



Jersey

## **PETTY DEBTS COURT RULES 2004**

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## **PETTY DEBTS COURT RULES 2004**

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## PETTY DEBTS COURT RULES 2004

**THE SUPERIOR NUMBER OF THE ROYAL COURT**, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948,<sup>1</sup> Article 2 of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1967,<sup>2</sup> and Article 8 of the Service of Process and Taking of Evidence (Jersey) Law 1960,<sup>3</sup> and of all other powers enabling it in this behalf, orders as follows –

Commencement [[see endnotes](#)]

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### 1 Interpretation

In these Rules –

“Claim Summary” means the document containing a summary of the claim in the general form which was previously customary on the billet;

“the Court” means the Petty Debts Court or (except in Rules 5, 6, 8, 10, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 (4), (5), (6) and (7), 36, 40, 41 and 42) the Greffier;

“file” means file with the Greffier and “filed” shall be construed accordingly;

“Greffier” means the Judicial Greffier;

“Judge” means the Judge of the Court;

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

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

“originating summons” means a summons which commences proceedings;

“proceedings” means any proceedings in the Court however commenced and includes any judgment by default.

**2 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 the following provisions of 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) of this Rule “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 1951.<sup>4</sup>

**3 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, and by reason thereof that 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.

**4 Power to extend and abridge time**

- (1) The Court or the Viscount may, on such terms as it, he or she 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 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.

**5 Divisions of the Court**

- (1) There shall be the following divisions of the Court, namely –
  - (a) Civil Claims Division;
  - (b) Tenancy Division; and

- (c) Family Division.
- (2) The jurisdiction of the Tenancy Division is the determination of –
  - (a) actions brought under Article 2 or 3 of the Loi (1946) concernant l'expulsion des locataires réfractaires;<sup>5</sup>
  - (b) actions brought under Article 1(2) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000;<sup>6</sup> and
  - (c) claims for arrears of rent or for damages in lieu of rent brought together with an action under sub-paragraph (a) or (b).
- (3) The jurisdiction of the Family Division is the determination of –
  - (a) proceedings brought under the Separation and Maintenance Orders (Jersey) Law 1953;<sup>7</sup> and
  - (b) proceedings brought under the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000.<sup>8</sup>
- (4) The jurisdiction of the Civil Claims Division is the determination of all matters within the jurisdiction of the Petty Debts Court which are not within the jurisdiction of the Tenancy Division or the Family Division.

## **6 Proceedings by and against minors**

- (1) A minor 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 or the Greffier in chambers, and where such application is made by a minor it shall be made through his or her next friend.

## **7 Form of originating summons**

- (1) Every originating summons shall –
  - (a) specify the date upon which appearance is required;
  - (b) specify the plaintiff's address for service in Jersey; and
  - (c) specify any claim for interest which the plaintiff may intend to make.
- (2) Every originating summons in the Civil Claims Division shall –
  - (a) in an action in which general damages are claimed, include a statement of the quantification of the said general damages;
  - (b) specify the total sum of the claim, interest, stamp duty and costs claimed by the plaintiff as at the date of the first hearing in the proceedings; and
  - (c) be in the appropriate form set out in the Schedule or in a form substantially to the like effect.

**8 Address for service**

- (1) If a plaintiff shall fail to give an address for service in Jersey in accordance with Rule 7(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 shall 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.

**9 Service of documents generally**

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

**10 Personal service – when required**

Subject to the terms of Rules 16, 17 and 18, personal service is required in the case of the following originating summonses for appearance before the Court, that is to say, a summons –

- (a) to reply to an action brought under Article 2 or 3 of the Loi (1946) concernant l'expulsion des locataires réfractaires;<sup>9</sup>
- (b) to reply to proceedings brought under the Separation and Maintenance Orders (Jersey) Law 1953;<sup>10</sup>
- (c) to appear before the Court pursuant to Article 10 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000;<sup>11</sup> and
- (d) to reply to an action brought under Article 1(2) of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000<sup>12</sup> to seek the cancellation (*résolution*) of a contract of lease of an immovable or any interest in an immovable.

