 - (c) at the time of the application either the agent's authority has not been determined or he or she is still in business relations with his or her principal,

the Court may authorize service of process on the agent instead of on the principal to commence the relevant proceedings.

- (2) An order under this Rule authorizing service of process which requires the person to be served to appear before the Court must specify the date on which the appearance is required.
- (3) Where an order is made under this Rule authorizing service of process on a defendant's agent, a copy of the order and of the process must be sent by post to the defendant at his or her address out of the jurisdiction.

20 Service of process for recovery of land where no-one appears to be in possession

Where proceedings are brought for the cancellation of a contract of lease of or to recover the possession of land, the Court may –

- (a) if satisfied on an *ex parte* application that no person appears to be in possession of the land and that service cannot otherwise be carried out on any defendant, authorize service on that defendant to be carried out by affixing a copy of the process to some conspicuous part of the land;
- (b) if satisfied on such an application that no person appears to be in possession of the land and that service could not otherwise be carried out on any defendant, order that service already carried out by affixing the process to some conspicuous part of the land shall be treated as good service on that defendant.

21 Record of service

- (1) The record of service of a document must state –
 - (a) who carried out service;
 - (b) how it was carried out; and
 - (c) where and when it was carried out.
- (2) It is not sufficient to state only that service of a document was effected by ordinary service.

22 Service outside Jersey

- (1) Service of an originating summons outside Jersey may be allowed by the Court whenever –
 - (a) relief is sought against a person domiciled or ordinarily resident in Jersey;
 - (b) 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 in Jersey,

- (ii) was made by or through an agent trading or residing in Jersey on behalf of a principal trading or residing outside Jersey,
 - (iii) is by its terms, or by implication, governed by Jersey law, or
 - (iv) contains a term to the effect that the Petty Debts Court shall have jurisdiction to hear and determine any action in respect of the contract;
- (c) the claim is brought in respect of a breach committed in Jersey of a contract made within or outside Jersey, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed outside Jersey that rendered impossible the performance of so much of the contract as ought to have been performed in Jersey;
- (d) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, in Jersey;
- (e) the whole subject-matter of the action is land in Jersey; and
- (f) the claim is brought to enforce any judgment or arbitral award.
- (2) Every application for permission to serve an originating summons on a defendant outside Jersey must be supported by affidavit or other evidence stating that, in the belief of the person making the statement, the plaintiff has a good cause of action and showing in what place or country the defendant is or probably may be found, and the grounds for making the application; and no such permission shall be granted unless it appears to the Court that the case is a proper one for service outside Jersey.
- (3) Any order giving permission to effect such service shall specify the date upon which the defendant is to appear before the Petty Debts Court and shall also state whether personal service of the summons on the defendant is required.
- (4) An affidavit of service shall be endorsed on or attached to a copy of the summons and tabled with the Claim Summary instead of a record of service in accordance with Rule 25.

23 Time within which summons to be served

Except where provision is otherwise made, any summons for appearance before the Court must be served at least 4 clear days before the day on which the defendant is required to appear, and this Rule shall apply not only to the originating summons in the proceedings but also to all subsequent summonses in the proceedings.

24 Date for appearance

- (1) Unless otherwise directed by the Court, an originating summons must not be served unless the plaintiff has agreed with the Greffier the date for which appearance is required to reply to a summons.

- (2) If an originating summons is served without a date for appearance having been agreed with the Greffier, the proceedings on the summons may be adjourned at the discretion of the Court.
- (3) A direction under paragraph (1) may relate to individual cases or proceedings or to types or classes of case or proceeding.

PART 3

PROCEEDINGS BEFORE THE COURT

25 Tabling of proceedings

- (1) Where proceedings are to be brought before the Court for the first time, the Claim Summary and record of service must be filed at the Magistrate's Court Greffe not later than 1 p.m. on the second working day before the day on which the proceedings are due to be called.
- (2) The Claim Summary and record of service must be on the same document except where service has been carried out through the Viscount's Department.
- (3) If the Greffier is satisfied that the Claim Summary complies with these Rules, he or she shall place it on the Court list.
- (4) A record of service shall not be necessary when the Greffier has posted the summons and made a record in accordance with Rule 17(4)).

