



Jersey

ROYAL COURT RULES 1992

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ROYAL COURT RULES 1992

Arrangement

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Jersey

ROYAL COURT RULES 1992

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948,¹ Article 9 of the Public Holidays and Bank Holidays (Jersey) Law 1951,² Article 11 of the Service of Process and Taking of Evidence (Jersey) Law 1960,³ Article 2 of the Law Reform (Miscellaneous Provisions) (Jersey) Law 1967,⁴ and all other powers enabling it in this behalf, have made the following Rules –

Commencement [[see endnotes](#)]

PART I

INTERPRETATION

1/1 General definitions

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

“Court”, except in the provisions of these Rules mentioned in the First Schedule hereto, means any division of the Royal Court, the Bailiff or the Greffier;

“filed” means filed in the Judicial Greffe;

“Greffier” means the Judicial Greffier;

“hearing list” means the list so called by virtue of Rule 6/21A(1);⁵

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

“pending list” means the list so called by virtue of Rule 6/7;

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

“registered”, in relation to a document, means registered in accordance with Rule 14/1;

“Table” means the list so called by virtue of Rule 6/6(1).

- (1A) A reference in these Rules to a plaintiff or a defendant, if the context admits, includes a reference to –
- (a) a representor or party making a counterclaim or any party (however described) for the moment in the position of plaintiff;
 - (b) a respondent or defendant to a counterclaim or any party (however described) for the moment in the position of defendant; or
 - (c) a third party making or opposing any claim,
- as the case may be, in any proceedings and any reference to proceedings or an action shall be construed accordingly.⁶
- (2) Any reference in these Rules to any other enactment is a reference thereto as amended, and includes a reference thereto as extended, by or under any other enactment.

1/2 Meaning of “month”

Without prejudice to Article 4 of the Interpretation (Jersey) Law 1954,⁷ “month”, where it occurs in any judgment, order, direction or other document forming part of any proceedings in the Court, means a calendar month unless the context otherwise requires.

1/3 Reckoning periods of time

- (1) Any period of time fixed by rules of court or by any judgment, order or direction for doing any act shall be reckoned in accordance with 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) “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 1951.⁸

1/4 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, 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.

1/5 Power to extend and abridge time

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

PART II

SITTINGS OF THE COURT

2/1 Terms

The terms for sittings of the Court shall be –

- (a) the Michaelmas term, which shall begin on the second Thursday in September and end on the Friday preceding Christmas Day:
Provided that if Christmas Day falls on a Friday or a Saturday, the term shall end on the Friday of the preceding week, or if it falls on a Sunday, the term shall end on the preceding Wednesday;
- (b) the Hilary term, which shall begin on the first Monday after the 6th day of January and end on the Friday preceding Holy Week:
Provided that if the 6th day of January falls on a Monday or a Tuesday, the term shall begin on the following Thursday;
- (c) the Trinity term, which shall begin on the first Wednesday after Easter Day and end on the last Friday in July.

2/2 General provisions regarding sittings

The Court may not sit, unless the Bailiff shall otherwise direct –

- (a) on Christmas Day, Good Friday or a Sunday;
- (b) on any day appointed under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951,⁹ to be observed as a public holiday; or

- (c) on the Monday, Tuesday, Wednesday, Thursday or Saturday of Holy Week, on the Tuesday, Wednesday or Thursday of Easter Week, or, subject to the provisions of paragraph (b), on any day from the 27th to the 31st December inclusive, unless it is expedient to do so for the purpose of dealing with any particular business,

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

2/3 Ordinary sittings of the Héritage and Samedi divisions

- (1) Ordinary sittings of the Héritage and Samedi divisions shall be held on Friday of each week, save where the Court otherwise directs:

Provided that where the Friday is one on which, by reason of these Rules or of any other enactment, the Court may not sit, the sitting shall be held on the first available day of the following week, or as the Court shall direct.

- (2) Unless otherwise directed by the Court, ordinary business shall be disposed of in the following manner –
- (a) in the forenoon, public business; and
 - (b) in the afternoon, civil causes and matters.

2/4 Criminal Assizes

If the hearing of a case before the Criminal Assizes cannot be concluded on the fourth day, the hearing shall be resumed on such day and at such time as the Court shall direct.

2/5 Chefs Plaids d'Héritage

The *Chefs Plaids d'Héritage* shall sit only on the first day of the Michaelmas term or on such other day, within one week either side of the first day of the Michaelmas term, as the Superior Number of the Royal Court shall direct.¹⁰

PART III

JURISDICTION

3/1 Jurisdiction of the Héritage, Family and Samedi divisions ¹¹

- (1) The jurisdiction of the Héritage division is the determination of –
- (a) actions relating to the ownership of immovables;
 - (b) subject to the provisions of the Loi (1851) sur les Testaments d'Immeubles,¹² actions relating to the division of immovables;
 - (c) actions relating to the annulment of hereditary contracts;
 - (d) actions relating to the fixing of boundaries;
 - (e) actions relating to the assignment of *rentes*.

- (2) The jurisdiction of the Family division is the determination of –
- (a) matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949;¹³
 - (b) applications under Article 6 or 7 of the Legitimacy (Jersey) Law 1973;¹⁴
 - (c) proceedings for an injunction brought for the protection of a minor or proceedings in respect of a minor for –
 - (i) an order for access, care and control or custody,
 - (ii) financial provision,
 - (iii) a declaration as to the minor's paternity, or
 - (iv) an order relating to the minor's education or upbringing;
 - (d) applications under the Adoption (Jersey) Law 1961;¹⁵
 - (e) an application for an order under the Children (Jersey) Law 1969,¹⁶ in any proceedings other than criminal or quasi-criminal proceedings;
 - (f) applications under Article 6 of the Marriage and Civil Status (Jersey) Law 2001;¹⁷
 - (g) an application to the Court for the registration of a maintenance order under Article 8 of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000;¹⁸
 - (h) applications referred to the Court under Article 3 of the Separation and Maintenance Orders (Jersey) Law 1953;¹⁹
 - (i) an appeal to the Court under Article 9 of the Separation and Maintenance Orders (Jersey) Law 1953; and
 - (j) proceedings seeking a declaration as to the validity of a marriage.²⁰
- (3) The jurisdiction of the Samedi division is the determination of all matters not within the jurisdiction of the Héritage division, the Probate division or the Family division.

3/2 Transfer between divisions

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

3/3 Institution and hearing of actions

An action before any division of the Court, including an action to witness the confirmation of an order of justice, may be instituted either in vacation or in term but, unless the Court is satisfied that there is urgent need for the hearing of the action in vacation or the Court and the parties agree to its being heard in vacation, the hearing shall not take place in vacation.

3/4 Heritage and Family divisions²¹

- (1) The Héritage division shall have the power to award damages and such other reliefs as may be awarded by the Samedi division.
- (2) Where a plaintiff in an action before the Héritage division claims relief by virtue of this Rule, the plaintiff shall institute the plaintiff's action by means of an order of justice.
- (3) Where an application for an injunction is made in the Family division the application shall be made by order of justice.²²

3/5 Jurisdiction of the Inferior Number in criminal matters

- (1) The Inferior Number may impose imprisonment for a period not exceeding 4 years:

Provided that where the Inferior Number imposes 2 or more terms of imprisonment to run consecutively the aggregate of such terms shall not exceed 4 years.²³
- (2) Where a person pleads guilty before or is found guilty by the Inferior Number, then, if the Inferior Number is of the opinion that there should be imposed on such person a term of imprisonment in excess of that which it is empowered by paragraph (1) to impose, it shall commit such person to the Superior Number for sentence.
- (3) In this Rule "imprisonment" does not include a term of imprisonment for failure to pay a fine or other penalty.

3/6 Jurisdiction of the Bailiff

Notwithstanding any rule or custom to the contrary in any cause or matter, civil, criminal or mixed wherein, pursuant to Article 15(1) of the Royal Court (Jersey) Law 1948,²⁴ the Bailiff shall be sole judge, the Inferior Number of the Royal Court shall be properly constituted if it consists of the Bailiff alone, and the Bailiff alone shall award costs.

3/7 Breaches of injunctions

- (1) Where an application is made for a party to be convened to answer for an alleged breach of an injunction, such application may be heard by the Bailiff alone and may be made in chambers.
- (2) Where any such application is heard in the absence of the Greffier –
 - (a) the Bailiff shall make an order in writing and notify the Greffier thereof;
 - (b) the applicant shall file a copy of the order with the Judicial Greffier within one hour of the making of the order by the Bailiff unless the order be made out of normal working hours in which case the copy of the order shall be filed before 9.30 am on the next working day.

PART IV

PARTIES TO PROCEEDINGS

4/1 Plaintiffs

- (1) A plaintiff who is ordinarily resident out of Jersey may institute proceedings before the Court notwithstanding that the plaintiff is not represented in Jersey by an attorney.
- (2) Every plaintiff shall give an address for service in Jersey:
Provided that, if the plaintiff fails to do so, but has at any time been legally represented in relation to the proceedings, the plaintiff's address for service shall be deemed to be the address of the plaintiff's last advocate or solicitor.
- (3) If at any time the Court is satisfied either that the plaintiff will not receive notice of any documents which are sent to or left at the address given or deemed to be given in pursuance of paragraph (2), or that the plaintiff has no address for service, in Jersey, it may, on application by any party to the proceedings, strike out the plaintiff's claim.
- (4) Any plaintiff may be ordered to give security for costs.

4/2 A distraint may be effected on the movables of persons *fondées en héritage*²⁵

The fact that a person is the owner of, or has the usufruct of, immovable property (*est fondée en héritage*) shall no longer be a bar –

- (a) to a distraint being made on the person's movables for the payment of a debt; or
- (b) to the confirmation of a distraint on the person's movables.

4/3 Actions by and against minors²⁶

- (1) A minor may commence, prosecute, defend, intervene in, or make any application in, any action before the Court by a guardian *ad litem* appointed for that purpose.²⁷
- (2) An application for the appointment of a guardian *ad litem* may be made *ex parte* to the Court, and where such application is made by a minor it shall be made through the minor's next friend.
- (3) This Rule shall not apply to matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949.²⁸

4/4 Representative proceedings

- (1) Where numerous persons have the same interest in any proceedings, not being such proceedings as are mentioned in Rule 4/5, the proceedings may be begun, and, unless the Court otherwise orders, continued, by or

against any one or more of them as representing all or as representing all except one or more of them.

- (2) At any stage of proceedings under this Rule the Court may, on the application of the plaintiff, and on such terms, if any, as it thinks fit, appoint any one or more of the defendants, or one or more of the persons who have the same interest in the proceedings as the defendants, to represent all, or all except one or more, of those persons in the proceedings; and where, in the exercise of the power conferred by this paragraph, the Court appoints a person not named as a defendant, it shall make an order adding that person as a defendant.
- (3) A judgment or order given in proceedings under this Rule shall be binding on all the persons as representing whom the plaintiffs sue or, as the case may be, the defendants are sued, but shall not be enforced against any person not a party to the proceedings except with the leave of the Court.
- (4) An application for the grant of leave under paragraph (3) must be made by summons which must be served personally on the person against whom it is sought to enforce the judgment or order.
- (5) Notwithstanding that a judgment or order to which any such application relates is binding on the person against whom the application is made, that person may dispute liability to have the judgment or order enforced against the person on the ground that by reason of facts and matters particular to the person's case he or she is entitled to be exempted from such liability.
- (6) The Court hearing an application for the grant of leave under paragraph (3) may order the question whether the judgment or order is enforceable against the person against whom the application is made to be tried and determined in any manner in which any issue or question in an action may be tried and determined.

4/5 Representation of interested persons who cannot be ascertained, etc.

- (1) In any proceedings concerning –
 - (a) the estate of a deceased person;
 - (b) property subject to a trust; or
 - (c) the construction of a written instrument including an enactment,the Court, if satisfied that it is expedient so to do, and that one or more of the conditions specified in paragraph (2) are satisfied, may appoint one or more persons to represent any person (including an unborn person) or class who is or may be interested (whether presently or for any future, contingent or unascertained interest) in or affected by the proceedings.
- (2) The conditions for the exercise of the power conferred by paragraph (1) are as follows –
 - (a) that the person, the class or some member of the class, cannot be ascertained or cannot readily be ascertained;

- (b) that the person, class or some member of the class, though ascertained, cannot be found;
 - (c) that, though the person or the class and the members thereof can be ascertained and found, it appears to the Court expedient (regard being had to all the circumstances, including the amount at stake and the degree of difficulty of the point to be determined) to exercise the power for the purpose of saving expense.
- (3) Where in any proceedings to which paragraph (1) applies, the Court exercises the power conferred by that paragraph, a judgment or order of the Court given or made when the person or persons appointed in exercise of that power are before the Court shall be binding on the person or class represented by the person or persons so appointed.
- (4) Where, in any such proceedings, a compromise is proposed and some of the persons who are interested in, or who may be affected by, the compromise are not parties to the proceedings (including unborn or unascertained persons) but –
 - (a) there is some other person in the same interest before the Court who assents to the compromise or on whose behalf the Court sanctions the compromise; or
 - (b) the absent persons are represented by a person appointed under paragraph (1) of this Rule who so assents,

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

4/6 Representation of beneficiaries by trustees, etc.

- (1) Any proceedings may be brought by or against trustees, executors or administrators in their capacity as such without joining any of the persons having a beneficial interest in the trust or estate as the case may be; and any judgment or order given or made in those proceedings shall be binding on those persons unless the Court in the same or other proceedings otherwise orders on the ground that the trustees, executors or administrators, as the case may be, could not or did not in fact represent the interests of those persons in the first mentioned proceedings.
- (2) Paragraph (1) is without prejudice to the power of the Court to order any person having such an interest as aforesaid to be made a party to the proceedings or to make an order under Rule 4/5.

4/7 Representation of deceased person interested in proceedings

- (1) Where in any proceedings it appears to the Court that a deceased person was interested in the matter in question in the proceedings and that he or she has no personal representative, the Court may, on the application of any party to the proceedings, proceed in the absence of a person

representing the estate of the deceased person or may by order appoint a person to represent that estate for the purposes of the proceedings; and any such order, and any judgment or order subsequently given or made in the proceedings, shall bind the estate of the deceased person to the same extent as it would have been bound had a personal representative of that person been a party to the proceedings.

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

4/8 Appointment of administrators

- (1) An administrator of the property of a person absent from Jersey may be appointed notwithstanding that such person has not been so absent for a year and a day.
- (2) The Court may at any stage of the proceedings in an action order the appointment of an administrator of the property of any party to the action or of any person who has been convened as a party to the action.
- (3) Where the Court makes such an order, electors shall be convened by virtue of the order without the issue of an order of justice to such effect.
- (4) The Court may, if satisfied that it is expedient to do so, make the appointment of an administrator on application being made *ex parte*.

PART V

SERVICE OF DOCUMENTS

5/1 Limitation on application

This Part of these Rules other than Rules 5/10, 5/15, 5/16, 5/17, 5/18 and 5/19 does not apply to the service of summonses outside Jersey.

5/2 Service of documents generally

- (1) Except where rules of court or any other enactment otherwise expressly provide or the Court otherwise orders, service of any document in any cause or matter may be effected by ordinary service.
- (2) Where provision is made for the service of any document in any cause or matter to be effected by ordinary service, such service may be effected by personal service.

5/3 Date of appearance

Every summons shall specify the date on which appearance is required.

5/4 Personal service: when required

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

- (a) to witness the confirmation of an order of justice;
- (b) for the payment of the amount of a judgment on pain of imprisonment (*à peine de prison*);
- (c) to appear before the Héritage division;
- (d) to reply to an action in criminal or quasi-criminal proceedings brought by the Attorney General.

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

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

- (a) where personal service is required;
- (b) in an action resulting from the raising of the *Clameur de Haro*;
- (c) in the case of a summons –
 - (i) to witness the confirmation of an arrest,
 - (ii) to appear in Court in pursuance of an order of justice regarding the appointment of an administrator or a guardian,
 - (iii) to reply to an appeal the determination of which, or to a reference the determination on which, is within the competence of the Court.

5/6 Ordinary service: how effected

- (1) Ordinary service of a document is effected –
 - (a) by leaving it at the proper address of the person to be served;
 - (b) by post;
 - (ba) by fax in accordance with paragraph (4); or
 - (c) in such other manner as the Court may direct.²⁹
- (2) For the purposes of this Rule and of Article 7 of the Interpretation (Jersey) Law 1954,³⁰ in its application to this Rule, the proper address of any person shall be the address for service of that person, but if at the time when service is effected that person has no address for service, the person's proper address for the purposes aforesaid shall be –
 - (a) in any case, the business address of the advocate or solicitor (if any) who has undertaken in writing to accept service on the person's behalf in the proceedings in connection with which service of the document in question is to be effected;
 - (b) in the case of an individual, the individual's usual or last known address;

- (c) in the case of individuals who are suing or being sued in the name of a firm, the principal or last known place of business of the firm within Jersey; or
 - (d) in the case of a body corporate, the registered or principal office of the body.
- (3) Without prejudice to the provisions of Article 7 of the Interpretation (Jersey) Law 1954,³¹ 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) Service by fax may be effected where –
 - (a) the party serving the document acts by an advocate or solicitor;
 - (b) the party on whom the document is served acts by an advocate or solicitor and service is effected by transmission to the business address of such advocate or solicitor;
 - (c) the advocate or solicitor acting for the party on whom the document is served has indicated in writing to the advocate or solicitor serving the document that the advocate or solicitor is willing to accept service by fax at a specified fax number and the document is transmitted to that number; and for this purpose the inscription of a fax number on the writing paper of an advocate or solicitor shall be deemed to indicate that such advocate or solicitor is willing to accept service by fax at that number in accordance with this paragraph unless the advocate or solicitor states otherwise in writing; and
 - (d) as soon as practicable after service by fax the advocate or solicitor acting for the party serving the document dispatches a copy of it to the advocate or solicitor acting for the other party by any of the other methods prescribed for service by paragraph (1), and if the advocate or solicitor fails to do so the document shall be deemed never to have been served by fax.