**11 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; and
- (b) in the case of a summons to witness the confirmation of an arrest.

**12 Ordinary service – how effected**

- (1) Subject to the provisions of paragraph (4), ordinary service of a document is effected in the case of an individual –
  - (a) by leaving it at the last known address or last known place of business of the person to be served;

- (b) by sending it by ordinary post to the last known address or last known place of business of the person to be served;
- (c) by leaving it at the business address of the advocate or solicitor (if any) who has undertaken in writing to accept service on behalf of the person to be served in the proceedings in connection with which service of the document in question is to be effected; or
- (d) in such other manner as the Court may direct.

(2) Subject to the provisions of paragraph (4), ordinary service of a document is effected in the case of a body corporate –

- (a) by leaving it at the registered or principal office of the body;
- (b) by sending it by ordinary post to the registered or principal office of the body;
- (c) by leaving it at the last known place of business of the body to be served;
- (d) by sending it by ordinary post to the last known place of business of the body to be served;
- (e) by leaving it at the business address of the advocate or solicitor (if any) who has undertaken in writing to accept service on behalf of the body to be served in the proceedings in connection with which service of the document in question is to be effected; or
- (f) in such other manner as the Court may direct.

(3) Without prejudice to the provisions of Article 7 of the Interpretation (Jersey) Law 1954,<sup>13</sup> a document sent by post to an address within 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) Where the plaintiff is a litigant in person, ordinary service shall be effected through the intermediary of the Greffier at the Magistrate's Court Greffe. The summons and Claim Summary together with an appropriately stamped and addressed envelope shall be delivered to the Greffier not later than 3 pm on the last working day before the last working day on which a summons can validly be sent by post to an address within Jersey in accordance with the terms of paragraph (3) of this Rule and Rule 21 (which will normally be the penultimate Friday before the Wednesday on which the defendant is to appear) (hereinafter referred to as “the last litigants in person day”). The Greffier shall countersign the summons and record the posting thereof.

Provided that if the last litigants in person day shall fall on the last day for the tabling of proceedings for any sitting of the Petty Debts Court, as set out in Rule 22, then the last litigants in person day shall be the working day before.

### 13 Personal service – how effected

Personal service of a document is effected by leaving it with the person to be served.

**14 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 leaving it with the president or chairman, or secretary, treasurer or other similar officer thereof, or by leaving it at or delivering it to the registered office of the body.

**15 Personal service on the States or a Committee or other administration of the States**

Personal service of a document on the States or a Committee or other administration of the States may, in cases where provision is not otherwise made by any enactment, be effected by leaving it with the Greffier of the States.

**16 Substituted service**

- (1) If, in the case of any document which by virtue of any provision of rules of court 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 shall be made by affidavit stating the facts on which the application is founded.
- (3) An order giving leave 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 effected by taking such steps as the Court may direct to bring the document to the notice of the person to be served.

**17 Service of process on agent of oversea principal**

- (1) Where 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 he or she is still in business relations with his or her principal,

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

- (2) An order under this Rule authorizing service of process which requires the person to be served to appear before the Court shall 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 shall be sent by post to the defendant at his or her address out of the jurisdiction.

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

Where proceedings are instituted to seek the cancellation of a contract of lease of or to recover the possession of an immovable or any interest in an immovable, the Court may –

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

**19 Record of service**

The record of service of a document shall –

- (a) state the person by whom, the means by which, the place at which and the day on which service was effected except that, in the case of a document sent by post, the day on which the document was posted shall be stated instead of the day on which the document was served;
- (b) not simply state that service of a document was effected by ordinary service; and
- (c) be in the appropriate form set out in the Schedule to these Rules or in a form substantially to the like effect.