26 Grounds for declaring originating summons invalid

- (1) The Court may declare an originating summons to be invalid –
 - (a) if it has not been served in accordance with these Rules; or
 - (b) if the Claim Summary and the originating summons differ in a way that affects the defendant's rights.
- (2) If an originating summons served on a defendant is declared invalid, he or she shall be discharged from the proceedings.

27 Judgment by default not to be given where originating summons not served in due time

The Court shall not give judgment by default in any proceedings unless it is satisfied that the originating summons was served in due time.

28 Prescription (running of time)

- (1) The running of time within which to bring an action (prescription) is interrupted by the service of proceedings for appearance before the Court or, where an order for substituted service is made under Rule 18, on the making of the order.
- (2) However, prescription shall not be interrupted where –

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

29 Setting aside or abandonment of judgment by default

- (1) Any judgment by default may be set aside or abandoned by order of the Court on terms as to costs or otherwise agreed by the parties or decided by the Court.
- (2) An application for an order under paragraph (1) must be made by summons and, if made by a defendant, must be supported by an affidavit stating the circumstances in which the default has arisen and confirming that the defendant has a good defence to the proceedings.

30 Procedure at the first hearing

- (1) At the first hearing of the proceedings and at any subsequent hearing the Court may –
 - (a) adjourn to another day or indefinitely for a subsequent hearing;
 - (b) give judgment to the plaintiff for the whole or part of the claim;
 - (c) dismiss the whole or part of the proceedings;
 - (d) send the proceedings or anything still in dispute for mediation in accordance with Rule 31;
 - (e) where appropriate give judgment against a defendant for liability with the matter of the amount of damages being sent to proof or to mediation or with other procedural directions being given for the amount of damages to be assessed;
 - (f) if the Court considers that the proceedings ought not to be sent to proof, give procedural directions or take any step needed to bring the matters in dispute to an early resolution; or
 - (g) send the proceedings to proof, whether under Rule 32 or in the course of small claims proceedings, in respect of anything still in dispute.
- (2) Other than in exceptional circumstances, proceedings must not be adjourned more than 3 times to a subsequent ordinary sitting of the Court.

31 Mediation

Despite anything in these Rules, at the first or any subsequent hearing of any disputed proceedings the Court may adjourn the proceedings for mediation on any terms it considers appropriate and may give any consequential directions it thinks necessary.

32 Procedure when proceedings are sent to proof or pleadings are otherwise ordered

- (1) When the whole or part of the proceedings have been sent to proof or pleadings are otherwise ordered the plaintiff must, within 14 days, unless the Court orders otherwise, file a detailed statement of his or her claim in relation to the matters which remain in dispute.
- (2) A defendant may, on giving 4 clear days' notice to the Greffier and to the plaintiff ask the Court to strike out the plaintiff's proceedings –
 - (a) where the time for filing a statement of claim has passed and no statement of claim has been filed; or
 - (b) where a statement of claim has been filed and rejected by the Court and an amended statement of claim has not been filed within the further period specified by the Court.
- (3) The defendant must, unless the Court orders otherwise, file an answer to the statement of claim within 14 days of receiving it.
- (4) The plaintiff may, unless the Court orders otherwise, file a reply to the answer within 14 days of receiving it.
- (5) Except when the answer contains a counterclaim, no subsequent pleading shall be filed except with the permission of the Court.
- (6) Subject to paragraph (11), a defendant in an action may counterclaim against the plaintiff any right or claim which the Petty Debts Court has jurisdiction to determine.
- (7) The Court may pronounce a final judgment in the same action both on the original claim and on the counterclaim.
- (8) A counterclaim must be made in writing and contain sufficient details.
- (9) When the answer contains a counterclaim, the plaintiff must, within 14 days of receipt of the counterclaim, file an answer to the counterclaim and the defendant may, unless the Court orders otherwise, within 14 days of the receipt of the answer to counterclaim, file a rejoinder.
- (10) A copy of every statement of claim, answer, reply, rejoinder and subsequent pleading must, within 24 hours after it is filed, be delivered by the party filing to the opposite parties.
- (11) Where a defendant makes a counterclaim, if the plaintiff contends that the claim made ought not to be disposed of by way of counterclaim but in an independent action, the Court may at any time order that the counterclaim be excluded.
- (12) If in any case in which the defendant makes a counterclaim the action of the plaintiff is stayed, discontinued or dismissed, the counterclaim may still be determined by the Court.
- (13) The plaintiff may, on giving 2 clear days' notice to the Greffier and to the defendant, ask the Court to pronounce judgment against the defendant –
 - (a) where the time for filing an answer (including an answer to counterclaim) has passed and no answer has been filed; or