Where the fax is transmitted on a business day before 5 pm, it shall, unless the contrary is shown, be deemed to be served on that day, and, in any other case, on the business day next following.³²

5/7 Personal service: how effected

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

5/8 Personal service on body corporate

Personal service of a document on a body corporate may, in cases where provision is not otherwise made by any enactment, be effected by serving it in accordance with Rule 5/7 on 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.

5/9 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 serving it in accordance with Rule 5/7 on the Greffier of the States.

5/10 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 of substituted service may 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.

5/11 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 the agent is still in business relations with the agent's principal,

the Court may authorize service of process beginning the action 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 shall limit a time within which the action is to be brought before the Court.

- (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 the defendant's address out of the jurisdiction.

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

Where proceedings are instituted to recover 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 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 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 effected on any defendant, order that service already effected by affixing the process to some conspicuous part of the land shall be treated as good service on that defendant.

5/13 Record of service

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

Provided 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.

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

5/14 Form of summons and record of service

A summons and a record of service shall be in the appropriate form set out in the Second Schedule to these Rules or in a form (in French or English) substantially to the like effect.

5/15 Summonses for appearance before the Héritage division

- (1) Subject to the following provisions of this Rule, a summons for appearance before the Héritage division shall be served at least 15 clear days before the day on which the defendant is required to appear or, in the case of a summons served by the defendant on the defendant's coparcener or guarantor or by a coparcener or guarantor on his or her coparcener or guarantor, within 2 days from the day on which the person at whose instance the summons is served received the person's summons.
- (2) This Rule shall apply not only to the first summons in an action but to all subsequent summonses therein.

- (3) Where the Court is satisfied that it was not reasonably possible to serve a summons on a coparcener or guarantor within the time prescribed by this Rule, the Court may adjourn the hearing for such time as may be sufficient to permit service of the summons to be effected.

5/16 Summons for appearance before other divisions

Except where provision is otherwise made, a summons for appearance before any division of the Court other than the Héritage division 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 first summons in an action but to all subsequent summonses therein.

5/17 Grounds for declaring summons invalid

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

5/18 Judgment by default not to be given where summons not served in due time

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

5/19 Judgment by default not to be given when action not duly tabled

The Court shall not give judgment by default in any action in which the billet was not “tabled” in due time.

PART VI

PROCEDURE AND PLEADINGS

6/1 Limitation on application³³

Save as otherwise provided, this Part of these Rules does not apply to matters referred to in Article 3 of the Matrimonial Causes (Jersey) Law 1949,³⁴ or to criminal or quasi-criminal proceedings.

6/2 Forms of action

- (1) Unless otherwise directed by the Court and save as provided by any enactment or by these Rules, every action in the Court shall be instituted by simple action or by order of justice.³⁵
- (2) Subject to the provisions of Rules 3/4, 8/6 and 8/7 the following proceedings shall be instituted by simple action, that is to say, actions –
 - (a) with regard to the division of immovable or movable estate on an intestacy;
 - (b) seeking the annulment of hereditary contracts or wills;
 - (c) relating to the assignment of *rentes*;
 - (d) relating to the fixing of boundaries;
 - (e) for a debt or liquidated demand;
 - (f) for dower;
 - (g) for the acknowledgement of debts;
 - (h) for the confirmation of arrests.
- (3) Proceedings before the Viscount or the Greffier Arbitre shall be instituted by simple action.

6/3 Separate lists for each division of the Court

There shall be a separate Table for each division of the Court.

6/4 Damages

- (1) Special damage must be specifically claimed.
- (2) Where damage is general, it must be pleaded that the damage has been suffered but the quantity of the damage shall not be specifically claimed.
- (3) Where an action contains a claim against a defendant for general damage, then if that defendant makes default or having appeared fails to file an answer within the time limited, the plaintiff may ask the Court to pronounce interlocutory judgment against that defendant for damages to be assessed and interest and costs, and proceed with the action against the other defendants, if any.
- (4)
 - (a) In any action the Court may direct that the assessment of maintenance or an application for access to a minor or for an order relating to the care and control, custody, education or upbringing of a minor be referred to the Greffier for the Greffier's determination.
 - (b) In any action the Court may, subject to the agreement of the parties, direct that the assessment of damages be referred to the Greffier for the Greffier's determination:
Provided that when any party has failed to appear, the agreement of such party shall not be required.³⁶

6/5 Prescription

The prescription of a right of action shall be interrupted on the service of a summons in the action for appearance before the Court or, where an order for substituted service is made under Rule 5/10, on the making of the order:

Provided that prescription shall not be interrupted where –

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

6/6 Placing of actions on Table for first hearing

- (1) Where an action is to be brought before the Court for the first time, the billet shall be deposited with the Greffier not later than midday on the day (being a day on which the office of the Greffier is open in the afternoon) next preceding that of the sitting of the Court, and the Greffier shall place such actions on a list, to be known as the “Table”, which the Greffier shall post outside the door giving access to the Royal Court House from the Royal Square not later than 9 am of the day of the sitting.
- (2) This Rule shall not apply in relation to *causes de brièveté* nor where the Court considers that, in the interests of justice, compliance therewith should not be required.

6/7 Actions on pending list

- (1) When a defendant wishes to defend an action that has come before the Court, the defendant shall ask the Court to order that the action be placed on the pending list and, provided that the defendant shall then give an address for service in Jersey, the Court shall so order:

Provided that where the defendant fails to give an address for service in Jersey, but has at any time been legally represented in relation to the proceedings, the defendant’s address for service shall be deemed to be the address of the defendant’s last advocate or solicitor.

- (2) When an action for a debt or a liquidated demand is placed on the pending list after proceedings have been instituted by simple action, the plaintiff shall within 21 days of the date on which the action was placed on such list file particulars of the plaintiff’s claim, and the action shall be stayed until such particulars are filed.
- (3) A defendant who wishes to defend an action that has been placed on the pending list shall, within 21 days from the date on which the action was placed on such list, or of the delivery of the particulars of claim, as the case may be, file an answer to the action.
- (4) If at any time the Court is satisfied either that a defendant will not personally receive notice of any documents which are sent to or left at the address for service given or deemed to be given in pursuance of paragraph (1), or that the defendant has no address for service in Jersey, it

may, on application by any party to the proceedings, strike out that defendant's answer.

- (5) The plaintiff may, after giving notice to the Greffier and to the defendant by 5 pm of the penultimate working day before the day of the sitting of the Court, ask the Court to pronounce judgment against the defendant –
 - (a) where the time limit for filing an answer, including an answer to a counterclaim, has expired and no answer has been filed;
 - (b) where an answer has been struck out for any reason without the defendant having been given leave to file another answer; or
 - (c) where such leave has been given and the time limit for filing another answer has expired, and no such answer has been filed.³⁷
- (6) Any judgment given under paragraph (5) shall be deemed to be a judgment by default and the provisions of Rule 9/3 shall apply.
- (7) When an answer has been filed, the plaintiff may, within 21 days of the delivery of the answer, file a reply.
- (8) Except when the answer contains a counterclaim, no subsequent pleading shall be filed except by leave of the Court.
- (9) When the answer contains a counterclaim, the defendant may, within 21 days of the delivery of the reply, file a rejoinder.
- (10) A copy of every particulars of claim, answer, reply, rejoinder and subsequent pleading shall, within 24 hours after it is filed, be delivered to the opposite parties or their advocates or solicitors.

6/7A Dispute as to jurisdiction³⁸

- (1) The appearance of a party to any proceedings before the Court shall not be treated as a waiver of any irregularity in the proceedings or service thereof or in any order giving leave to serve the proceedings out of the jurisdiction.
- (2) The reference in paragraph (1) to the appearance of a party to any proceedings is a reference to any appearance made –
 - (a) whether or not the proceedings have been served; and
 - (b) irrespective of the purpose for which it is made.
- (3) Any party (in this Rule referred to as the “applying party”) who wishes to dispute the jurisdiction of the Court in the proceedings by reason of any such irregularity as is mentioned in paragraph (1) or on any other ground shall –
 - (a) if a return date for appearance before the Court has been fixed –
 - (i) ask the Court to order that the proceedings be placed on the pending list,
 - (ii) not later than 28 days thereafter apply to the Bailiff in chambers for a day to be fixed for the hearing of one or more of the applications mentioned in paragraph (4); or

- (b) if no return date for appearance before the Court has been fixed, apply to the Bailiff in chambers, not later than 7 days after the expiry of the time limited for the filing by the Bailiff of a pleading in the proceedings, for a day to be fixed for the hearing of one or more of the applications mentioned in paragraph (4).
- (4) The applications referred to in paragraph (3) are applications by the applying party for an order –
 - (a) setting aside the proceedings or service of the proceedings on the applying party;
 - (b) declaring that the proceedings have not been duly served on the applying party;
 - (c) discharging any earlier order giving leave to serve the proceedings on the applying party out of the jurisdiction;
 - (d) for the protection or release of any of the applying party's property arrested or threatened with arrest in the proceedings;
 - (e) discharging any earlier order made to prevent any dealing with any of the applying party's property;
 - (f) declaring that in the circumstances of the case the Court has no jurisdiction over the applying party in respect of the subject matter of the claim or the relief or remedy sought in the proceedings;
 - (g) for such other relief as may be appropriate.
- (5) An application by the applying party shall be made by summons which –
 - (a) states the grounds of the application; and
 - (b) is supported by an accompanying affidavit verifying the facts on which the application is based.
- (6) Upon hearing the application the Court (if it does not thereupon dispose of the matter in dispute) may give such directions for its disposal as may be appropriate including directions for the trial thereof as a preliminary issue.
- (7) Upon notice being given of an application under paragraph (3), time limits for the filing of pleadings (whether applicable by virtue of these Rules or by order of the Court) shall not apply, and shall not begin to run, until the application has been dismissed by the Court or abandoned, as the case may be.
- (8) A party who fails to make an application in accordance with paragraph (3) within the time specified in sub-paragraph (a) or (b) thereof (whichever is applicable) shall be deemed to have submitted to the jurisdiction of the Court in the proceedings.
- (9) A party who makes an application in accordance with paragraph (3) shall not be deemed to have submitted to the jurisdiction of the Court in the proceedings unless the Court shall otherwise order.

6/8 Mode of pleading

- (1) Subject to the provisions of this Rule, every pleading must contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for the party's claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.
- (2) Without prejudice to paragraph (1), the effect of any document or the purport of any conversation referred to in the pleading must, if material, be briefly stated, and the precise words of the document or conversation shall not be stated, except insofar as those words are themselves material.
- (3) A party need not plead any fact if it is presumed by law to be true or the burden of disproving it lies on the other party, unless the other party has specifically denied it in the party's pleading.
- (4) A statement that a thing has been done or that an event has occurred, being a thing or event the doing or occurrence of which, as the case may be, constitutes a condition precedent necessary for the case of a party is to be implied in the party's pleading.
- (5) A party must in any pleading subsequent to a statement of claim plead specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality –
 - (a) which the party alleges makes any claim or defence of the opposite party not maintainable;
 - (b) which, if not specifically pleaded, might take the opposite party by surprise; or
 - (c) which raises issues of fact not arising out of the preceding pleading.
- (6) A party may by the party's pleadings raise any point of law.

6/9 Counterclaim

- (1) Subject to the provisions of paragraph (2), a defendant in an action may set up by way of counterclaim against the claims of the plaintiff any right or claim whether such counterclaim sound in damages or not, and such counterclaim shall have the same effect as a cross-action so as to enable the Court to pronounce a final judgment in the same action both on the original claim and on the counterclaim.
- (2) 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.
- (3) If in any case in which the defendant sets up a counterclaim the action of the plaintiff is stayed, discontinued or dismissed, the counterclaim may nevertheless be proceeded with.

6/10 Third parties

- (1) Where a defendant in the defendant's answer to an action which has been placed on the pending list –
 - (a) claims against a person not already a party to the action any contribution or indemnity;
 - (b) claims against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or
 - (c) requires that any question or issue relating to or connected with the original subject-matter of the action should be determined not only as between the plaintiff and the defendant, but also as between either or both of them and a person not already a party to the action,

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

- (2) In such order (a copy of which shall be delivered to all the parties to the action) the Court shall give such directions as it may consider appropriate for service on such third party and for the filing of pleadings.
- (3) Where a third party has been so convened, the third party 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 the third party was convened or by the plaintiff.
- (4) Where the time limited for filing an answer by the third party has expired and no answer has been filed –
 - (a) the third party shall be deemed to admit any claim stated in the defendant's answer and shall be bound by any judgment (including judgment by consent) or decision in the action insofar as it is relevant to any claim, question or issue stated in the defendant's answer and the defendant may, on giving notice to the Greffier and to the third party by 5 pm of the penultimate working day before the day of the sitting of the Court, ask the Court to pronounce judgment against the third party as to liability, but not as to the amount; and
 - (b) the defendant by whom the third party was convened, may, if judgment by default is given against the defendant in the action, at any time after satisfaction of that judgment and, with the leave of the Court, before satisfaction thereof, obtain judgment against the third party in respect of any contribution or indemnity claimed in the third party's answer and, with the leave of the Court, in respect of any other relief or remedy claimed therein.³⁹
- (5) The Court may at any time set aside or vary a judgment given under paragraph (4) on such terms as it thinks just.
- (6)

- (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.
- (7) Where in any action a defendant in the defendant's 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 the defendant but also as between either or both of them and some other person who is already a party to the action,

the Court may after hearing the parties make an order that such person be convened as a third party by the defendant and the provisions of Rule 6/10(2) shall apply.
- (8) Where a defendant has convened a third party and the third party makes such a claim or requirement as is mentioned in paragraph (1) or (7), 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 the defendant were a third party makes such a claim or requirement.

6/11 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.

6/12 Amendment of claim or pleading

- (1) The Court may at any stage of the proceedings allow a plaintiff to amend the plaintiff's claim, or any party to amend the party's pleading, on such terms as to costs or otherwise as may be just.
- (2) Any party may at any stage of the proceedings amend the party's pleadings with the consent of the other parties.

6/13 Striking out

- (1) The Court may at any stage of the proceedings order to be struck out or amended any claim or pleading, or anything in any claim or pleading, on the ground that –
- (a) it discloses no reasonable cause of action or defence, as the case may be;
 - (b) it is scandalous, frivolous or vexatious;
 - (c) it may prejudice, embarrass or delay the fair trial of the action; or
 - (d) it is otherwise an abuse of the process of the Court,
- and may make such consequential order as the justice of the case may require.
- (2) No evidence shall be admissible on an application under paragraph (1)(a).

6/13A Striking out where proceedings should have been brought under Part XIIA⁴⁰

- (1) Where a person seeks an order in any action or representation and the only relief sought should have been sought by an application for judicial review under Part XIIA, any person against whom such relief is sought may apply to the Court for an order striking out the action or representation as an abuse of process and the Court shall make such an order unless –
- (a) the Court considers the person bringing the action or representation could not reasonably have known that the relief should have been sought by an application for judicial review and (unless the action or representation was instituted within 3 months from the date when grounds for the application first arose) the Court is satisfied that allowing the matter to proceed will not be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration; or
 - (b) the Court considers that in all the circumstances of the case, it is just and convenient to allow the action or representation to proceed,

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

- (2) Applications for an order under paragraph (1) must be brought within 28 days from service of the action or representation upon the defendant. The person applying for such an order must serve notice of the application on all other parties.
- (3) In cases falling within sub-paragraph (1)(a) or (b), the Court may direct that the action or representation is to be treated as if it had begun by way of an application for judicial review and Part XIIIA shall apply accordingly and the Court may make such consequential orders as it considers necessary.
- (4) Where a person seeks in an action or representation relief which could have been sought by way of action or representation and relief which could have been sought by an application for judicial review, any person against whom such relief is sought may apply to the Court for an order striking out any claim relating to matters that could have been the subject of an application for judicial review and the Court shall make such an order if, having regard to all the circumstances of the case, it considers that the matter was not properly included in the action or representation or that it was not appropriate to include that claim in the action or representation rather than pursuing that claim by way of an application for judicial review.
- (5) An application for an order under paragraph (4) must be brought within 28 days from service of the action or representation upon the defendant. The person applying for such an order must serve notice of the application on all other parties.
- (6) Where a person seeks an order under paragraph (4), and the Court does not strike out any claim relating to matters that could have been the subject of an application for judicial review, the Court may, on application by any party or on its own motion, at any stage of the proceedings make such orders as it thinks fit for dealing with any or all of the claims raised in the action or representation and such orders may include staying all or part of the claim, directing that all or part of the claim be treated as if it had begun by way of an application for judicial review so that Part XIIIA applies to that claim or part of a claim, and making any consequential orders that it considers necessary.