**20 Service out of the jurisdiction**

- (1) Service out of the jurisdiction of a summons may be allowed by the Court whenever –
  - (a) relief is sought against a person domiciled or ordinarily resident within the jurisdiction;
  - (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 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 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 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;
- (d) the claim is founded on a tort and the damage was sustained, or resulted from an act committed, within the jurisdiction;
- (e) the whole subject-matter of the action is land situate within the jurisdiction (with or without rents or profits); and
- (f) the claim is brought to enforce any judgment or arbitral award.

- (2) 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.
- (3) Any order giving leave to effect such service shall specify the date upon which such 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 annexed to a copy of the summons and tabled with the Claim Summary in lieu of a record of service in accordance with Rule 22.

## **21 Time within which summons to be served**

Except where provision is otherwise made, a summons for appearance before the Court shall 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 therein.

**22 Tabling of proceedings**

Where proceedings are to be brought before the Court for the first time, the Claim Summary and record of service shall be filed at the Magistrate's Court Greffe not later than 3 pm on the second working day before the day on which the proceedings are due to be called. The Claim Summary and record of service shall be on the same document except where service is effected through the intermediary of the Viscount's Department. The Greffier shall ensure that the Claim Summary complies with these Rules and "table" it. Provided that a record of service shall not be necessary when the Greffier shall have effected the posting of the summons in accordance with Rule 12(4).

**23 Grounds for declaring originating summons invalid**

- (1) The Court may declare an originating summons to be invalid –
  - (a) if it has been served otherwise than in an authorized manner;
  - (b) if the Claim Summary and the originating summons differ in terms to such an extent that the rights of the party on whom the originating summons has been served will be materially prejudiced.
- (2) If an originating summons served on a defendant is declared invalid, he or she shall be discharged (*renvoyé*) from the proceedings.

**24 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.

**25 Prescription**

The prescription of a right of action shall be interrupted on the service of an originating summons in proceedings for appearance before the Court or, where an order for substituted service is made under Rule 16, on the making of the order:

Provided that 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.

**26 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 such terms as to costs or otherwise as the parties shall agree or the Court shall think fit.
- (2) An application for an order under paragraph (1) shall be made by summons and where made by a defendant shall 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.

## **27 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 any part thereof which remains in dispute for mediation in accordance with Rule 28 of these Rules;
  - (e) where appropriate pronounce interlocutory judgment against a defendant for liability with the matter of the amount of damages being sent to proof or to mediation or with such other procedural directions being given as shall be required in order for the amount of damages to be assessed;
  - (f) give such procedural directions as shall be required in order to bring the matters in dispute to an early resolution where the Court considers that the proceedings ought not to be sent to proof; or
  - (g) send the proceedings to proof in respect of any part thereof which remains in dispute.
- (2) Other than in exceptional circumstances, proceedings shall not be adjourned to a subsequent ordinary sitting of the Court on more than 3 consecutive occasions.

## **28 Mediation**

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

## **29 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 shall, unless the Court shall otherwise order, within 14 days, file a detailed statement of his or her claim in relation to the matters which remain in dispute.
- (2) Where the Court is of the opinion that a statement of claim is not in a proper form or does not include sufficient detail to enable the defendant and the Court to understand the basis of the Plaintiff's claim or that the claim set out in the statement of claim is not in respect of the claim set out in the summons, the Court may reject the statement of claim and in that event shall require the plaintiff, within such further period as the Court shall specify, to file an amended statement of claim in a proper form and with sufficient detail.