- (b) where an answer (including an answer to counterclaim) has been filed and rejected by the Court and an amended answer has not been filed within the further period specified by the Court.
- (14) The plaintiff may, on giving 2 clear days' notice to the Greffier and to the defendant, ask the Court to strike out a counterclaim where a counterclaim has been filed and rejected by the Court and an amended counterclaim has not been filed within the further period specified by the Court.
- (15) Where the Court is of the opinion that any pleading filed by any party to any proceedings, including a pleading filed by a third party, is not in a proper form or does not include sufficient detail to enable the other parties to the proceedings and the Court to understand the basis of that party's factual contentions, without affecting what may be done under Rule 46 the Court may reject the pleading filed by that party and in that event shall require that party, within such period as the Court shall specify, to file an amended pleading in a proper form and with sufficient detail.

33 Directions hearing

- (1) As soon as practicable after the time for filing pleadings has passed the parties must attend a directions hearing (if the date for such a hearing has not already been fixed).
- (2) The date for the directions hearing may be fixed by the Court of its own motion or on application.
- (3) At the directions hearing the Court may make any order or give any direction that it is empowered to make or give under Rule 30.

34 Non-compliance with procedural requirements

If a party fails to comply with an order made or direction given under Rule 30 or 33, the Court may, 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, and such order for costs as may be appropriate.

35 Orders before final judgment

An application for an order before final judgment shall be made by a summons returnable before the Court which must be served either by ordinary service or by leaving the summons at the address for service of the party who is served with the summons.

36 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).

37 Grounds for summary judgment

- (1) Where the proceedings have been sent to proof the Court may 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.

38 Procedure on application for summary judgment

- (1) 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.
- (2) 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.
- (3) The application must be supported by an affidavit verifying the facts to which the application relates and stating that, in the belief of the person making the statement, 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.
- (4) 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.

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

39 Evidence filed in response to a summary judgment application

- (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.

40 Orders the Court may make on application for summary judgment

- (1) The orders the Court may make on an application for summary judgment 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.

41 Court's powers when it determines a summary judgment application

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.

42 Judgment by default

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 29 shall apply.

43 Third parties

- (1) Where a defendant in his or her answer to an action which has been sent to proof –
- (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 may consider appropriate for service on such third party and for the filing of pleadings.
- (3) Where a third party has been so convened, he or she shall from the time of service be a party to the action as if the third party had been made a

defendant in an original action either by the defendant on whose application he or she was convened or by the plaintiff.