6/14 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 the party's pleading, or a statement of the nature of the case on which the party 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.

6/15 Discovery by interrogatories

- (1) In any proceedings a party may by leave of the Court deliver interrogatories in writing for the examination of an opposite party.
- (2) A copy of the interrogatories proposed to be delivered shall be filed when the summons is issued and a further copy shall be served with the summons.
- (3) Interrogatories shall, unless otherwise ordered, be answered by affidavit to be filed within 14 days.

6/16 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 the party's 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 the party objects to produce) and to take copies thereof, and, accordingly, must give the other party notice in writing stating a time within 7 days after furnishing the list at which the said documents may be inspected at a place specified in the notice.
- (5) The Court may order any party to any proceedings in whose pleadings or affidavits reference is made to any document to produce that document for the inspection of any other party and to permit the party to take copies thereof.
- (6) Before applying by summons, a party may apply by letter to any other party to furnish the party with such a list and allow the party to inspect and take copies of the documents referred to therein.

6/16A Pre-action disclosure⁴¹

- (1) An application for an order under Article 2(1) of the Law Reform (Disclosure and Conduct before Action) (Jersey) Law 1999⁴² (hereinafter called the “1999 Law”) for the disclosure of documents before the commencement of proceedings shall be made by representation.
- (2) A representation under paragraph (1) shall be supported by an affidavit which must –
 - (a) state the grounds on which it is alleged that the applicant and the person against whom the order is sought are likely to be parties to subsequent proceedings in which a claim for personal injuries is likely to be made; and
 - (b) specify or describe the documents in respect of which the order is sought and show, if practicable by reference to any pleading intended to be served in the proceedings, that the documents are relevant to an issue likely to arise out of a claim for personal injuries likely to be made in the proceedings and that the person against whom the order is sought is likely to have or have had them in his or her possession, custody or power.
- (3) A copy of the supporting affidavit shall be served with the representation on every person against whom an order under Article 2(1) of the 1999 Law is sought.
- (4) An order under Article 2(1) of the 1999 Law for the disclosure of documents may be made conditional on the applicant’s giving security for the costs of the person against whom it is made or on such other terms, if any, as the Court thinks just, and shall require the person against whom the order is made to make an affidavit stating whether any documents specified or described in the order are, or at any time have been, in his or her possession, custody or power and, if not then in the person’s possession, custody or power, when he or she parted with them and what has become of them.
- (5) No person shall be compelled by virtue of such an order to produce any documents which he or she could not be compelled to produce if the subsequent proceedings had already been begun.
- (6) In this Rule a “claim for personal injuries” means a claim in respect of personal injuries to a person or in respect of a person’s death.

6/17 Admissions

- (1) A party to any proceedings may give notice, by the party’s pleading or otherwise in writing, that the party admits the truth of the whole or any part of the case of any other party.
- (2) A party to any proceedings may, not later than 28 days after the proceedings are set down for trial or hearing, serve on any other party a notice requiring the party to admit, for the purpose of those proceedings only, the facts specified in the notice.
- (3) An admission made in compliance with paragraph (2) shall not be used against the party by whom it was made in any proceedings other than the

proceedings for the purpose of which it was made or in favour of any person other than the person by whom the notice was given, and the Court may at any time allow a party to amend or withdraw an admission so made by the party on such terms as may be just.

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

6/18 Evidence

- (1) Subject to these Rules and to any other enactment relating to evidence, any fact required to be proved at the hearing of any action by the evidence of witnesses shall be proved by the examination of the witnesses orally and in open court:

Provided that the Court may –

- (a) subject to the provisions of paragraph (3), order that any particular facts to be specified may be proved by affidavit;
 - (b) order that the affidavit of any witness may be read at the hearing on such conditions as the Court thinks reasonable;
 - (c) order that evidence of any particular fact to be specified shall be given at the hearing by statement on oath of information and belief or by production of documents or entries in books or by copies of documents or entries or otherwise as the Court may direct; and
 - (d) order that not more than a specified number of expert witnesses may be called.
- (2) The Court shall have full discretionary power, at any time before the delivery of judgment in an action, to receive such further evidence as in the opinion of the Court the justice of the case may require, and may of its own motion direct that additional witnesses be heard.
- (3) Where it appears to the Court that any party reasonably desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.
- (4) Any party may apply to the Court –
- (a) for an order authorizing the Greffier or the Viscount or an advocate or solicitor to take in writing, on oath, the evidence of any person who is a party or witness in any suit and who is in Jersey at the time of the application;
 - (b) for a commission or for letters of request to examine a person who is a party or witness in any suit and who is not in Jersey at the time of the application.⁴³
- (5) Any party to –

- (a) any criminal or quasi-criminal proceedings;
- (b) any representation made to the Court by the Attorney General in pursuance of the provisions of Article 12(2) of the Children (Jersey) Law 1969;⁴⁴ or
- (c) any application made to the Court by the Health and Social Services Committee in pursuance of Article 57(1) of the Children (Jersey) Law 1969,

may apply to the Court for an order authorising the Greffier or the Viscount to take in writing, on oath, the evidence of any person who is in Jersey at the time of making the application, whose evidence is required for the proceedings, and who –

- (i) will or may be out of Jersey at the date of the hearing,
 - (ii) is prevented by sickness or other infirmity from coming to Court, or
 - (iii) it is feared may die before the hearing.⁴⁵
- (6) Unless otherwise directed by the Court, evidence taken in accordance with paragraph (4) or (5) shall not be admissible at the hearing unless the Court is satisfied that the deponent is dead or out of Jersey or unable from sickness or other infirmity to attend Court, in any of which cases the depositions duly certified shall be admissible in evidence, saving all just exceptions.
- (7) Persons called to give evidence before the Court shall be summoned through the intermediary of the Viscount's Department at least 2 clear days before the day on which their appearance is required.

6/19 Reference of questions to Court before setting down for hearing

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

6/20 Dismissal of actions

- (2) Where an action has been adjourned *sine die*, if at the expiration of 5 years from the date on which it was first so adjourned no further steps have been taken, the action shall be deemed to have been withdrawn.⁴⁶
- (3) Where at the expiration of 5 years from the date on which any action was set down on the hearing list, the trial of the action before the Royal Court has not been completed, the Court may, of its own motion, after giving not less than 28 days' notice in writing to all the parties to the action, order that the action be dismissed.⁴⁷
- (4) This Rule does not affect the power of the Court under any other provision of these Rules to dismiss an action.⁴⁸

6/21 Summons for directions⁴⁹

- (1) With a view to providing an occasion for the consideration by the Court of the preparations for the trial of an action so that –
 - (a) all matters which must or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with; and
 - (b) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal thereof,

the plaintiff shall, within one month after the time limited for filing pleadings has expired, issue a summons for directions to be heard at least 14 days, and no more than 42 days, thereafter in the form (or substantially in the form) prescribed in the Seventh Schedule to these Rules.
- (2) If the plaintiff does not issue a summons for directions in accordance with paragraph (1), the defendant or any other party to the action may do so or apply for an order to dismiss the action.
- (3) On an application by a party to dismiss the action under paragraph (2), the Court may either dismiss the action on such terms as may be just or deal with the application as if it were a summons for directions.
- (4) On the hearing of a summons for directions, the Court shall consider whether –
 - (a) it is possible to deal then with all matters which must or can be considered on the hearing of the summons for directions; or
 - (b) it is expedient to adjourn the consideration of all or any of those matters.
- (5) If, when the summons for directions first comes to be heard, the Court considers that it is possible to deal with all the said matters, it shall deal with them forthwith and shall endeavour to secure that all other matters which must or can be dealt with on interlocutory applications and have not already been dealt with are also dealt with then.
- (6) If, when the summons for directions first comes to be heard, the Court considers that it is expedient to adjourn the consideration of all or any of the matters which must be considered on the hearing of the summons, the Court shall deal forthwith with such of those matters as it considers can conveniently be dealt with and shall endeavour to secure that all other matters which must or can be dealt with are dealt with then or at a resumed hearing of the summons for directions.
- (7) At the hearing of the summons for directions, the Court shall endeavour to secure that the parties make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them and may record in its act any admissions or agreements so made, and (with a view to such order, if any, as to costs as may be just being made at the trial) any refusal to make any admission or agreement.
- (8) Without prejudice to the generality of paragraph (12), if the Court, on any hearing of the summons for directions requires a party to the action or the

party's advocate or solicitor to give any information or produce any document and that information or document is not given or produced, the Court may –

- (a) record the facts in its act with a view to such order, if any, as to costs as may be just being made at the trial; or
 - (b) if it appears to the Court to be just to do so, order that the whole or any part of the pleadings of the party concerned be struck out, or order that the action or counterclaim be dismissed on such terms as may be just.
- (9) Notwithstanding anything in the foregoing provisions of this Rule, no information or documents which are privileged from disclosure shall be required to be given or produced under this Rule by or by the advocate or solicitor of any party otherwise than with the consent of that party.
- (10) Any party to whom the summons for directions is addressed must so far as practicable apply at the hearing of the summons for any order or directions which the party may desire as to any matter capable of being dealt with on an interlocutory application in the action and must, not less than 7 days before the hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons.
- (11) If the hearing of the summons for directions is adjourned and any party to the proceedings desires to apply at the resumed hearing for an order or directions not asked for by the summons or in a notice given under paragraph (10), the party shall, not less than 7 days before the resumed hearing of the summons, serve on the other parties a notice specifying those orders and directions in so far as they differ from the orders and directions asked for by the summons or in any such notice as aforesaid.
- (12) If any party fails to comply with an order made under the provisions of this Rule, the Court may, 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.
- (13) If, after 2 months have elapsed from the time limited for filing pleadings and no summons has been issued pursuant to any of the foregoing provisions of this Rule, the Court may, of its own motion, after giving not less than 28 days' notice in writing to all parties to the action, order that the action be dismissed, and the Court may make such consequential order as to costs or otherwise as it thinks fit.

6/21A Setting down for hearing⁵⁰

- (1) Where the Court, on the application of any party or otherwise, is satisfied that an action is ready for trial or hearing, it shall cause the action to be set down on the hearing list and the Greffier shall notify every party to the action accordingly.
- (2) Where the Court is not so satisfied, it may, notwithstanding any other provision of these Rules, require the appearance of the parties before it and give such directions as it deems appropriate.

6/21B Stay to allow for the settlement of proceedings⁵¹

- (1) In this Rule, “alternative dispute resolution” means any method of resolving disputes otherwise than through the normal trial process and, without prejudice to the generality of the foregoing, includes mediation and conciliation.
- (2) Notwithstanding any other provision of these Rules, the Court may at any stage of any proceedings either on the application of any party to the proceedings or of its own motion direct that the proceedings be stayed for such period as the Court thinks fit to enable the parties to try to settle the proceedings by alternative dispute resolution.
- (3) The Court may extend any stay which it has granted under paragraph (2) until such date or for such specified period as it considers appropriate.
- (4) As a condition of granting a stay under this Rule the Court may require the parties to report back on progress made to settle the proceedings or if a settlement is reached.
- (5) If the Court is not told by the end of the period of the stay that a settlement has been reached the Court may give such directions as to the management of the case as it considers appropriate.

6/22 Fixing day for trial

- (1) Where an action has been set down on the hearing list any party may apply to the Bailiff in chambers for a day to be fixed for the trial or hearing of the action.
- (2) The party applying shall, not less than 4 days before making an application under paragraph (1) notify in writing the other parties to the action of the party’s intention to make the application and when the party intends to make it.
- (3) Save with the consent of all parties or by order of the Bailiff, the day fixed for the trial or hearing shall not be less than 10 days nor more than 6 months from the date of the application.
- (4) When a date has been fixed for the trial or hearing of an action the party applying shall, within 24 hours, notify that date to every other party who was not present at the hearing of the application.
- (5) The Bailiff shall cause to be maintained a record in the form of a calendar showing the fixtures for each day as they are allocated.
- (6) Where, at the expiration of 4 months from the date on which an action was set down on the hearing list, no party has applied for a day to be fixed for the trial or hearing of the action, any party may, after giving not less than 4 days’ notice to the Greffier and to the other parties to the action, apply to the Court for the action to be dismissed, and the Court may dismiss the action or make such other order as it thinks just.

6/23 Procedure after decision on preliminary issue

- (1) Where the Court has given judgment on a preliminary issue, it may direct that the case be restored to the pending list, if further pleadings are required, or it may direct that the case remain on the hearing list.
- (2) If the Court directs that the case be restored to the pending list, the foregoing provisions of this part of these Rules shall apply *mutatis mutandis* to the subsequent steps in the action.

6/24 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 the party therein, or withdraw the party's 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.

6/25 Payment of fees

- (1) Not less than 48 hours before the time fixed for the hearing of an action the plaintiff shall deposit with the Greffier a billet with a list of the plaintiff's witnesses, if any, to which shall be affixed the fee prescribed for the first day of the said hearing.
- (2) Similarly any other party to the action shall deposit with the Greffier a list of the witnesses, if any, whom the party intends to call.

6/26 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 one of the joint stock banks 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 Greffier, 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 the Greffier's decision.

6/27 *Ex parte* representations

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

6/28 Injunctions

Any injunctions may be varied by the Bailiff or the Greffier in the terms agreed by the parties to the proceedings in which the injunction has been obtained:

Provided that where any variation is made in the absence of the Greffier, the Bailiff shall make the Bailiff's order in writing and transmit it to the Greffier.⁵²

6/29 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 the person and that party as well as between the parties to the cause or matter,

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

PART VII

SUMMARY JUDGMENT AND DISPOSAL OF CASE ON POINT OF LAW

7/1 Application by plaintiff for summary judgment

- (1) Subject to the provisions of paragraph (2), where an action has been placed on the pending list, the plaintiff may, on the ground that the defendant has no defence to the plaintiff's claim, or to a particular part of the plaintiff's claim, or has no defence to such a claim or part except as to the amount of any damages claimed, apply to the Court for judgment against the defendant.
- (2) This Rule does not apply to an action which includes a claim by the plaintiff –
 - (a) for libel, slander, malicious prosecution or false imprisonment;
 - (b) based on an allegation of fraud;
 - (c) for an affiliation order where paternity is disputed.
- (3) An application under paragraph (1) shall be made by summons and be supported by an affidavit verifying the facts on which the claim, or the part of the claim, to which the application relates is based and stating that in the deponent's belief, there is no defence to that claim or part, as the case may be, or no defence except as to the amount of any damages claimed.
- (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 shall be served on the defendant not less than 10 clear days before the day on which the defendant is required to appear.

7/2 Judgment for plaintiff

- (1) Unless on the hearing of an application under Rule 7/1 either the Court dismisses the application or the defendant satisfies the Court with respect to the claim, or the part of a claim, to which the application relates that there is an issue or question in dispute which ought to be tried or that there ought for some other reason to be a trial of that claim or part, the Court may give such judgment for the plaintiff against the defendant on that claim or part as may be just having regard to the nature of the remedy or relief claimed.

- (2) The Court may by order, and subject to such conditions, if any, as may be just, stay execution of any judgment given against a defendant under this Rule until after the trial of any counterclaim made or raised by the defendant in the action.

7/3 Leave to defend

- (1) A defendant may show cause against an application under Rule 7/1 by affidavit or otherwise to the satisfaction of the Court.
- (2) Rule 7/1(4) applies for the purposes of this Rule as it applies for the purposes of that Rule.
- (3) The Court may give a defendant against whom an application is made under this Rule leave to defend the action with respect to the claim or part of the claim to which the application relates either unconditionally or on such terms as it thinks fit.
- (4) On the hearing of an application under this Rule the Court may order a defendant showing cause or where that defendant is a body corporate, any director, manager, secretary or other similar officer thereof, or any person purporting to act in such a capacity –
 - (a) to produce any document;
 - (b) if it appears to the Court that there are special circumstances which make it desirable that the defendant should do so, to attend and be examined on oath.

7/4 Application for summary judgment on counterclaim

- (1) Where a defendant to an action which has been placed on the pending list has served a counterclaim on the plaintiff, then, subject to the provisions of paragraph (3), the defendant may, on the ground that the plaintiff has no defence to a claim made in the counterclaim, or to a particular part of such claim, apply to the Court for judgment against the plaintiff on that claim or part.
- (2) The provisions of Rules 7/1(3) and (4), 7/2 and 7/3 shall apply in relation to an application under paragraph (1) as they apply to an application under Rule 7/1(1) with the following modifications –
 - (a) references to the plaintiff and defendant shall be construed as references to the defendant and plaintiff respectively;
 - (b) the words in Rule 7/2(2) “any counterclaim made or raised by the defendant in” shall be omitted; and
 - (c) the reference in Rule 7/3(2) to the action shall be construed as a reference to the counterclaim to which the application under this Rule relates.
- (3) This Rule shall not apply to a counterclaim which includes any such claim as is referred to in Rule 7/1(2).

7/5 Directions

Where the Court –

- (a) orders that a defendant or a plaintiff have leave (whether conditional or unconditional) to defend an action or counterclaim, as the case may be, with respect to a claim or part of a claim; or
- (b) gives judgment for a plaintiff or defendant on a claim or part of a claim but also orders that execution of the judgment be stayed pending the trial of a counterclaim or of the action, as the case may be,

the Court may give directions as to the further conduct of the action.