- (3) 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 limited for filing a statement of claim has expired 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.
- (4) The defendant shall, unless the Court shall otherwise order, within 14 days of receipt of a statement of claim, file an answer thereto.
- (5) The plaintiff may, unless the Court shall otherwise order, within 14 days of receipt of an answer, file a reply thereto. Except when the answer contains a counterclaim, no subsequent pleading shall be filed except by leave of the Court.
- (6) A counterclaim shall be made in writing and shall contain sufficient details.
- (7) When the answer contains a counterclaim, the plaintiff shall, within 14 days of receipt of the counterclaim, file an answer to counterclaim and the defendant may, unless the Court shall otherwise order, within 14 days of the receipt of the answer to counterclaim, file a rejoinder.
- (8) A copy of every statement of claim, answer, reply, rejoinder and subsequent pleading shall, within 24 hours after it is filed, be delivered by the party filing to the opposite parties.
- (9) Subject to the provisions of paragraph (10), a defendant in an action may set up by way of counterclaim against the claims of the plaintiff any right or claim the determination of which is within the jurisdiction of the Court, 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.
- (10) Where 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.
- (11) 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.
- (12) Where the Court is of the opinion that an answer (including an answer to counterclaim) or a counterclaim is not in a proper form or does not include sufficient detail to enable the plaintiff and the Court to understand the basis of that defendant's defence or counterclaim, the Court may reject the answer or counterclaim and in that event shall require that defendant, within such further period as the Court shall specify, to file an amended answer or an amended counterclaim in a proper form and with sufficient detail.
- (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 limited for filing an answer (including an answer to counterclaim) has expired 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, other than a pleading referred to in paragraph (2) or (12) or Rule 31(4), 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, 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.

### **30 Interlocutory orders and procedural directions**

- (1) In making interlocutory orders or giving procedural directions, the Court shall have regard to the need for efficient case management and to the desirability of bringing the proceedings to a conclusion within a reasonable time.
- (2) An application for the making of an interlocutory order shall be made by an interlocutory summons returnable before the Court which shall 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.
- (3) The Court may of its own motion at any time convene the parties to the proceedings and give procedural directions in relation thereto.

### **31 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 Court is of the opinion that an answer filed by a third party is not in a proper form or does not include sufficient detail to enable the defendant and the Court to understand the basis of the defence to the third party claim, the Court may reject the answer filed by the third party and in that event shall require the third party, within such further period as the Court shall specify, to file an amended answer in a proper form and with sufficient detail.

(5) Where the time limited for filing an answer or an amended answer by the third party has expired 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 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 his or her answer and, with the leave of the Court, in respect of any other relief or remedy claimed therein.

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

(7)

- (a) 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;
- (b) 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 leave 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 the provisions of paragraph (2) shall apply.

(9) Where a defendant has convened a third party and the third party makes such a claim or requirement as is mentioned in paragraphs (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 he or she were a third party makes such a claim or requirement.

## **32 Consolidation of causes or matters**

(1) Where 2 or more actions are pending before the Court, 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 therein 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 such terms as 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.

## **33 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.

**34 Further and better statement or particulars**

- (1) In any proceedings, the Court may order a party to serve on any other party particulars of any claim, defence or other matter stated in his or her pleading, or a statement of the nature of the case on which he or she relies, and the order may be made on such terms as the Court thinks just.
- (2) Before applying for particulars by summons, a party may apply for them by letter.
- (3) Particulars of a claim shall not be ordered under paragraph (1) to be delivered before defence unless the Court is of opinion that they are necessary or desirable to enable the defendant to plead or ought for any other special reason to be so delivered.
- (4) All particulars, whether given in pursuance of an order or otherwise, shall be filed within 24 hours of being furnished to the party requiring them.

**35 Discovery and inspection of documents**

- (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, 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 he or she 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 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 or affidavits reference is made to any document to produce that document for the inspection of any other party and to permit him or her to take copies thereof.
- (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.

**36 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.

**37 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 him or her 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 the party therein 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 the provisions of paragraph (1), then if, before payment of such costs, the 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.

**38 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 leave of the Court, such leave 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 shall 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.