- (4) Where the time for filing an answer or an amended answer by the third party has passed and no answer has been filed –
 - (a) he or she 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 2 clear days' notice to the Greffier and to the third party, 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 him or her in the action, at any time after the judgment is satisfied and, with the Court's permission, before it is satisfied, obtain judgment against the third party in respect of any contribution or indemnity claimed in his or her answer and, with the permission of the Court, in respect of any other relief or remedy claimed in the answer.
- (5) The Court may at any time set aside or vary a judgment given under paragraph (5) on whatever terms it thinks just.
- (6) Where in any action 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 an 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 permission of the Court until the judgment against the defendant has been satisfied.
- (8) Where in any action which has been sent to proof a defendant in his or her answer –
 - (a) claims against a person who is 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 himself or herself 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) Where a defendant has convened a third party and the third party makes a claim or requirement mentioned in paragraph (1) or (9), 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.

44 Consolidation of causes or matters

- (1) Where 2 or more actions are pending, then, if it appears to the Court –
- (a) that some common question of law or fact arises in both or all of them;
 - (b) that the rights to relief claimed are in respect of or arise out of the same transaction or series of transactions; or
 - (c) that for some other reason it is desirable to make an order under this Rule,

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

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

45 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 whatever terms as to costs or otherwise 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.

46 Obtaining further information

- (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) file his or her response; and
 - (b) serve it on the other parties,
- within the time and, if applicable, in the manner, specified by the Court.

47 Discovery and inspection of documents

- (1) Each party to any proceedings must provide copies to any other party of all documents in his or her possession, custody or power relating to any matter in question in the cause or matter and which are referred to expressly or by implication in any pleading, affidavit or witness statement of any party or which any party wishes to rely on at trial.
- (2) If a party does not want to provide a copy of a document because it is desired to claim that the document is privileged from production, the claim must be set out in writing with a sufficient statement of the grounds of the privilege relied on.
- (3) A party who has provided any other party with copies of documents in compliance with paragraph (1) must allow the other party to inspect any original of any document held by that party (other than any document which he or she objects to produce under paragraph (2)).
- (4) Any party wishing to inspect an original document must give at least 3 days' notice in writing to the party who holds the original that he or she wishes to inspect it.
- (5) The Court may order any party to any proceedings to make an affidavit stating whether any document or class of document specified or described in the order is, or has at any time been, in his or her possession, custody or power, and if not then in his or her possession, custody or power, when he or she parted with it and what has become of it.
- (6) The Court may order any party to any proceedings in whose pleadings, affidavits or witness statement reference is made to any document to produce the original of that document for the inspection of any other party and to permit him or her to take copies.
- (7) Before applying by summons, a party may apply by letter to any other party –
 - (a) to furnish him or her with a copy of a document; or
 - (b) to allow him or her to inspect and take copies of the documents referred to in the letter,or both.

48 Admissions

- (1) A party to any proceedings may give notice, by his or her pleading or otherwise in writing, that he or she admits the truth of the whole or any part of the case of any other party.
- (2) Where admissions of fact are made by a party to the proceedings either by his or her pleadings or otherwise, any other party to the proceedings may apply to the Court for such judgment or order as on those admissions he or she 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.

PART 4
SMALL CLAIMS

49 Small Claims Procedure

- (1) Unless in any proceedings the Court orders otherwise, this Rule applies to any proceedings where the amount claimed does not exceed £5,000 other than proceedings which include a claim for damages –
 - (a) for personal injuries;
 - (b) under the Fatal Accidents (Jersey) Law 1962¹²; 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 1948¹³.
- (2) The proceedings must be started by an originating summons.
- (3) Rule 30 shall apply at the first hearing of the proceedings.
- (4) If the claim is not settled at mediation –
 - (a) the plaintiff must, within such period as the Court may require, file a detailed statement of his or her claim in the form determined by practice directions, accompanied by all of the documents referred to in the particulars and any other documents relied on to support the claim; and
 - (b) the defendant must, within such period as the Court may require, file an answer in the form determined by practice directions, accompanied by all of the documents referred to in the answer and any other documents relied on to support the answer.
- (5) The Court shall review the documents filed by the parties under paragraph (4) and may require one or more of the parties to file further pleadings, particulars and documents or to comply with any other direction given for the purposes of the proceedings.
- (6) When the Court is satisfied that the pleadings and other documents filed under paragraph (4) are sufficient to proceed to a trial of the proceedings, the Court shall fix a date for the trial; and shall issue any other necessary directions.
- (7) None of the Rules relating to –
 - (a) sending to proof and pleadings (Rule 32);
 - (b) discovery and inspection (Rule 47);
 - (c) fixing a date for trial (Rule 53); and
 - (d) evidence (Rule 55),shall apply to the proceedings except insofar as the Court orders otherwise.
- (8) Any hearing of the proceedings is informal and accordingly –
 - (a) the Court may adopt any method of proceeding that it considers to be fair;
 - (b) the strict rules of evidence do not apply;