7/6 Right to proceed with residue of action or counterclaim

- (1) Where on an application under Rule 7/1(1) the plaintiff obtains judgment on a claim or part of a claim against any defendant, the plaintiff may proceed with the action as respects any other claim or as respects the remainder of the claim or against any other defendant.
- (2) Where on an application under Rule 7/4 a defendant obtains judgment on a claim or part of a claim made in a counterclaim against the plaintiff, the defendant may proceed with the counterclaim as respects any other claim or as respects the remainder of the claim or against any other defendant to the counterclaim.

7/7 Judgment by default

Any judgment given against a party who does not appear at the hearing of an application under Rule 7/1 or 7/4 shall be treated as a judgment by default and the provisions of Rule 9/3 shall apply.

7/8 Determination of question of law or construction

- (1) The Court may upon the application of a party or of its own motion determine any question of law or construction of any document arising in any proceedings at any stage of the proceedings where it appears to the Court that –
 - (a) such question is suitable for determination without a full trial of the action; and
 - (b) such determination will finally determine (subject only to any possible appeal) the entire proceedings or any claim or issue therein.
- (2) Upon such determination the Court may dismiss the proceedings or make such order or judgment as it thinks just.
- (3) The Court shall not determine any question under this Rule unless the parties have either –
 - (a) had an opportunity of being heard on the question; or
 - (b) consented to an order or judgment on such determination.

Nothing in this Rule shall limit the power of the Court under Rule 6/13 or any other provision of these Rules.

7/9 Manner in which application under Rule 7/8 may be made

An application under Rule 7/8 may be made by summons or may be made orally in the course of any interlocutory application to the Court.

PART VIIA

INTERIM PAYMENTS⁵³

7A/1 Interpretation and application for interim payment

- (1) In this Part of these Rules “interim payment” in relation to a defendant, means a payment on account of any damages, debt or other sum (excluding costs) which the defendant may be held liable to pay to or for the benefit of the plaintiff, and any reference to the plaintiff or defendant includes a reference to any person who, for the purpose of the proceedings, acts as guardian *ad litem* of the plaintiff or defendant.
- (2) The plaintiff may, at any time after an action has been placed on the pending list, apply to the Court for an order requiring the defendant to make an interim payment.
- (3) An application under this Rule shall be made by summons and shall be accompanied by an affidavit which shall –
 - (a) verify the amount of the damages, debt or other sum to which the application relates and the grounds of the application; and
 - (b) exhibit any documentary evidence relied on by the plaintiff in support of the application.
- (4) The summons and a copy of the affidavit in support and any documents exhibited thereto shall be served on the defendant against whom the order is sought not less than 10 clear days before the day on which the defendant is required to appear.
- (5) Notwithstanding the making or refusal of an order for an interim payment, a second or subsequent application may be made upon cause shown.

7A/2 Order for interim payment in respect of damages

- (1) If, on the hearing of an application under Rule 7A/1 in an action for damages the Court is satisfied –
 - (a) that the defendant against whom the order is sought (in this paragraph referred to as the “respondent”) has admitted liability for the plaintiff’s damages;

- (b) that the plaintiff has obtained interlocutory judgment against the respondent for damages to be assessed; or
- (c) that if the action proceeded to trial, the plaintiff would obtain judgment for substantial damages against the respondent or, where there are 2 or more defendants, against any of them,

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

- (2) No order may be made under paragraph (1) in an action for personal injuries if it appears to the Court that the defendant is not a person falling within one of the following categories, namely –
 - (a) a person who is insured in respect of the plaintiff's claim;
 - (b) a public authority; or
 - (c) a person whose means and resources are such as to enable him or her to make an interim payment.

7A/3 Order in respect of sums other than damages

If, on hearing of an application under Rule 7A/1, the Court is satisfied –

- (a) that the plaintiff has obtained an order for an account to be taken as between the plaintiff and the defendant;
- (b) that the plaintiff's action includes a claim for possession of land and, if the action proceeded to trial, the defendant would be held liable to pay to the plaintiff a sum of money in respect of the defendant's use and occupation of the land during the pendency of the action, even if a final judgment or order were given or made in favour of the defendant; or
- (c) that, if the action proceeded to trial the plaintiff would obtain judgment against the defendant for a substantial sum of money apart from any damages or costs,

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

7A/4 Manner of payment

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

- (2) An application under paragraph (1) for money in Court to be paid out may be made *ex parte*, but the Court may direct a summons to be issued.
- (3) An interim payment may be ordered to be made in one sum or by such instalments as the Court thinks fit.
- (4) Where a payment is ordered in respect of the defendant's use and occupation of land the order may provide for periodical payments to be made during the pendency of the action.

7A/5 Directions

Where an application is made under Rule 7A/1, the Court may give directions as to the further conduct of the action, and in particular, may order an early trial of the action.

7A/6 Non-disclosure of interim payment

The fact that an order has been made under Rule 7A/2 or 7A/3 shall not be pleaded and, unless the defendant consents or the Court so directs, no communication of that fact or of the fact that an interim payment has been made, whether voluntarily or pursuant to an order, shall be made to the Court at the trial, or hearing, of any question or issue as to liability or damages until all questions of liability and amount have been determined.

7A/7 Payment into Court

Where, after making an interim payment, whether voluntarily or pursuant to an order, a defendant pays a sum of money into Court under Rule 6/26 the notice of payment must state that the defendant has taken into account the interim payment.

7A/8 Adjustment on final judgment or order or on discontinuance

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

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

7A/9 Counterclaim and other proceedings

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

PART VIIB**PROVISIONAL DAMAGES⁵⁴****7B/1 Application and interpretation**

- (1) This Part of these Rules applies to actions to which Article 3 of the Administration of Justice (Interim Payments and Provisional Damages) (Jersey) Law 1993⁵⁵ (hereinafter referred to as “Article 3”) applies.
- (2) In this Part of these Rules “award of provisional damages” means an award of damages for personal injuries under which –
 - (a) damages are assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in Article 3; and
 - (b) the injured person is entitled to apply for further damages at a future date if he or she develops the disease or suffers the deterioration.

7B/2 Order for provisional damages

- (1) The Court may on such terms as it thinks just and subject to the provisions of this Rule make an award of provisional damages if –
 - (a) the plaintiff has pleaded a claim for provisional damages; and
 - (b) the Court is satisfied that the action is one to which Article 3 applies.
- (2) An order for an award of provisional damages shall specify the disease or type of deterioration in respect of which an application may be made at a future date, and shall also, unless the Court otherwise determines, specify the period within which such application may be made.
- (3) The Court may, on the application of the plaintiff made within the period, if any, specified in paragraph (2), by order extend that period if it thinks it just to do so, and the plaintiff may make more than one such application.
- (4) An order for an award of provisional damages may be made in respect of more than one disease or type of deterioration and may in respect of each disease or deterioration specify a different period within which an application may be made at a future date.

7B/3 Offer to submit to an award

- (1) Where an application is made for an award of provisional damages, any defendant may at any time (whether or not the defendant makes a payment into Court) make a written offer to the plaintiff –
 - (a) to tender a sum of money (which may include an amount, to be specified, in respect of interest) in satisfaction of the plaintiff's claim for damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration referred to in Article 3 and identifying the disease or deterioration in question; and
 - (b) to agree to the making of an award of provisional damages.
- (2) Any offer made under paragraph (1) shall not be brought to the attention of the Court until after the Court has determined the claim for an award of provisional damages.
- (3) Where an offer is made under paragraph (1), the plaintiff may, within 21 days after receipt of the offer, give written notice to the defendant of the plaintiff's acceptance of the offer and shall on such acceptance make an application to the Court for an order in accordance with the provisions of Rule 7B/2(2).

7B/4 Application for award of further damages

- (1) This Rule applies where the plaintiff, pursuant to an award of provisional damages, claims further damages.
- (2) No application for further damages may be made after the expiration of the period, if any, specified under Rule 7B/2(2), or of such period as extended under Rule 7B/2(3).
- (3) The plaintiff shall give not less than 3 months' written notice to the defendant of the plaintiff's intention to apply for further damages and, if the defendant is to the plaintiff's knowledge insured in respect of the plaintiff's claim, to the insurers.
- (4) The plaintiff must take out a summons for directions as to the future conduct of the action within 21 days after the expiry of the period of notice referred to in paragraph (3).
- (5) On the hearing of the summons for directions the Court shall give such directions as may be appropriate for the future conduct of the action, including, but not limited to the disclosure of medical reports and the place, and date of the hearing of the application for further damages.
- (6) Only one application for further damages may be made in respect of each disease or type of deterioration specified in the order for the award of provisional damages.
- (7) The provisions of Part VIIA with regard to the making of interim payments shall, with the necessary modifications, apply where an application is made under this Rule.

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

PART VIII

PROCEEDINGS AT THE TRIAL

8/1 Opening speeches (Civil proceedings)

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

8/2 Opening speeches (Criminal proceedings)

- (1) On the trial of any person before the Court, the Attorney General shall, before adducing evidence, be entitled to open the case to the Court or jury, stating the leading facts on which the prosecution relies, and, where the accused person or defendant intends to adduce evidence, he or she, or if he or she is defended by an advocate his or her advocate, shall at the close of the case for the prosecution, be entitled to open his or her case to the Court or jury, stating the leading facts on which the defence relies.
- (2) The rights conferred by this rule on the Attorney General and the accused person or defendant, or his or her advocate, to address the Court or the jury are without prejudice to their respective rights to sum up the evidence when all the evidence has been taken.

8/3 Presence of parties not required if represented by advocate

In any civil proceedings before the Court, the presence of a party shall not be required so long as the party appears through the intermediary of an advocate.

8/4 *Clameur de Haro*

- (1) The fines imposed by the Court in matters of *Clameur de Haro* or of contempt thereof shall be in the discretion of the Court.
- (2) Actions resulting from the raising of the *Clameur de Haro* shall continue to be instituted in conjunction with the Attorney General and shall be dealt with as *causes de brièveté*.

8/5 Power to adjourn trial or hearing

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

8/6 Non-compliance with rules of court or rule of practice

Subject to Rule 8/7, non-compliance with any rules of court, or with any rule of practice for the time being in force, shall not render any proceedings void unless the Court so directs, but the proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, in such manner and on such terms as the Court thinks fit.

8/7 Non-compliance as to mode of beginning proceedings

- (1) No proceedings shall be void, or be rendered void or wholly set aside under Rule 8/6 or otherwise, by reason only of the fact that the proceedings were begun by a means other than that required in the case of the proceedings in question.
- (2) Where proceedings are begun as mentioned in paragraph (1), then, subject to the provisions of that paragraph, the Court may make any order which it has power to make under Rule 8/6, and paragraph (1) shall not be taken as prejudicing the power of the Court to make any order it thinks fit with respect to the costs of those proceedings.

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

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

PART IX

PROCEEDINGS ETC. SUBSEQUENT TO TRIAL

9/1 Application for an order *Vicomte chargé d'écrire*

Where the Court has granted an act condemning a defendant to pay the amount for which judgment is given, the plaintiff may, without obtaining an *acte de prison* against the defendant, apply to the Court for an order *Vicomte chargé d'écrire*:

Provided that no such application shall be made before the expiration of one month from the date of such act.

9/2 Time limit with regard to subsequent acts in same proceedings

Where the Court has granted a plaintiff an act, it shall not grant the plaintiff a further act in the same proceedings before the expiration of 13 clear days:

Provided however that this Rule shall not apply in –

- (a) criminal and quasi-criminal matters;
- (b) *Causes d'Amirauté*;

- (c) *Causes de Clameur de Haro*;
- (d) *Causes de Brièveté*.

9/3 Power to set aside judgments by default

- (1) Any judgment by default may be set aside by the Court on such terms as to costs or otherwise as it thinks fit.
- (2) An application under paragraph (1) shall be supported by an affidavit stating the circumstances under which the default has arisen, and shall be made by summons.
- (3) "Judgment by default" shall not include any judgment to which the defendant has given notice in writing to the Court that the defendant submits.

9/4 Authority to satisfy judgment debts by distraint

- (1) Where any division of the Court grants a judgment condemning a defendant to pay a sum of money, such judgment may authorize the plaintiff to cause the movables of the defendant to be distrained on.
- (2) Movables distrained on shall be applied towards the satisfaction of the judgment debt and costs, or sold (either at a public auction or at a valuation) and the proceeds of sale so applied, without the plaintiff's being required to obtain any further judgment.

9/5 Sale of movables on which distraint has been made

- (1) Without the leave of the Court, no sale of movables on which a distraint has been made shall take place unless the Viscount is satisfied that the defendant is aware of the making of the distraint.
- (2) Without the leave of the Court, the sale of movables on which a distraint has been made by virtue of an authorization granted under Rule 9/4 shall not take place, except at the request of the defendant, before the expiration of 15 days after the day on which the distraint is made.
- (3) Without the leave of the Court, no sale of movables on which a distraint has been made which requires confirmation by the Samedi division shall take place, except at the request of the defendant, before the expiration of 15 days after the date of the act of the Court confirming the distraint.
- (4) A notice that movables on which a distraint has been made are to be sold shall be published in the Jersey Gazette not less than 10 days before the date fixed for the sale.
- (5) A notice indicating the place and date of such sale, together with all particulars relating to the sale, shall be published in the Jersey Gazette not less than 2 days before such date.
- (6) The name and address of the defendant shall be mentioned in both such notices.

9/6 Fines and forfeitures

- (1) It shall be the duty of the Viscount to collect all fines and other penalties imposed by the Court and to dispose of all forfeitures ordered by the Court.
- (2) An order imposing a fine or other penalty shall authorize the Viscount to distrain on the movables of the offender and to apply them, or the proceeds of the sale thereof (the sale being effected either at a public auction or at a valuation), towards the satisfaction of the fine or other penalty and of the costs incurred by the offender.

PART IXA**COSTS⁵⁶****9A/1 Interpretation**

In this Part, unless the context otherwise requires –

“indemnity basis” means the basis of taxation of costs described in Rule 9A/5;

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

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

“standard basis” means the basis of taxation of costs described in Rule 9A/4.

9A/2 Amount of costs recoverable

- (1) Subject to the provisions of this Part of these Rules, the amount of costs which any party shall be entitled to recover is the amount allowed after taxation on the standard basis unless it appears to the Court to be appropriate to order costs to be taxed on the indemnity basis.
- (2) Where an action has been commenced by simple summons for the recovery of a debt or liquidated sum and judgment is obtained in default or without opposition, without any order for substituted service or service out of the jurisdiction having been made or without the action having been placed on the pending list, the plaintiff in whose favour an order for costs has been made shall, unless the Court otherwise orders, recover such costs on the basis of a scale of fixed costs issued from time to time by the Greffier pursuant to Rule 9A/14.

9A/3 Taxation by the Greffier

- (1) The Greffier shall have the power to tax –
 - (a) the costs of or arising out of any cause or matter in the Court; and

- (b) any other costs the taxation of which is directed by order of the Court.
- (2) An order for costs shall be liable to taxation and payment forthwith unless it appears to the Court that some other order should be made.
- (3) Without prejudice to Rules 9A/2(2) and 9A/6, where the Court makes an order for costs without indicating the basis of taxation, the costs shall be taxed on the standard basis.

9A/4 The standard basis

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

9A/5 The indemnity basis

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

9A/6 Litigants in person

- (1) Subject to the provisions of this Rule, on a taxation of the costs of a litigant in person, there shall be allowed such costs as would have been allowed if the work and disbursements to which the costs relate had been done or made by an advocate on the litigant's behalf.
- (2) The amount of costs allowed where a litigant in person does any item of work for the litigant's case or part thereof shall be –
 - (a) if the work is undertaken in the litigant's normal working hours and thereby causes the litigant pecuniary loss, either –
 - (i) the litigant's actual pecuniary loss, or
 - (ii) up to two-thirds of the sum which in the opinion of the Greffier would have been allowed in respect of that item if the litigant had been represented by an advocate,whichever is the lower; or
 - (b) if the work is undertaken outside of the litigant's normal working hours, at such rate per hour as determined by the Greffier in respect of the time reasonably spent by the litigant on the work.
- (3) Where an assessment is made under paragraph (2)(a), the amount of work done in the litigant's working hours shall be calculated by the number of working hours the litigant was away from work in respect of the time reasonably spent by the litigant to do the work, as deposed in an affidavit made by the litigant himself or herself and, for this purpose, the number

of working hours in any one week for which the litigant can claim shall not exceed 40.

- (4) Disbursements shall be allowed to the extent that they are actually and reasonably incurred and are reasonable in amount.
- (5) A litigant who is allowed costs in respect of attending Court to conduct the litigant's own case shall not be entitled to a witness allowance in addition.

9A/7 Lawyers outside the jurisdiction

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

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

9A/8 Costs of the taxation proceedings

- (1) Subject to the provisions of any order made by the Court, the receiving party shall be entitled to the party's costs of the taxation proceedings.
- (2) Where it appears to the Greffier that, in all the circumstances of the taxation proceedings, some other order should be made as to the whole or any part of the costs of those proceedings, the Greffier shall have in relation to the costs of those proceedings the same powers as the Court has in relation to costs.