### **39 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 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.

### **40 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 to the proceedings appear before the Greffier in such manner as shall be ordered, in order to fix a date for trial and upon the payment of the appropriate stamp fee by the appropriate person, the Greffier shall fix a date for the trial of the proceedings.
- (2) 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 date to be fixed for the trial of the proceedings shall, not less than 4 clear days before so doing, 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 (which date and time shall be convenient to the Greffier);

- (b) on the date and at the time notified the parties shall attend either personally or through the intermediary of their advocates or solicitors or through the intermediary of a representative of their advocates or solicitors on the Greffier at the Magistrate's Court Greffe, 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 date for the trial of the proceedings;
- (c) if the Greffier is not satisfied that the proceedings are ready for trial, the Greffier shall adjourn the application for the fixing of a date for trial to the Court;
- (d) when a date has been fixed for the trial of the proceedings the party applying shall within 2 days thereof notify in writing all other parties to the proceedings, who were not present at the hearing of the application, of the date fixed for the trial of the proceedings; 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.

**41 Dismissal of proceedings for want of prosecution**

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

**42 Evidence**

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.

**43 Practice directions**

The Judge may issue directions with the consent of the Bailiff as regards the practice to be followed in any matter where no provision has been made by Rules.

**44 Citation**

These Rules may be cited as the Petty Debts Court Rules 2004.

**SCHEDULE**

(Rule 7(2)(c))

**Form of originating summons in the Civil Claims Division**

To A.B. of

.....(address)

You are required to appear in the Petty Debts Court, Third Floor, Cyril Le Marquand House, The Parade, St. Helier, on .....(day of the week) the ..... day of ..... 200-, at .....o'clock in the morning, to defend the claim details of which appear below. If you do not appear, judgment may be given in your absence.

*(Insert here a copy of the information contained in the Claim Summary)*

Any documents which you need to send to the plaintiff must be sent to .....  
....., the Plaintiff's address for service.

You will stop this going to court if before the date given above you pay the sum of £.....being:-

- (a) the amount claimed of £.....;
- (b) interest on the said amount of £.....at the court rate up to the date given above being the sum of £.....;
- (c) fixed/indemnity costs in the sum of £.....; and
- (d) stamp duty in the sum of £..... (which can be deducted if payment is made 5 days before the date given above).

(Signed)

.....  
Advocate/Solicitor/Plaintiff

Dated the ..... day of ..... 200-.

**Forms of record of service**

(Rule 19(c))

*(To be indorsed on the Claim Summary)*

The summons in these proceedings to appear in the Petty Debts Court on ..... (day of the week) the ..... day of ..... 200- was posted by me in a letter addressed to the defendant at ..... on ..... (day of the week) the ..... day of ..... 200-.

(Signed)

.....

Clerk to

.....

Advocate/Solicitor/Plaintiff

Dated the ..... day of ..... 200-.

**Ordinary service by other means**

The summons in these proceedings to appear in the Petty Debts Court on ..... (day of the week) the ..... day of ..... 200- was served by me by leaving it at ..... (or as the case may be) on ..... (day of the week) the ..... day of ..... 200-.

(Signed)

.....

Clerk to

.....

Advocate/Solicitor/Plaintiff

Dated the ..... day of ..... 200-.

**Personal service**

The summons in these proceedings to appear in the Petty Debts Court on ..... (day of the week) the ..... day of ..... 200- was delivered by me to A.B. personally on ..... (day of the week) the ..... day of ..... 200- 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 ..... 200-.

**ENDNOTES****Table of Legislation History**

Legislation	Year and No	Commencement
Petty Debts Court Rules 2004	R&O.34/2004	1 June 2004

**Table of Renumbered Provisions**

Original	Current
1(1)	1
1(2)	spent, omitted from this revised edition
44	spent, omitted from this revised edition
45	44

**Table of Endnote References**

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*1 chapter 07.770*  
*2 chapter 04.600*  
*3 chapter 07.840*  
*4 chapter 15.560*  
*5 chapter 07.350*  
*6 chapter 07.615*  
*7 chapter 12.800*  
*8 chapter 12.550*  
*9 chapter 07.350*  
*10 chapter 12.800*  
*11 chapter 12.550*  
*12 chapter 07.615*  
*13 chapter 15.360*