- (c) the Court need not take evidence on oath; and
 - (d) the Court may limit cross-examination.
- (9) The Court must give reasons for its decision.

PART 5

OTHER PROCEDURAL MATTERS

50 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 which he or she has made, or withdraw his or her defence or any part of it, without the permission of the Court, and any such permission may be given on whatever terms as to costs, the bringing of a subsequent action or otherwise, are just.
- (2) Subject to the terms imposed by the Court in granting permission, the fact that a party has discontinued an action or counterclaim or withdrawn a particular claim shall not be a defence to a subsequent action for the same, or substantially the same, cause of action.
- (3) Where a party is liable to pay any costs under paragraph (1), then if, before payment of such costs, the party 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.

51 Payment into Court

- (1) In any action before the Court any defendant may at any time pay into Court a sum of money in satisfaction of the cause or causes of action in respect of which a claim is made.
- (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 suitable bank 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 action.
- (4) Except with the consent of the other parties to the action, no payment may be withdrawn without the permission of the Court, such permission to be obtained by summons.
- (5) Except where the tender of payment is pleaded by the party making payment, the fact that payment into Court has been made must not be disclosed to the Court before whom the action is tried until all questions of liability and of the amount of debt or damages have been decided.
- (6) The Court when awarding costs may take into consideration the fact that payment into Court has been made:

Provided that nothing in these Rules shall derogate from the complete discretion of the Court to make such order as to costs as it deems right and just.

- (7) Questions of interpretation or of administrative procedure left uncertain by this Rule shall be referred in the first instance to the Greffier for his or her decision.

52 Misjoinder and nonjoinder of parties

At any stage of the proceedings in any cause or matter the Court may on whatever terms it thinks just, 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 him or her and that party as well as between the parties to the cause or matter,

but no person shall be added as a plaintiff without his or her consent signified in writing or in such other manner as the Court may direct.

53 Fixing a date for trial of proceedings

- (1) When the Court is satisfied that the proceedings are ready for trial, the Court shall order that the parties take steps before the Greffier to fix a date for the trial of the proceedings (“a trial date”).
- (2) Upon the payment of the appropriate stamp fee, the Greffier shall fix a date for a trial date.
- (3) If proceedings have been sent to proof, any party to the proceedings may, at any time after the closure of pleadings, apply to the Greffier for a date to be fixed for the trial of the proceedings in the following manner –
- (a) the party applying for a trial date must, not less than 4 clear days beforehand, notify in writing the other parties to the proceedings of his or her intention to make the application and of the date and time at which he or she intends to apply;
- (b) on the date and at the time notified the parties must attend either personally or through their advocates or solicitors or through a representative of their advocates or solicitors on the Greffier, and if the Greffier is satisfied that the proceedings are ready for trial and

upon payment of the appropriate stamp fee, the Greffier shall fix a trial date;

- (c) if the Greffier is not satisfied that the proceedings are ready for trial, the Greffier shall adjourn the application;
- (d) when a trial date has been fixed the party applying shall within 2 days notify in writing all other parties to the proceedings, who were not present at the hearing of the application, of the date fixed; and
- (e) in the case of any party to proceedings not having an address for service, the notice required under sub-paragraphs (a) and (d) may be sent to the last known address of any such party.