9A/9 Offer to pay costs

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

9A/10 Commencement of proceedings

- (1) The receiving party shall commence proceedings for the taxation of the party's costs –

- (a) where the order is made in relation to an interlocutory application, within 2 months after the date of that order; or
 - (b) where the order is made in relation to the determination of the main cause or action, within 3 months after the date of that order; and where the receiving party fails to commence proceedings for taxation within the time limits herein, the paying party may with the leave of the Greffier commence taxation proceedings on such terms as the Greffier shall deem appropriate.
- (2) Leave under paragraph (1) shall be applied for by letter to the Greffier which shall be copied to every other party entitled to be heard on taxation; and if leave is granted to the paying party, the party shall be entitled to recover the costs of commencing the taxation proceedings.
- (3) Proceedings for the taxation of costs shall be commenced by producing to the Greffier –
 - (a) a copy of the act of Court with the relevant order in respect of costs identified thereon;
 - (b) where there is more than one bill of costs to be submitted, a statement giving the name of every party entitled to submit a bill of costs in the taxation proceedings;
 - (c) a statement giving the name of every party entitled to be heard in the taxation proceedings and the party's address for service;
 - (d) a bill of costs in such form as shall be specified by Practice Direction issued from time to time pursuant to Rule 9A/14 unless in the circumstances the Greffier is prepared to order that no bill of costs be submitted at that stage in the taxation proceedings; and
 - (e) all such supporting material as is necessary to vouch the items on the bill of costs unless and to the extent that the Greffier otherwise orders.
- (4) Where the Greffier grants leave to the paying party to commence taxation proceedings, the receiving party may nevertheless commence proceedings for the taxation of the costs in respect of which leave has been granted to the paying party and thereupon the proceedings, if any, commenced by the paying party shall be stayed pending the determination of issues as to the costs of taxation proceedings in relation to the relevant order for costs.
- (5) If the receiving party does not commence taxation proceedings pursuant to paragraph (4) within 21 days from receipt of notice that taxation proceedings have begun, the paying party may apply to the Greffier by summons for directions.

9A/11 Subsequent procedure

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

- (a) that the party wishes to respond to the bill of costs by written objections in which case the party shall set these out in full within the said period whilst reserving the right to be heard at a taxation hearing;
 - (b) that the party has no objections to the bill of costs; or
 - (c) that the receiving and paying parties have agreed to a provisional taxation in accordance with Rule 9A/13.
- (2) Where the paying party fails to notify the Greffier and the receiving party in accordance with paragraph (1), the party shall be deemed to have no objections to the bill of costs.
- (3) Where the paying party submits written objections pursuant to paragraph (1)(a) then, where the receiving party wishes to file a reply or the Greffier so orders, the reply shall be filed within 21 days from receipt of the said written objections or order as applicable.
- (4) Where, at the expiration of 14 days from the date on which either a reply is filed or the period for filing a reply has expired, whichever is the sooner, neither party has notified the Greffier in writing that –
 - (a) the party wishes to be heard at a taxation hearing; and
 - (b) a provisional taxation in accordance with Rule 9A/13 has been agreed,the Greffier shall proceed to tax the bill of costs.

9A/12 Date for taxation hearing

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

9A/13 Provisional taxation

Where taxation proceedings have been commenced in accordance with Rule 9A/10(3), if –

- (a) the paying party fails to notify the Greffier and the receiving party in accordance with Rule 9A/11(1) and the Greffier considers it reasonable to proceed by way of provisional taxation; or
- (b) the Greffier has been notified in accordance with Rule 9A/11(1)(c) or (4)(b) that the parties have agreed to proceed by way of provisional taxation, a provisional taxation of the bill of costs filed in these proceedings shall be undertaken and completed; and the Greffier shall send to the receiving party and to the paying party notice specifying the amount which the Greffier proposes to allow in respect of the bill and requiring the said parties to inform the Greffier within 14 days after receipt of the notice if they wish to raise written objections to the provisional taxation and, if either of them does, to set these out in full within the said period; and after the expiry of the said period of 14 days the Greffier shall proceed to finalise the taxation of the provisional bill of

costs before him or her on the basis of such written objections, if any, as he or she shall have received.

9A/14 Practice directions

The Greffier shall with the approval of the Bailiff issue practice directions from time to time in relation to taxation practice and scales of fixed costs for the purposes of this Part of these Rules.

PART X

DIVISION OF ESTATES, AND DOWER

10/1 Division of immovable estate

- (1) Subject to the provisions of Rules 4/4, 4/5, 4/6 and 4/7, actions with regard to the division of immovable estate on an intestacy shall be instituted either –
 - (a) by the principal heir against the principal heir's coparceners or any one of them requiring them to accept their just share; or
 - (b) by coparceners or any one of them against the principal heir requiring the principal heir to deliver to them their just share,and in either case, unless the Court otherwise directs, the Greffier shall be appointed *arbitre*.
- (2) The principal heir, whether he or she be plaintiff or defendant in the action, shall at the first hearing before the Greffier, produce an *entier* of the immovable estate in triplicate.
- (3) If the estate includes land, the Greffier shall appoint 3 sworn *apprécieurs* from each parish in which there is land to value such land.
- (4) Such *apprécieurs* shall act at the suit of the plaintiff in the action and the plaintiff shall cause the land to be measured by a sworn *arpenteur*.
- (5) If the valuation of the land is challenged, the Greffier shall appoint 3 additional *apprécieurs* from an adjoining parish to act jointly with those previously appointed.
- (6) If the measurements of the land are challenged, the Greffier shall appoint another *arpenteur* to act jointly with the *arpenteur* who has already acted.
- (7) The Greffier shall give such directions as he or she may consider appropriate to effect the division of the estate and if it appears to the Greffier that any question raised by the parties should be determined before the division of the estate can proceed, he or she shall refer such questions to the Court and may give such directions as he or she considers appropriate for securing the attendance of the parties before the Court.
- (8) When the division of the estate before the Greffier has been completed, the Greffier shall prepare a record of the proceedings and either party may action the opposite party before the Court to witness the

confirmation of such record and the making of an order that it be registered in the Public Registry.

- (9) If a principal heir who has been duly summoned to appear before the Greffier Arbitre fails to appear at the first hearing or, having appeared, fails to produce an *entier* of the immovable estate, the Greffier shall adjourn the hearing to the Court and the Court shall make such order as it considers appropriate to ensure the principal heir's compliance with this Rule.
- (10) Subject to the provisions of paragraph (9), if a party actioned to appear before the Greffier under this Rule fails to appear, the Greffier may allot to such party that part of the immovable estate to which the party is entitled.

10/2 Actions for dower

- (1) An action for dower shall be instituted by the widow against the principal heir, and in any such action, unless the Court otherwise directs, the Greffier shall be appointed *arbitre* and the provisions of Rule 10/1(2), (7), (8), (9) and (10) shall apply *mutatis mutandis* to the proceedings.
- (2) The widow shall prepare a statement in which the widow divides the immovable estate into 3 parts.
- (3) The principal heir shall choose 2 of such parts and the widow shall take the widow's dower on the remaining part.
- (4) The right of the widow to the widow's dower shall date from the day on which the summons in the action is served.

10/3 Division of movable estate

- (1) Actions with regard to the division of movable estate on an intestacy shall be instituted against the administrator of such estate and not against the principal heir.
- (2) The division of such estate shall proceed on the basis of the inventory and accounts prepared by the administrator in pursuance of the Probate (Jersey) Law 1998.⁵⁷
- (3) If the Greffier is appointed *arbitre*, the provisions of Rule 10/1(7), (8) and (10) shall apply *mutatis mutandis* to the proceedings.

PART XI

VUES

11/1 Vue de Vicomte

- (1) When the Viscount has fixed a day for a *Vue*, the Viscount shall give at least 14 clear days' notice thereof to the parties to the action.

- (2) Written pleadings may be filed with the Viscount and in such case the Viscount shall give such directions as the Viscount may consider appropriate for this purpose, and the Viscount shall have the same powers as the Greffier under Rules 6/10 and 6/19.
- (3) A party filing a pleading shall, within 24 hours after it is filed, deliver a copy to the opposite parties or their advocates or solicitors.
- (4) The Viscount shall select and summon a panel of 10 experts for the purposes of the *Vue*.
- (5) Experts related to each other in a degree closer than, and including, uncle and nephew, whether by blood or marriage, cannot serve on the same panel.
- (6) Each of the parties may challenge one expert peremptorily and may challenge any other expert for cause.
- (7) The number of experts required for a *Vue de Vicomte* is 6.
- (8) If, for any reason whatever, the number of experts summoned by the Viscount proves insufficient, the Viscount may select additional experts *de circumstantibus*.
- (9) The experts shall be sworn by the Viscount, the pleadings shall be read, witnesses may be heard and the parties shall be heard.
- (10) The Viscount shall explain to the experts their duty and they shall execute such duty accordingly.
- (11) When the experts have arrived at a decision, they shall communicate it to the Viscount and, if they are divided in opinion, the decision shall be that of the majority.
- (12) The Viscount shall prepare a record of the proceedings (which shall incorporate any pleadings filed) and either party may action the opposite party before the Court to witness the confirmation of such record and, if need be, the making of an order that it be registered in the Public Registry.
- (13) A party who wishes to challenge the decision made at a *Vue de Vicomte* shall do so in Court when actioned to witness the confirmation of the Viscount's record and, if the party does so, he or she shall be entitled to have the proceedings at the *Vue de Vicomte* reviewed at a *Vue de Justice*.

11/2 Vue de Justice

- (1) A *Vue de Justice* shall be held before the Bailiff and 2 Jurats.
- (2) The number of experts required for a *Vue de Justice* is 12, that is to say, 6 experts in addition to those whose decision is challenged:

Provided that if any of the experts whose decision is challenged are dead, or can satisfy the Viscount that they have a legitimate excuse for not acting at the *Vue de Justice*, they shall be replaced by experts selected and summoned in pursuance of paragraph (3).

- (3) When the Bailiff has fixed a date for the *Vue de Justice*, the Viscount shall select and summon 10 (or more, if need be) additional experts for the day fixed, and the Viscount shall also summon for that day the available experts whose decision is challenged and shall give notice thereof to the parties to the proceedings.
- (4) Rule 11/1(5), (6) and (8) shall apply when the additional experts summoned are empanelled.
- (5) Rule 11/1(9), (10), (11) and (12) shall apply to the proceedings, with the substitution of references to the Greffier for references to the Viscount in paragraphs (9) and (12) and with the substitution of references to the Bailiff for references to the Viscount in paragraphs (10) and (11).
- (6) The decision of the 12 experts on a matter lawfully submitted to them at a *Vue de Justice* shall be final and without appeal.

11/3 Costs at Vues

Part 1 of the Civil Proceedings (Jersey) Law 1956,⁵⁸ shall apply to the costs of and incidental to a *Vue de Vicomte* or a *Vue de Justice* as if they were proceedings in the Royal Court.

PART XII

APPEALS FROM ADMINISTRATIVE DECISIONS⁵⁹

12/1 Application and interpretation⁶⁰

- (1) Except where provision is otherwise made, this Part of these Rules applies to appeals to the Court from an administrative decision of a Committee of the States or other body or person in exercise of a right of appeal conferred by or under any enactment.
- (2) In this Part of these Rules, unless the context otherwise requires –
“appeal” means an appeal to which this Part of these Rules applies and
“appellant” shall be construed accordingly;
“Committee” means the Committee or other body or person whose decision is appealed from.

12/2 Notice of appeal and fixing day for trial⁶¹

- (1) An appeal to the Court shall be brought by serving on the Committee a notice of appeal in the form set out in the Third Schedule to these Rules, and every such notice shall specify the grounds of the appeal with sufficient particularity to make clear the nature of the appellant’s case.
- (2) The appellant shall not, except with the leave of the Court, be entitled to rely on any ground of appeal unless it is specified in the notice of appeal.
- (3) The appellant shall –

- (a) within 2 days after service of the notice of appeal furnish a copy of the notice to the Greffier together with a copy of the record of the Viscount certifying that the notice of appeal has been duly served;
 - (b) within 5 days after the service of the notice of appeal apply to the Bailiff's Secretary for a day to be fixed for the hearing of the appeal.
- (4) If the appellant does not apply for a day to be fixed for the hearing of the appeal in accordance with Rule 12/2(3)(b), the appeal shall be deemed to have been withdrawn.
- (5) Except with the leave of the Bailiff, the day fixed for the hearing of the appeal shall be not more than 4 months from the date of service of the notice of appeal.

12/3 Documents for use of the Court⁶²

- (1) Within 28 days after receiving notice of appeal, the Committee shall lodge with the Greffier and serve on the appellant an affidavit setting out –
 - (a) a statement of the decision from which the appeal is brought; and
 - (b) the facts material to the decision and the reasons for it and exhibiting all documentary evidence relating thereto.
- (2) Within 21 days after service of the affidavit on the appellant in accordance with paragraph (1), the appellant shall lodge with the Greffier and serve on the Committee an affidavit in response.
- (3) The Committee may, within 14 days after service of the appellant's affidavit in accordance with paragraph (2), lodge with the Greffier and serve on the appellant an affidavit in reply thereto.
- (4) Not less than 14 days before the date of the hearing of the appeal, the appellant and the Committee shall each furnish to the Court (and serve upon one another) a written statement of the submissions that he or it, as the case may be, will make at the hearing concerning the issues in dispute between the parties.

12/4 Amendment of notice of appeal, etc.⁶³

The Court may at any stage of the proceedings allow the appellant to amend the notice of appeal, or the appellant or the Committee to file supplementary affidavits, on such terms as to costs or otherwise as may be just.

12/5 Dismissal of appeal for non-prosecution⁶⁴

- (1) Without prejudice to Rule 12/2(4), if the appellant or the Committee fails to comply with any requirement of this Part or with an order of the Court made in connection with the appeal, the Court may, on the application of either party to the appeal, make such order as it thinks fit, including an order as to costs and, in the case of an application by the Committee, an order that the appeal be dismissed.

- (2) If, after 6 months have elapsed from the day the appeal was brought, the appeal has not been heard, the Court may, of its own motion, after giving not less than 28 days notice in writing to the appellant and to the Committee, order that the appeal be dismissed, and the Court may make such consequential order as to costs or otherwise as it thinks fit.

PART XIII

APPLICATIONS FOR JUDICIAL REVIEW IN CIVIL PROCEEDINGS⁶⁵

12A/1 Application and interpretation

- (1) Except in cases where an appeal is available against a decision of a public body, and subject to paragraph (3), an application for a declaration, injunction or any other order in any public law matter shall be brought by way of an application for judicial review made in accordance with the provisions of this Part of the Rules unless the Court otherwise orders. For the purposes of these Rules, an application is made in a public law matter where the application relates to the validity of a judgment, decision, order or other action of a public body, or seeks relief to compel a public body to perform a duty owed by it in public law or seeks to restrain a public body from acting in a way that would be invalid.
- (2) In determining whether any application falls within paragraph (1), the Bailiff or Court shall have regard to –
- (a) the nature of the matters in respect of which relief is sought;
 - (b) the nature of the persons and bodies against whom relief is being sought; and
 - (c) all the circumstances of the case.
- (3) This part of these Rules applies only to applications for judicial review in civil proceedings.

12A/2 Grant of leave to apply for judicial review

- (1) No application for judicial review shall be made unless the leave of the Bailiff has been obtained in accordance with this Rule.
- (2) An application for leave must be made *ex parte* to the Bailiff, sitting as sole judge and constituting the Inferior Number of the Royal Court, by filing with the Bailiff –
- (a) a notice substantially in the form set out in the appropriate part of the Sixth Schedule to these Rules containing a statement of –
 - (i) the name and description of the applicant,
 - (ii) the interest of the applicant in the matter to which the application relates,
 - (iii) the judgment, decision, order or other proceeding in respect of which relief is sought,

- (iv) the relief sought and the grounds upon which it is sought,
 - (v) any alternative remedies which are or were available to the applicant, and if they have not been pursued, the reasons why,
 - (vi) the reasons for any delay in making the application for judicial review,
 - (vii) the name and address of the applicant's advocate or solicitor (if any), and
 - (viii) the applicant's address for service; and
 - (b) an affidavit setting out the facts relied on.
- (3) The Bailiff may determine the application without a hearing, unless a hearing is requested in the notice of application. The Bailiff may, after considering the application for leave, direct that it be listed for oral hearing and may direct that any person against whom relief is sought be given notice of the hearing. At any oral hearing of an application for leave, the Bailiff may permit any person against whom relief is sought to make representations and, if the Bailiff considers that that person may not have received notification of the hearing of an application for leave, the Bailiff may adjourn the hearing and direct that any person against whom relief is sought be notified of the hearing of the application for leave. The Bailiff need not sit in open court in considering an application under this Rule. Where any such application is determined in the absence of the Greffier, the Bailiff shall record the Bailiff's order in writing and send the original thereof, together with the originals of the documents filed pursuant to paragraph (2), to the Greffier.
- (4) The Bailiff may grant leave generally or on one or more grounds only and may grant leave in respect of one or more judgments, orders, decisions or other proceedings. An applicant may not rely on any ground where leave has been refused in relation to that ground and may not seek relief in respect of any judgment, order, decision or proceeding in respect of which leave was refused unless the Court otherwise directs.
- (5) The Bailiff may allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as the Bailiff thinks fit.
- (6) The Bailiff shall not grant leave unless the Bailiff considers that the applicant has a sufficient interest in the matter to which the application relates.
- (7) Where leave is sought to apply for an order to quash any judgment, order or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Bailiff may adjourn the application for leave until the appeal is determined or the time for appealing has expired.
- (8) If the Bailiff grants leave, the Bailiff may impose such terms as to costs and as to giving security as the Bailiff thinks fit and shall specify the persons on whom the proceedings shall be served pursuant to Rule 12A/4(2).
- (9) Where leave to apply for judicial review is granted, the Bailiff may direct that the grant shall operate as a stay of any proceedings to which the

application relates or may at any time make such interim order on such terms and conditions, including conditions as to the giving of cross-undertakings in damages whether in respect of any person against whom relief is sought or any other person, as the Bailiff considers appropriate.

- (10) Notice of the application for a stay or interim order (whether such application is made in the application for leave or otherwise) shall, except in cases of urgency, be served on any person against whom relief is being sought and any other person who would be directly affected by the grant or stay or interim order 2 days before the hearing of the application. The application should set out a brief description of the stay or interim order sought and the grounds upon which it is sought, together with an affidavit verifying the facts relied upon in support of the application.
- (11) Where leave has not been granted or where the persons referred to in paragraph (10) have not been served with notice of the application, the Bailiff may grant a stay or make such interim order as is referred to in paragraph (9) for such period and on such terms and conditions as the Bailiff thinks fit if the Bailiff is satisfied that the matter is urgent and that in the circumstances it was not practicable to serve the notice for the application for leave to be made or determined prior to the grant of a stay or the making of an interim order.

12A/3 Delay in applying for relief

- (1) Subject to paragraphs (2) and (3), an application for leave to apply for judicial review shall be made promptly and in any event not later than 3 months from the date when grounds for the application first arose.
- (2) The Bailiff may refuse an application made within the period of 3 months if the Bailiff is satisfied –
 - (a) that the application is not sufficiently prompt; and
 - (b) that if the relief sought were granted, on an application made at this stage, it would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration.
- (3) An application may be made after the end of the period of 3 months if the Bailiff is satisfied –
 - (a) that there is good reason for the application not having been made within that period; and
 - (b) that if the relief sought were granted, on an application made at this stage, it would not be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration.
- (4) The Court hearing the substantive application may reconsider whether there was good reason for extending the period of 3 months and may refuse any relief if it considers that granting such relief would cause substantial hardship to, or substantially prejudice the rights of, any person or be detrimental to good administration.

- (5) Where the relief sought is an order in respect of any judgment, order or other proceeding, the date when grounds for the application first arose shall be taken to be the date of that judgment, order or proceeding.

12A/4 Mode of applying for judicial review

- (1) Where leave has been granted to make an application for judicial review, the application shall be brought, within 14 days from the date on which leave shall have been granted, by serving through the Viscount a notice substantially in the form set out in the appropriate part of the Sixth Schedule to these Rules, together with a copy of the order granting leave and a copy of the statement and accompanying affidavit in support of an application for leave under Rule 12A/2.
- (2) The documents referred to in paragraph (1) must be served on all persons directly affected and where they relate to any proceedings in or before a court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made therein, the documents must also be served on the Greffier and, where any objection to the conduct of the Judge is to be made, on the Judge.
- (3) Unless the Bailiff has otherwise directed, there must be at least 10 days between the service of the documents referred to in paragraph (2) and the hearing.
- (4) The applicant shall, within 2 days after service of the documents referred to in paragraph (2), furnish a copy of the said documents to the Greffier together with a copy of the record of the Viscount certifying that the said documents have been duly served.
- (5) If on the hearing of the application the Court is of opinion that any person who ought, whether under this Rule or otherwise, to have been served has not been served, the Court may adjourn the hearing on such terms (if any) as it may direct in order that the documents referred to in paragraph (2) may be served on that person.

12A/5 Statements and affidavits

- (1) Subject to Rule 12A/2(4) and (5) and paragraph (2) no grounds shall be relied upon or any relief sought at the hearing of the application except the grounds and relief set out in the statement in support of the application for leave.
- (2) The Court may on hearing the application allow the applicant to amend the applicant's statement, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as it thinks fit and may allow further affidavits to be used by the applicant.
- (3) Where the applicant intends to ask to be allowed to amend the applicant's statement or to use further affidavits, the applicant shall give notice of the applicant's intention, together with a copy of any amended statement or further affidavits, to every other party.

- (4) Any respondent who intends to use an affidavit at the hearing shall file it with the Greffier and furnish a copy of it to every other party as soon as practicable and in any event, unless the Bailiff or the Court otherwise directs, within 56 days after service upon the respondent of the documents required to be served by Rule 12A/4(2).

12A/6 Setting aside of leave

Any person served under Rule 12A/4(2), who did not appear before the Bailiff to make representations prior to the granting of leave, may within 14 days of service apply to the Bailiff, sitting as sole judge and constituting the Inferior Number of the Royal Court, to have the leave set aside by making an application substantially in the form set out in the appropriate part of the Sixth Schedule to these Rules and the Bailiff may make an order setting aside the leave if the Bailiff is satisfied that the applicant did not disclose all material facts in the application or that for some other substantial reason it is just to make such an order. Notice of any application made under this Rule shall be accompanied by an affidavit verifying any facts relied upon. The notice and any accompanying affidavits shall be served on the applicant and any other person served under Rule 12A/4(2).

12A/7 Summons for directions and interlocutory applications

- (1) The applicant shall, within 14 days from –
- (a) the date on which the time limited for the filing of the respondents' affidavits in accordance with Rule 12A/5(4) shall expire; or
 - (b) the date by which every respondent shall have filed their affidavit,
- whichever date is the earlier, apply to the Bailiff in chambers for a day to be fixed for the hearing of a summons for directions, for the hearing of such interlocutory applications as the applicant may wish to make and for the fixing of the day for the hearing in relation to the application for judicial review.
- (2) Any respondent who intends to make any interlocutory application in relation to the application for judicial review shall, within the period of 14 days referred to in paragraph (1), apply to the Bailiff in chambers for a day to be fixed for the hearing of a summons for the hearing of such interlocutory applications.
- (3) In this Rule "interlocutory application" includes an application for an order under Rule 6/16, for an order for the attendance for cross-examination of a person making an affidavit or for an order that *viva voce* evidence be heard in relation to any particular issue in the proceedings.
- (4) The applicant and every respondent shall, at least 2 clear days before the hearing of the summons referred to in paragraph (1), furnish to the other parties and file their estimate of the length of the hearing of the application for judicial review.

- (5) No order under Rule 6/16 or requiring any person making an affidavit to attend for cross-examination or order that *viva voce* evidence be heard in relation to any particular issue in the proceedings or any like order shall be made unless the Court considers that, for some substantial reason, the application cannot be disposed of fairly unless a document or class of document is produced for inspection or there is cross-examination of a deponent or deponents or *viva voce* evidence is heard in relation to a particular issue or any other order sought is made.

12A/8 Dismissal of application for non-prosecution

Where, at the expiration of the date on which the applicant is required to apply for a day to be fixed for the hearing of the summons referred to in Rule 12A/7(1), the applicant has not so applied –

- (a) any respondent may, after giving not less than 4 days' notice to the Greffier and to the applicant, apply to the Court for the application to be dismissed, and the Court may dismiss the application or make such order as it thinks fit; or
- (b) the Court may give notice to the applicant and to every respondent that in the absence of any application being made within 14 days from the date of such notice for a day to be fixed for the hearing of the summons, the Court will order, of its own motion and without further notice, that the application be dismissed and that the applicant be condemned to pay the costs of and incidental to the application.

12A/9 Claim for damages

- (1) On an application for judicial review the Court may, subject to paragraph (2) award damages, restitution or recovery of money to the applicant if –
- (a) the applicant has included in the statement in support of the applicant's application for leave under Rule 12A/2 a claim for damages, restitution or recovery of money arising from any matter to which the application relates; and
- (b) the Court is satisfied that, if the claim had been made in an action begun by the applicant at the time of making the applicant's application, the applicant could have been awarded damages, restitution or recovery of money.
- (2) Rule 6/8 shall apply to a statement relating to a claim for damages, restitution or recovery of money as it applies to a pleading.

12A/10 Hearing of application for judicial review

- (1) On the hearing of any application for judicial review, any person who desires to be heard in opposition to the application, and appears to the Court to be a proper person to be heard, shall be heard, notwithstanding that the person has not been served with notice of the application.

- (2) Where the relief sought is or includes an order to quash any proceedings, the applicant may not question the validity of any order or record unless before the hearing of the motion or summons the applicant has filed a copy thereof verified by affidavit or accounts for the applicant's failure to do so to the satisfaction of the Court hearing the application.
- (3) Where the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it, remit the matter to the court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.
- (4) Where the relief sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review but might have been granted if it had been sought in an action begun by order of justice by the applicant at the time of making the applicant's application, the Court may, instead of refusing the application, order the proceedings to continue as if they had been begun by order of justice and the Court may make such orders as to the future procedure in the proceedings as shall be appropriate.

PART XIII

TRANSACTION OF BUSINESS IN CHAMBERS

13/1 Non-contentious business which may be transacted before the Bailiff and Jurats

The following non-contentious business may be transacted in chambers before the Bailiff and 2 Jurats, namely, the drawing of members of the jury for the Criminal Assizes, applications in pursuance of Article 51(1) and applications for leave in pursuance of Article 51(3) of the Trusts (Jersey) Law 1984,⁶⁶ and the making of Adoption Orders.

13/2 Non-contentious business which may be transacted before the Bailiff

- (1) The following non-contentious business of the Court may be transacted in chambers before the Bailiff alone, namely –
 - (a) the registration of the Viscount's report on an inquest held on the body of a deceased person where the verdict of the jury is unanimous;
 - (b) the making of an order of the Court seeking aid from another Court under either Section 122 of the Bankruptcy Act 1914 of the United Kingdom, or Section 426 of the Insolvency Act 1986 of the United Kingdom; and
 - (c) the making of an order of the Court providing for obtaining evidence in Jersey under the Evidence (Proceedings in Other Jurisdictions) Act 1975 of the United Kingdom, as extended to

Jersey by the Evidence (Proceedings in Other Jurisdictions) (Jersey) Order 1983.⁶⁷

- (2) Where any such business is transacted in the absence of the Greffier, the Bailiff shall make the Bailiff's order in writing and transmit it to the Greffier.

13/3 Non-contentious business which may be transacted before the Greffier

- (1) The following non-contentious business may be transacted in chambers before the Greffier, namely –
- (a) the grant of an application for the registration of a will of immovables under the Loi (1851) sur les testaments d'immeubles;⁶⁸
 - (b) the hearing and determination of an application for the registration of a power of attorney (other than a power naming an attorney without whom the donor may not transact in matters real or personal) or of an instrument revoking or abandoning a power of attorney (other than such a power as aforesaid);
 - (c) the hearing and determination of an application for registration, and the making (and where so provided in the relevant legislation, the rescission) of orders for the cancellation of such registration, as an architect under the Architects (Registration) (Jersey) Law 1954,⁶⁹ a dentist under the Dentists (Registration) (Jersey) Law 1961,⁷⁰ a medical practitioner under the Medical Practitioners (Registration) (Jersey) Law 1960⁷¹ an ophthalmic optician or a dispensing optician under the Opticians (Registration) (Jersey) Law 1962⁷² a pharmacist under the Pharmacy and Poisons (Jersey) Law 1952,⁷³ or a veterinary surgeon under the Veterinary Surgeons (Jersey) Law 1999;⁷⁴
 - (d) the acceptance of a declaration with regard to the appointment of a new trustee made in accordance with Article 3 of the Loi (1862) sur les teneures en fidéicommiss et l'incorporation d'associations⁷⁵ and the acceptance of a declaration of the name of the person charged to represent a corporation made in accordance with the first or second paragraphs of Article 5 of the said Law;
 - (e) the hearing and determination of an application for the registration of a deed poll;
 - (f) the grant of an application for the registration of a notice served under Article 2(2) of the Sewerage (Amendment) (Jersey) Law 1953,⁷⁶ under Article 2(2) of the Roads (Drainage) (Jersey) Law 1962⁷⁷ under Article 11(5) or (7) of the Island Planning (Jersey) Law 1964,⁷⁸ or under Article 3(1) of the Water (Jersey) Law 1972;⁷⁹
 - (g) the hearing and determination of an application made under Article 3 of the Service of Process and Taking of Evidence (Jersey) Law 1960;⁸⁰
 - (h) the hearing and determination of an application under Rule 4 of the Maintenance Orders (Facilities for Enforcement) Rules 2003;⁸¹

- (i) the hearing and determination of an application for the rectification of the register under Article 10 of the Patents (Jersey) Law 1957,⁸² Article 11 of the Registered Designs (Jersey) Law 1957,⁸³ and Article 14 of the Trade Marks (Jersey) Law 2000;⁸⁴
 - (j) the grant of an application under Article 15 of the Compulsory Purchase of Land (Jersey) Law 1961,⁸⁵ for the registration of an award of the Board of Arbitrators;
 - (k) the hearing and determination of an application for the registration of a co-ownership declaration (*déclaration de copropriété*) under Article 3 of the Loi (1991) sur la copropriété des immeubles bâtis⁸⁶ or of any amendment to such a declaration;
 - (l) the grant of an application under either Article 11(8) of the Island Planning (Jersey) Law 1964, or Article 6(2) of the Island Planning (Amendment No. 3) (Jersey) Law 1983,⁸⁷ for the registration of a notice served under Article 11 of the Island Planning (Jersey) Law 1964;
 - (m) the grant of an application for an order under Article 6(8) of the Drug Trafficking Offences (Jersey) Law 1988.⁸⁸
- (2) Every such application or declaration except in respect of paragraph (1)(b) shall be in writing and shall be signed by the applicant or declarant or by an advocate or solicitor on the applicant's behalf.

PART XIV

REGISTRATION OF DOCUMENTS AND ENGROSSMENT OF CONTRACTS AND CO-OWNERSHIP DECLARATIONS

14/1 Mode of registration and indexing⁸⁹

- (1) Subject to paragraph (2), registration of a document which is to be retained at the Judicial Greffe may be effected by placing the document in a file, and registration by enrolment may be effected either by any mechanical means, including photography or similar process, on individual sheets which are subsequently filed or bound or by keeping an image of the document on a computer.
- (2) Registration by enrolment of a document in any of the registers of the Public Registry and the indexing thereof may be effected on a computer and if so effected shall be by means of and in the form of the computer system known as "PRIDE" instead of in the historic book form.
- (3) Entries in the indices shall be made –
 - (a) in relation to a married woman, both under her maiden name and under the name of her husband;
 - (b) in relation to a guarantee in a contract, under the name of the guarantor;

- (c) in relation to a woman who abandons her right of dower both under her maiden name and under the name of the man from whom she derives her dower; and
- (d) in relation to the registration of a will of immovables, under the names of the testator and the devisees.

14/2 Registration of sundry acts, instruments and judgments

- (1) Acts directing the registration of –
 - (a) wills and codicils disposing of immovable property;
 - (b) co-ownership declarations (*déclarations de copropriété*) under Article 3 of the Loi (1991) sur la copropriété des immeubles bâtis or amendments to such declarations;
 - (c) notices served under Article 2(2) of the Sewerage (Amendment) (Jersey) Law 1953, or under Article 3(1) of the Water (Jersey) Law 1972,

shall be enrolled in the Register of Contracts and in no other register.

- (2) An instrument repealing or abandoning a power naming an attorney without whom the donor may not transact in matters real or personal, and a judgment given by a court of competent jurisdiction affecting –
 - (a) the validity of any such power; or
 - (b) the appointment of a curator, guardian or administrator,

shall be enrolled in the Register of Procurations, and a reference to the entry shall be made in the margin of the entry of the power or letters of appointment affected.

- (3) Deeds poll registered in the *Cour du Samedi* and executed by persons whose names appear in the Register of Contracts or the Register of Procurations or as a defendant in the Register of Obligations shall be enrolled in which ever of those registers their name appears, and the application for registration of the deed poll shall contain all such information as may be necessary for giving effect to this provision.
- (4) A judgment affecting the validity of a hereditary contract or testamentary disposition of immovable property given by a court of competent jurisdiction shall be enrolled in the Register of Contracts, and a reference to the entry shall be made in the margin of the entry of the contract of testamentary disposition affected and in the index of the Register.
- (5) An order of the Family division relating to any immovable property shall be enrolled in the Register of Contracts.⁹⁰

14/3 Registration of instruments relating to the title of immovable property

- (1) No instrument relating to the title of immovable property shall be of any validity unless and until it is registered in the Public Registry.
- (2) Any such instrument shall be deemed to be so registered if it is in the custody of the Greffier for the purposes of registration, and its effective date shall be deemed to be, if a contract, the date on which it was passed

before Court, or, if another instrument, the date on which its registration in the Public Registry was ordered by the Court.