54 Dismissal of proceedings for want of prosecution

Where proceedings have been adjourned indefinitely (“sine die”) or have remained sent to proof for more than one year from the date when they were first adjourned or sent to proof, the Court may, after giving one week’s notice in open Court, order that the proceedings be dismissed.

55 Evidence

- (1) Any fact required to be proved at the trial of any proceedings by the evidence of witnesses shall be proved by the examination of witnesses orally and in open Court; provided that the Court may order that any particular facts may be proved by affidavit, by production of documents or copies of documents, or by such other means as the Court may direct.
- (2) Rule 34 (non-compliance with procedural requirements) shall apply to a failure to comply with an order given under paragraph (1) as it applies to a failure to comply with an order or direction given under Rule 30 or 33.

PART 6

COSTS

56 Costs: jurisdiction

Subject to this Part, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court, and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

57 Costs assessed by the Greffier

- (1) This Rule applies to an order made by the Court for costs in proceedings which have been struck out on the grounds that –
 - (a) a party has disclosed no reasonable grounds for bringing or defending the proceedings;

- (b) the proceedings or their defence are an abuse of the court's process; or
 - (c) the conduct of –
 - (i) a party, or
 - (ii) a person acting on a party's behalf and with the party's knowledge of such conduct,is likely to obstruct the just disposal of the proceedings.
- (2) The amount of costs which any party shall be entitled to recover under the order is assessed by the Greffier.
 - (3) The Greffier shall assess the amount on the standard basis unless the Court has ordered the costs to be assessed on the indemnity basis.
 - (4) The standard basis and the indemnity basis have same meaning as they have for the time being in the Royal Court Rules 2004¹⁴.

58 Fixed costs

- (1) This Rule applies to an order made by the Court for costs in proceedings other than proceedings referred to in Rule 57.
- (2) The party awarded costs under the order shall, unless the Court orders otherwise, recover such costs on the basis of a scale of fixed costs issued from time to time by practice directions.
- (3) Practice directions for the purpose of paragraph (2) may include provision for the apportionment of costs.

59 Payment of costs

- (1) Where a person is liable to pay any costs, the Court may order the person to make an interim payment on account of costs before the full amount of costs has been quantified.
- (2) Any amount of costs payable in accordance with these Rules is recoverable as a judgment debt.

PART 7

PRACTICE DIRECTIONS

60 Practice directions

Practice directions for the purposes of these Rules shall be issued by the Magistrate with the agreement of the Bailiff.

PART 8**REPEALS, CITATION ETC.****61 Laws amended**

- (1) In Article 2 of the Loi (1891) sur la Cour pour le recouvrement de menues dettes¹⁵ the words “tous les Mercredis, (excepté les jours observés comme fériés par la Cour Royale), tant en vacance qu’en terme, à 10am,” shall be deleted.
- (2) Article 3 of the Civil Proceedings (Jersey) Law 1956¹⁶ is repealed.

62 Petty Debts Court Rules 2004 revoked

The Petty Debts Court Rules 2004¹⁷ are revoked.

63 Citation and commencement

- (1) These Rules may be cited as the Petty Debts Court Rules 2018.
- (2) These Rules shall come into force on 9th April 2018.

M.J. THOMPSON

Master of the Royal Court

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- 1 *chapter 07.770*
 - 2 *chapter 04.600*
 - 3 *chapter 07.525*
 - 4 *chapter 18.720*
 - 5 *chapter 15.560*
 - 6 *chapter 07.350*
 - 7 *chapter 07.615*
 - 8 *chapter 12.800*
 - 9 *chapter 12.550*
 - 10 *chapter 16.800*
 - 11 *chapter 16.800.27*
 - 12 *chapter 04.440*
 - 13 *chapter 15.160*
 - 14 *chapter 07.770.72*
 - 15 *chapter 07.210*
 - 16 *chapter 04.200*
 - 17 *R&O.34/2004 (chapter 07.175.50)*