14/4 Judicial hypothecs⁹¹

- (1) Where the Court gives an act or judgment of a kind referred to in Article 13 of the Loi (1880) sur la Propriété Foncière,⁹² the Court, on the application of the plaintiff, shall order the registration of the act or judgment in the Register of Obligations and, in such a case, the judicial hypothec resulting from the registration shall bear the same date as that of the act or judgment and shall confer on the plaintiff the same rights as the plaintiff would have had had the plaintiff remitted it to the Greffier within 15 days of the date thereof in accordance with the provisions of the said Article 13.
- (2) Actions for the acknowledgement of a debt by consent (*reconnaissances*) shall be brought before the Greffier in Chambers.
- (3) An action for the acknowledgement of a debt by consent shall be instituted by the delivery by hand to the Greffier of an acknowledgement document which shall –
 - (a) state the full names of all parties to the action, (including, in the case of a woman, her maiden name);
 - (b) be in or substantially in the appropriate form set out in the Fourth Schedule to these Rules;
 - (c) be executed by each defendant or by the defendant's duly authorized attorney or by an advocate or solicitor on the defendant's behalf and by the plaintiff or by an advocate or solicitor on the defendant's behalf;
 - (d) state the date for which registration of the relevant act is requested by the plaintiff or, where immediate registration of the act is not being sought, the date of the act recording acknowledgement only, which date shall in either case be –
 - (i) a date upon which public passing of contracts takes place, or
 - (ii) where the borrowing relates to a contract *passé dans le particulier*, the date of passing the contract;
 - (e) be typewritten or printed in either single or 1½ line spacing on paper of A4 size, and shall be set out in such a manner as to leave a clear margin at least 2½ inches in depth at the foot of the paper below the signatures;
 - (f) state the amount to be acknowledged expressed in both words and figures and dates expressed in the form "the 1st January 1995";
 - (g) have the revenue stamps in respect of the fee payable on an action for the acknowledgement of a debt under the Stamp Duties and Fees (Jersey) Law 1998⁹³ affixed either to the back of the acknowledgement document or to a separate sheet of paper attached thereto;

- (h) where the registration of an act in relation to the acknowledgement of a debt is intended by the parties thereto to operate as a hypothec on a specific property contain a description of the property which shall –
 - (i) include, wherever practicable, details of the title by which the property was acquired by the borrower,
 - (ii) be expressed, wherever practicable, in the form of a street address,
 - (iii) be no longer than is necessary for the purpose of identifying the property, and
 - (iv) not include any description of boundaries or abutments (other than the name of the road which the property borders or from which access is gained to it) except where necessary for the purpose of demarcating the property to be hypothecated from other property belonging to the borrower; and
- (i) be presented to the Greffier after 9 am on the date referred to in sub-paragraph (d) of this paragraph, provided always that no acknowledgement document shall be presented to the Greffier after 4 pm on the said date except with the leave of the Bailiff.⁹⁴
- (4) Where the plaintiff requests immediate registration of the act in relation to the action the Greffier shall register it in the Public Registry in accordance with paragraph (10).
- (5) Where the plaintiff requests an act recording acknowledgement only, the Greffier shall, subject to the provisions of paragraph (9), make such an act in the terms of the acknowledgement document.
- (6) No attestation of the execution by a defendant of an acknowledgement document shall be necessary except such attestation, in the case of a body corporate, as its constitution may require.
- (7) A debt acknowledged in the manner prescribed by paragraph (3) shall be deemed, unless otherwise stated in the acknowledgement, to be without prejudice to any indebtedness of the debtor to the creditor previously or concurrently secured by hypothec or acknowledged before Court, and the hypothecs relating to the respective debts shall be without prejudice to one another.
- (8) If the bond, note of hand, guarantee or other similar document to which an action for the acknowledgement of a debt refers is required to be marked (*merché*) by the Greffier, it shall be presented to the Greffier for marking at the same time as the acknowledgement document is delivered to the Greffier and the Greffier shall mark it and hand it back forthwith to the person by whom it has been presented.
- (9) An action for the acknowledgement of a debt instituted in accordance with paragraph (3) may, at any time not later than 4 pm on the date referred to in sub-paragraph (3)(d), be withdrawn by the advocate or solicitor acting for the plaintiff, and no fee shall be taken under the Stamp Duties and Fees (Jersey) Law 1998, in respect of any action so withdrawn, other than such fee as may have been taken for the marking

of the bond, note of hand, guarantee or other similar document by the Greffier.

- (10) In the case referred to in paragraph (4) the Greffier shall, after the time within which an action for the acknowledgement of a debt delivered for registration on a particular date may be withdrawn, sign and seal the acknowledgement document which shall thereupon become an act and be enrolled in the Register of Obligations in accordance with the provisions of Article 13 of the Loi (1880) sur la Propriété Foncière.
- (11) At the beginning of each working week, the Greffier shall place in the Public Registry copies of all acts in relation to actions for the acknowledgement of a debt registered in the manner prescribed in paragraphs (4) and (10) and all other acts of Court, which were ordered to be registered in the Public Registry during the preceding week, and shall attach to the said copies a statement of the number of such copies.
- (12) In the case envisaged in paragraph (3)(h), the act is made without the Greffier pronouncing on the effect thereof.

14/5 Register and effect of caveats, etc.

- (1) When the Greffier receives notification –
 - (a) from the Bailiff, that a caveat has been lodged against the alienation by any person of his or her immovable property; or
 - (b) from the plaintiff, that the Court has granted an injunction restraining any person from disposing of or hypothecating his or her immovable property,

the Greffier shall, on receipt of a copy of such notification, or notification and injunction, as the case might be, cause the said copy or copies to be placed, until the caveat or injunction expires or is lifted, in a file which shall form part of the Public Registry.

- (2) A contract of alienation of immovable property passed while a caveat or injunction against such alienation is in force, or a hypothec obtained against immovable property while an injunction against the hypothecation thereof is in force (other than by virtue of the registration of an act or judgment relating to a debt incurred before the granting of the injunction) shall be absolutely void.
- (3) For the purposes of paragraph (2), a caveat or injunction shall be deemed not to be in force until the date on which it is placed in the file in pursuance of paragraph (1).

14/5A Lifting of caveats⁹⁵

- (1) Any person against the alienation of whose immovable property a caveat has been lodged may summons the caveator to appear before the Court to show cause why the caveat should not be lifted.
- (2) A summons under paragraph (1) shall be –

- (a) in the form set out in the Fifth Schedule to these Rules; and
- (b) supported by an accompanying affidavit verifying the facts on which the application is based,

and shall be tabled in accordance with Rule 6/6 but, when the case is called, the Court, notwithstanding Rule 6/7, shall not (unless cause to do so is shown by the defendant) place the action on the pending list, but may adjourn or otherwise hear or dispose of the summons as it thinks fit and, without prejudice to the generality of the foregoing, may order the payment of damages.

- (3) The procedure for applying for the lifting of a caveat by order of justice is abolished.

14/6 Marginal note to be made of revocation or abandonment of power of attorney

Where a power of attorney that has been enrolled in the Register of Procurations is revoked or abandoned, the Greffier shall insert a note to that effect in the margin of the entry.

14/7 Signing of contracts

A contract shall be deemed to be sufficiently authenticated if signed or initialled on either the first or the last page thereof by the persons before whom it has been passed.

14/8 Engrossment of contracts

- (1) In this Rule, “contract” includes a receipt for the reimbursement of a *rente* or simple conventional hypothec, a document evidencing the discharge of an obligation imposed by virtue of a will in respect of immovable property, a power of attorney, and letters of appointment of a guardian or administrator.
- (2) The following provisions shall apply in relation to the engrossment of contracts –
 - (a) the contract shall be engrossed (either by hand or by mechanical means) on single sheets of durable paper 17 inches in height and 10¾ inches in width;
 - (b) there shall be a margin, to be left blank, of at least 2 inches in width on the left hand side, and at least 1½ inches at the head and foot, of each page of the contract;
 - (c) where the Greffier considers that a contract is unsuitable for reproduction, the Greffier may require an engrossment suitable for reproduction to be lodged;
 - (d) contracts shall be coded on a separate sheet and the revenue stamps shall be affixed to the blank side of the coding sheet;
 - (e) when a contract is typewritten, the spacing between the lines shall be that known as “1½ spacing”;

- (f) boundaries of immovable property may be described by reference to a plan forming part of the contract, and any such plan shall be drawn in black, without the use of colour, on paper of the size and quality prescribed by sub-paragraph (a);
 - (g) no document annexed to a contract, other than a plan of the kind and for the purpose provided by sub-paragraph (f), shall be enrolled in the Public Registry.
- (3) Notwithstanding the term of paragraph (2), the Greffier may accept a contract for registration which does not comply with the term of paragraph (2) in such cases as the Greffier shall in his or her absolute discretion deem fit.

14/9 Definitions relating to Rules 14/10 and 14/11

Expressions used in Rules 14/10 and 14/11 shall, unless the contrary intention appears, have the same respective meanings as in the Loi (1991) sur la copropriété des immeubles bâtis⁹⁶ (hereinafter referred to as the “1991 Law”) and expressions used in the English language shall have the corresponding meaning to that which they bear in the French language in the text of the 1991 Law.

14/10 Registration of co-ownership declarations

- (1) The Court may refuse to grant an application for the registration of a co-ownership declaration under Article 3 of the 1991 Law if the declaration does not –
- (a) state the name of –
 - (i) the owner of the property to which the declaration relates,
 - (ii) the co-owners’ association to be constituted under Article 5 of the 1991 Law;
 - (b) contain a description of the property in respect of which the declaration is made sufficient to identify the boundaries and title (*provenance*) thereof;
 - (c) state the number of shares (*lots*) into which the property is to be divided;
 - (d) contain a sufficient statement (whether by reference to a plan forming part of the declaration or otherwise) of –
 - (i) how the ownership of the property has been divided (*l’état descriptif de division*),
 - (ii) the *destination* of both the private units and the common parts, as well as the conditions of their enjoyment,
 - (iii) subject to the provisions of the 1991 Law, the rules relating to the administration of the common parts,
 - (iv) in respect of each share (*lot*) the proportionate interest in the common parts and the proportionate liability with regard to each category of the common expenses.

- (2) An application for the registration of a co-ownership declaration under Article 3 of the 1991 Law may also be refused if in the opinion of the Court –
 - (a) the name of the co-owners' association is in any way misleading or is otherwise undesirable; or
 - (b) the declaration is unsuitable for reproduction.
- (3) This Rule applies to the registration of any amendment to a co-ownership declaration as it applies to the registration of the original declaration.

14/11 Engrossment of co-ownership declarations and enrolment in the Public Registry

The requirements of Rule 14/8(2) of these Rules shall apply in relation to the engrossment of co-ownership declarations and amendments thereof (subject to the terms of Rule 14/8(3)) as they apply in relation to the engrossment of contracts save that –

- (a) sub-paragraph (c) shall not apply;
- (b) the reference to boundaries of immovable property in sub-paragraph (f) shall include the description of how the property has been divided (*état descriptif de division*) of the property to which the declaration relates and the common parts, the collective services, common facilities and any singular or reciprocal right or servitude as between the shares (*lots*) of which that property comprises;
- (c) sub-paragraph (g) shall not prevent the enrolment of a co-ownership declaration (or any amendment thereof) to which is annexed a schedule making detailed provision in relation to any matter required to be stated in the declaration or otherwise for the administration of the property to which the declaration relates, if that schedule forms part of the declaration and otherwise complies with the said paragraph (2).

PART XIVA⁹⁷

ORDER FOR ELECTION OF CONNETABLE OR CENTENIER

14A/1 Definition

In this Part the “expiry date” means the date upon which the term of office of a Connétable or a Centenier is to expire.

14A/2 Procedure

- (1) Not less than 6 weeks before the expiry date, the Connétable shall notify the Attorney General thereof in writing.
- (2) After receiving notification pursuant to paragraph (1) of this Rule the Attorney General shall inform the Inferior Number of the Royal Court of the expiry date and the Court shall order that an election be held as soon

as may be on or after the expiry date for the office of Connétable or Centenier, as the case may be, of the relevant parish.

PART XV

MISCELLANEOUS

15/1 Applications for orders and hearing of summonses

- (1) Every application for an order under these Rules shall be made, and any leave or directions shall be obtained, by summons.
- (2) The day for the hearing of a summons which is to be heard before the Greffier shall be fixed by the Greffier in such manner as he or she shall direct, and the summons shall be countersigned by the Greffier.
- (3) The day for the hearing of a summons which is to be heard before the Court shall be fixed by application made to the Bailiff in Chambers, and the summons shall be countersigned by the Bailiff or his or her Secretary.
- (4) The provisions of Rule 6/22(2) shall apply to an application under paragraph (3) of this Rule as they apply to an application under that Rule.
- (5) A summons may be heard on any day on which the Court may sit.
- (6) If the summons is heard before the Greffier, he or she may make such order as he or she thinks fit, or may adjourn the summons or any question arising therefrom to the Court for its decision and, pending the final determination of the summons, may make an interim order upon such terms as he or she thinks just.
- (7) If the summons is heard before the Court, the Court may make such order as it thinks fit.

15/2 Appeal from order or decision of Greffier

- (1) A party to proceedings before the Greffier may appeal by summons to the Court from an order or decision made or given by the Greffier in those proceedings.
- (2) Notice of appeal shall be given to the Greffier and to every other party to the proceedings in respect of which the appeal is being made within 10 days after the making of the order or decision complained of.
- (3) The provisions of paragraphs (3) and (5) of Rule 15/1 of these Rules shall apply in relation to appeals under this Rule as they apply in relation to summonses to the Court.⁹⁸
- (4) The party issuing a summons under paragraph (1) of this Rule shall, not later than 10 days after giving notice of appeal under paragraph (2) of this Rule, apply to the Bailiff in chambers for a day to be fixed for the hearing of the appeal and, if the Bailiff fails to do so, the appeal shall be deemed to have been abandoned.⁹⁹

15/3 Proceedings before the Viscount or Greffier

- (1) The Viscount and the Greffier may administer oaths to witnesses who appear to give evidence in proceedings before them.
- (2) In any proceedings before the Greffier in any cause or matter any party may be represented by an advocate or a solicitor.

15/4 Change of advocate or solicitor

Any party may change the party's advocate or solicitor at any stage of the proceedings but, until notice of any such change is filed by the new advocate or solicitor and copies of the notice are served on every other party to the action (not being a party in default), the former advocate or solicitor shall be considered to be the advocate or solicitor of the party.

15/5 Signing of orders of justice

- (1) An order of justice shall be signed by the Bailiff or by an advocate or solicitor unless an interim injunction, *arrêt entre mains* or other judicial act is sought therein, in which case it shall be signed by the Bailiff.¹⁰⁰
- (2) Any solicitor who shall apply to the Bailiff for the issuing of an order of justice which shall contain an interlocutory injunction shall give a written undertaking to the Bailiff that the solicitor has instructed an advocate in relation to the proceedings.¹⁰¹

15/6 Duration of orders of justice, provisional orders and caveats

- (1) A provisional order (*ordre provisoire*) shall remain in force for one year from the date of issue.
- (2) An order of justice issued by the Bailiff shall remain in force for one year from the date of issue but may be renewed annually by the Bailiff.
- (3) A caveat against the passing of a contract of alienation of immovable property shall bear the date of the day when it is lodged with the Bailiff; it shall remain in force for 6 months from that date but may be renewed from time to time.

15/7 Acts of the Héritage division

Acts granted by the Héritage division shall bear the date of the day on which they are granted, and the date borne by such acts shall be the effective date thereof for all purposes.

15/8 Alteration to judgments or orders

Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Court either of its own motion or upon application by summons.

15/9 Affidavits

- (1) An affidavit for the purposes of these Rules may be sworn before any person authorized to take affidavits in the country where it is made.
- (2) Any affidavit or statutory declaration may be sworn before or signed in the presence of the Viscount or the Greffier.

15/10 Permissive use of English language

- (1) In all causes and matters whatsoever in the Court and in any proceedings preliminary or incidental to any such cause or matter, whether oral or written, any member of the Court and any party or person engaged or concerned in such cause, matter or proceedings, or giving evidence therein may use the English language.
- (2) Any act, judgment or order made by the Court may be in the English language.

15/11 Seal of the Court and sealing of documents

- (1) The Superior Number of the Royal Court shall cause a seal to be made for the use of the divisions of the Court other than those for which a seal is prescribed by any enactment, and may cause the same to be from time to time broken, altered and renewed at its discretion.
- (2) All acts, judgments, orders and other instruments, and copies thereof, purporting to be sealed with such seal shall be received in evidence without further proof thereof.
- (3) Contracts and other like documents shall be sealed with such seal.

PART XVI**GENERAL****16/2 Citation**

These Rules may be cited as the Royal Court Rules 1992.

FIRST SCHEDULE

(Rule 1/1(1))

PROVISIONS OF THESE RULES IN WHICH REFERENCES TO THE COURT DO NOT INCLUDE REFERENCES TO THE GREFFIER¹⁰²

Rule 2/2(c)

Rule 2/4

Rule 6/4

Rule 6/7A

Rule 6/9(1)

Rule 6/19

Rule 6/22(6)

Rule 6/23

Rule 7/8

Rule 7/9

Part VIIA

Rule 7B/2

Rule 7B/3

Rule 7B/4(8)

Rule 8/1

Rule 8/2

Rule 8/3

Rule 8/4

Rule 12/1

Rule 12/2(1)

Rule 12/5

Part XIIA

Rule 14/5

Rule 14/5A

Rule 15/1

Rule 15/2

SECOND SCHEDULE

(Rule 5/14)

FORM OF SUMMONS TO DEFEND AN ACTION

To A.B. of.....(address)

You are required to appear in the Royal Court, Royal Square, St. Helier, on (day of the week), the day of 20 .., at pm to defend the action of which particulars appear below.

If you do not appear, judgment may be given in your absence.

(Insert here a copy of the “billet”)

(Signed).....

Advocate/Solicitor

Dated the day of 20...

**FORM OF SUMMONS TO WITNESS THE CONFIRMATION OF AN ORDER
OF JUSTICE**

To A.B. of (address)

You are required to appear in the Royal Court, Royal Square, St. Helier, on (day of the week), the day of 20...., at am/pm to witness the confirmation of the order of justice, a copy of which is annexed.

If you do not appear, judgment may be given in your absence.

(Signed)

Viscount Substitute

Dated the day of 20

FORMS OF RECORD OF ORDINARY SERVICE

(To be indorsed on the “billet”)

SERVICE BY POST

The summons in this action to appear in the Royal Court on
(day of the week), the day of 20 ..., was posted by
me in a letter addressed to the defendant at on
..... (day of the week), the day of 20....

(Signed)

Clerk to

Advocate/Solicitor

Dated the day of 20

SERVICE BY OTHER MEANS

The summons in this action to appear in the Royal Court on
..... (day of the week), the day of 20.,
was served by me by delivering it at the defendant’s address for
service, namely, (or, as the case may be) on
..... (day of the week), the day of
..... 20

(Signed)

Clerk to

Advocate/Solicitor

Dated the day of 20

FORM OF RECORD OF PERSONAL SERVICE

SERVICE OF ORDER OF JUSTICE

(To be indorsed on the original document)

I certify that a copy of this order of justice together with a summons to appear in the Royal Court on (day of the week), the day of 20..., were served by me on A.B. on, (day of week), the day of 20., by delivering those documents to the person personally at

(Means of knowledge of the identity of the person served must be inserted here).

(Signed)
Viscount Substitute

Dated the day of 20....

SERVICE OF OTHER SUMMONSES

(To be endorsed on the "billet")

The summons in this action to appear in the Royal Court on (day of the week), the day of 20., was delivered by me to A.B. personally on..... (day of the week) the day of 20., at

(Means of knowledge of the identity of the person served must be inserted here).

(Signed).....
Viscount Substitute
(or as the case may be)

Dated the day of 20 ...

THIRD SCHEDULE

(Rule 12/2)

FORM OF NOTICE OF APPEAL FROM ADMINISTRATIVE DECISION¹⁰³**In the Royal Court of Jersey**

Between Appellant

and ⁽¹⁾ Respondent

TAKE NOTICE that in exercise of the right of appeal conferred by

..... ⁽²⁾ I am appealing to the RoyalCourt against your decision on 20... ⁽³⁾ to

.....

.....

.....

.....

.....

..... ⁽⁴⁾

on the ground/s that

.....

.....

.....

..... ⁽⁵⁾

AND FURTHER TAKE NOTICE that I shall apply to the Bailiff's
Secretary on the day of , 200... ⁽⁶⁾
to fix a day for the hearing on this appeal.

(signed)..... ⁽⁷⁾

To the above-named Respondent.

Notes

- (1) Insert the name of the Committee or other body or person whose decision is appealed from.
- (2) State the statutory provision which confers the right of appeal.
- (3) State the date of the decision.
- (4) Give details of the decision. The reasons for the decision should not be given.
- (5) State the grounds of appeal with sufficient particularity to make clear the nature of the appellant's case.
- (6) Insert date of application not more than 5 days from the date of service of this notice of appeal.
- (7) To be signed by the appellant or his or her advocate or solicitor.

FOURTH SCHEDULE¹⁰⁴

(Rule 14/4(3)(b))

FORM OF SIMPLE ACKNOWLEDGEMENT OF DEBT

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The [1st day of January 1995]

Between A.B. and C.D., defendants; and E.F., plaintiff;
actioning the defendants to acknowledge their indebtedness in
a bond/note of hand, in the capital sum of[bearing
interest], subscribed by them [jointly and severally] in favour
of the plaintiff on the (date), [the said registration
to operate as a hypothec only on the property, in
the parish of to which the defendants are entitled
by contract of purchase dated the from
...../(other description of the property and title in
accordance with Rule 14/4(3)(h))].

The defendants, (by their signatures/by the signature of
their advocate/solicitor/attorney) hereto, acknowledge their
indebtedness to the plaintiff in the said sum [and consent to the
immediate registration of this acknowledgement in the Public
Registry].

The plaintiff/plaintiff's (advocate/solicitor), by his/her
signature hereto, requests (immediate registration of this
acknowledgement/an act recording acknowledgement only).

(Initials of law firm)

**FORM OF ACKNOWLEDGEMENT WHERE THE DEBT IS GUARANTEED
BY A THIRD PARTY**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

[The 1st day of January 1995]

BETWEEN A.B. (hereinafter called the “first defendant”) and C.D. (hereinafter called the “second defendant”), OF THE ONE PART; AND E.F. (hereinafter called the “plaintiff”), OF THE OTHER PART; actioning the defendants as follows –

(1) the first defendant to acknowledge the defendant’s indebtedness in a bond/note of hand in the capital sum of [bearing interest] subscribed by the defendant in favour of the plaintiff on thedate), [the said registration to operate as a hypothec only on]; and
(2) the second defendant to acknowledge the defendant’s guarantee to the said bond/note of hand [the said registration to operate as a hypothec only on].

(By their signatures/by the signatures of their advocates/solicitors/attornies) hereto –

(1) the first defendant acknowledges the defendant’s indebtedness to the plaintiff in the said sum; and

(2) the second defendant acknowledges the defendant’s indebtedness as guarantor in the said sum, [and the defendants consent to the immediate registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff’s (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

(Initials of law firm)

FORM OF ACKNOWLEDGEMENT OF GUARANTEE ONLY

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The [1st day of January 1995]

BETWEEN A.B., defendant; and C.D., plaintiff;
actioning the defendant to acknowledge the defendant's
guarantee to a bond/note of hand in the capital sum of
[bearing interest] subscribed by E.F. in favour of the plaintiff
on the (date), (or the defendant's guarantee dated
the in the capital sum of to the
indebtedness of E.F. to the plaintiff,); [the said registration to
operate as a hypothec only on].

The defendant, (by the defendant's signature/by the
signature of the defendant's advocate/solicitor/attorney)
hereto, acknowledges the defendant's indebtedness as
guarantor in the said sum [and consents to the immediate
registration of this acknowledgement in the Public Registry].

The plaintiff/plaintiff's (advocate/solicitor) by his/her
signature hereto, hereby requests (immediate registration of
this acknowledgement/an act recording acknowledgement
only).

(Initials of law firm)

**FORM OF ACKNOWLEDGEMENT WHERE A THIRD PARTY MAKES A
DECLARATION WITH REGARD TO DOWER, LIFE – ENJOYMENT, ETC.**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The [1st day of January 1995]

BETWEEN A.B. (hereinafter called the “first defendant”) and C.D. (hereinafter called the “second defendant”), OF THE ONE PART; and E.F. (hereinafter called the “plaintiff”), OF THE OTHER PART; actioning the defendants as follows –

(1) the first defendant to acknowledge the defendant’s indebtedness in a bond/note of hand in the capital sum of [bearing interest] subscribed by the defendant in favour of the plaintiff on the (date), [the said registration to operate as a hypothec only]; and
(2) the second defendant to declare *[insert appropriate declaration]*...

(By their signatures/by the signatures of their advocates/solicitors/attornies) hereto –

(1) the first defendant acknowledges the defendant’s indebtedness to the plaintiff in the said sum [and consents to the immediate registration of this acknowledgement in the Public Registry]; and

(2) the second defendant gives the aforesaid undertaking.

The plaintiff/plaintiff’s (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

(Initials of law firm)

**FORM OF ACKNOWLEDGEMENT WHERE A THIRD PARTY MAKES A
DECLARATION WITH REGARD TO EXISTING HYPOTHECARY RIGHTS**

IN THE ROYAL COURT OF JERSEY

Before the Judicial Greffier

The [1st day of January 1995]

BETWEEN A.B. (hereinafter called the “first defendant”) and C.D. (hereinafter called the “second defendant”), OF THE ONE PART; and E.F. (hereinafter called the “plaintiff”), OF THE OTHER PART; actioning the defendants as follows –

(1) the first defendant to acknowledge the defendant’s indebtedness in a bond/note of hand in the capital sum of [bearing interest] subscribed by the defendant in favour of the plaintiff on the (date), [the said registration to operate as a hypothec only on]; and
(2) the second defendant to declare *[insert appropriate declaration]*...

The first defendant, (by the defendant’s signature/by the signature of the defendant’s advocate/solicitor/attorney) hereto, acknowledges the defendant’s indebtedness to the plaintiff in the said sum and consents to the immediate registration of this acknowledgement as aforesaid; and the second defendant, (by the signature of its advocate/solicitor/attorney/authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories), gives the aforesaid undertaking.

The plaintiff/plaintiff’s (advocate/solicitor), by his/her signature hereto, hereby requests (immediate registration of this acknowledgement/an act recording acknowledgement only).

(Initials of law firm)

N.B. With regard to any of the above forms in the event of a company being a defendant where necessary the words “by his/their signature(s) hereto” shall be replaced by “by the signature of its authorized signatory hereto/by its common seal affixed hereto in the presence of its authorized signatories”.

FIFTH SCHEDULE¹⁰⁵

(Rule 14/5A(1))

FORM OF SUMMONS TO LIFT A CAVEAT

To A.B. of (address)

You are required to appear in the Royal Court, Royal Square, St. Helier, on (day of the week), the day of20..., atam/pm to show cause why the caveat lodged with the Bailiff on the day of 20..... against the passing of a contract of alienation of my immovable property should not be lifted on the ground(s) that.....
.....

If you do not appear, the said caveat may be lifted and damages awarded against you in your absence.

(Signed).....

Advocate/Solicitor

Dated the day of20.....

SIXTH SCHEDULE¹⁰⁶

(Rule 12A/2(2))

**FORM OF NOTICE FOR APPLICATION FOR LEAVE TO APPLY FOR
JUDICIAL REVIEW**

IN THE ROYAL COURT OF JERSEY (SAMEDI DIVISION)

To the Bailiff

Name and address of applicant (s)	
The interest of the applicant (s)	
Judgment, order, decision or other proceeding in respect of which relief is sought	
Relief sought	
Name and address of applicant's advocate or solicitor, if any, and/or the address for service of the applicant	
If there are or were alternative remedies available state these and if they have not been pursued state why	
If there has been delay, state the reasons for this	

GROUNDS ON WHICH RELIEF IS SOUGHT

Signed	Dated
--------	-------

Note – Grounds must be supported by an affidavit setting out the facts relied on.

**FORM OF APPLICATION TO HAVE LEAVE TO APPLY FOR JUDICIAL
REVIEW SET ASIDE**

(Rule 12A/6)

IN THE ROYAL COURT OF JERSEY (SAMEDI DIVISION)

To the Bailiff

Name, address and description of respondent(s)	
Grant of leave which is sought to be set aside	
Name and address of applicant's advocate or solicitor, if any, and/or the address for service of the applicant	
Grounds on which application to set aside is made	
Signed	Dated

Note – Grounds must be supported by an affidavit setting out the facts relied on.

FORM OF NOTICE OF APPLICATION FOR JUDICIAL REVIEW

(Rule 12A/4(1))

IN THE ROYAL COURT OF JERSEY (SAMEDI DIVISION)

Between Applicant

And Respondent

TAKE NOTICE that by virtue of the leave given to me by order of the Bailiff/Court of Appeal dated.....20.... (a copy of which order is attached hereto) I am applying for judicial review in the manner set out in the Notice of Application for Leave to Apply for Judicial Review dated.....20.... (a copy of which Notice together with the supporting affidavit is attached hereto).

.....

To the above-named Respondent(s)

Summons for Directions pursuant to Rule 6/21

In the Royal Court of Jersey

BETWEEN (*set out title*)

Let all parties appear before the Judicial Greffier/Master at _____ on _____
the _____ day of _____ 20____, at _____ am/pm on the
hearing of an application for directions in the above named action that –

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[] or within such time as the Judicial Greffier/Master may specify] to fix a date for the trial of the action.

12 The costs of this application be costs in the cause.

Dated the day of 20 .

This summons was issued by

of

Advocate/Solicitor for the Plaintiff[s]

To

of

Advocate/Solicitor for the Defendant[s]

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Royal Court Rules 1992	R&O.8509	1 February 1993
Royal Court (Amendment) Rules 1993	R&O.8565	29 July 1993
Royal Court (Amendment No. 2) Rules 1993	R&O.8573	19 August 1993
Royal Court (Amendment No. 3) Rules 1994	R&O.8683	1 March 1994
Royal Court (Amendment No. 4) Rules 1994	R&O.8713	25 August 1994
Royal Court (Amendment No. 5) Rules 1995	R&O.8777	1 February 1995
Royal Court (Amendment No. 6) Rules 1995	R&O.8800	1 September 1995
Royal Court (Amendment No. 7) Rules 1995	R&O.8824	1 September 1995
Royal Court (Amendment No. 8) Rules 1995	R&O.8875	1 December 1995
Royal Court (Amendment No. 9) Rules 1996	R&O.8970	1 October 1996
Royal Court (Amendment No. 10) Rules 1996	R&O.8971	9 October 1996
Royal Court (Amendment No. 11) Rules 1996	R&O.8998	11 November 1996
Royal Court (Amendment No. 12) Rules 1997	R&O.9106	1 September 1997
Royal Court (Amendment No. 13) Rules 1999	R&O.9380	1 June 1999
Royal Court (Amendment No. 14) Rules 1999	R&O.9398	7 June 1999
Royal Court (Amendment No. 15) Rules 2000	R&O.10/2000	3 April 2000
Royal Court (Amendment No. 16) Rules 2001	R&O.138/2001	1 November 2001
Royal Court (Amendment No. 17) Rules 2001	R&O.152/2001	29 October 2001
Royal Court (Amendment No. 18) Rules 2001	R&O.169/2001	1 December 2001
Royal Court (Amendment No. 19) Rules 2002	R&O.62/2002	2 September 2002
Royal Court (Amendment No. 20) Rules 2004	R&O. 33/2004	8 June 2004

Table of Renumbered Provisions

Original	Current
4/1 (5)	repealed by R&O.138/2001
6/20 (1)	repealed by R&O.138/2001
9/7	repealed by R&O.9380
14/1A	repealed by R&O.9398
16/1	spent, omitted from this revised edition

Table of Endnote References

¹	chapter 07.770
²	chapter 15.560
³	chapter 07.840
⁴	chapter 04.600
⁵ Rule 1/1(1)	definition “hearing list” amended by R&O.138/2001
⁶ Rule 1/1(1A)	inserted by R&O.138/2001
⁷	chapter 15.360
⁸	chapter 15.560
⁹	chapter 15.560
¹⁰ Rule 2/5	amended by R&O.8565
¹¹ Rule 3/1	substituted by R&O.8971
¹²	chapter 18.800
¹³	chapter 12.650
¹⁴	chapter 12.450
¹⁵	chapter 12.050
¹⁶	chapter 12.200
¹⁷	chapter 12.600
¹⁸	chapter 12.550
¹⁹	chapter 12.800
²⁰ Rule 3/1(2)	substituted by R&O.8998
²¹ Rule 3/4 heading	amended by R&O.8971
²² Rule 3/4(3)	amended by R&O.8971
²³ Rule 3/5(1)	amended by R&O.8777, R&O.8875
²⁴	chapter 07.770
²⁵ Rule 4/2 heading	amended by R&O.8970
²⁶ Rule 4/3 heading	amended by R&O.8970
²⁷ Rule 4/3(1)	amended by R&O.8970
²⁸	chapter 12.650
Rule 4/3(3)	substituted by R&O.8971
²⁹ Rule 5/6(1)	amended by R&O.8970
³⁰	chapter 15.360
³¹	chapter 15.360
³² Rule 5/6(4)	inserted by R&O.8970
³³ Rule 6/1	substituted by R&O.8971
³⁴	chapter 12.650
³⁵ Rule 6/2(1)	amended by R&O.10/2000
³⁶ Rule 6/4(4)	amended by R&O.8998
³⁷ Rule 6/7(5)	amended by R&O.8777
³⁸ Rule 6/7A	inserted by R&O.9106
³⁹ Rule 6/10(4)	amended by R&O.8777
⁴⁰ Rule 6/13A	inserted by R&O.10/2000

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- ⁴¹ Rule 6/16A inserted by R&O.169/2001
- ⁴² chapter 07.560
- ⁴³ Rule 6/18(4) amended by R&O.138/2001
- ⁴⁴ chapter 12.200
- ⁴⁵ Rule 6/18(5) amended by R&O.138/2001
- ⁴⁶ Rule 6/20(2) amended by R&O.138/2001
- ⁴⁷ Rule 6/20(3) substituted by R&O.138/2001
- ⁴⁸ Rule 6/20(4) inserted by R&O.138/2001
- ⁴⁹ Rule 6/21 substituted by R&O.138/2001
- ⁵⁰ Rule 6/21A inserted by R&O.138/2001
- ⁵¹ Rule 6/21B inserted by R&O.33/2004
- ⁵² Rule 6/28 amended by R&O.8777
- ⁵³ Part VIIA (Rules 7A/1–7A/9) inserted by R&O.8573
- ⁵⁴ Part VIIB (Rules 7B/1–7B/4) inserted by R&O.8573
- ⁵⁵ chapter 07.035
- ⁵⁶ Part IXA (Rules 9A/1 – (9A/14) inserted by R&O.9380
- ⁵⁷ chapter 04.720
- ⁵⁸ chapter 04.200
- ⁵⁹ Part XII substituted by R&O.62/2002
- ⁶⁰ Rule 12/1 substituted by R&O.62/2002; former Rule 12/1(2) amended by R&O.8970
- ⁶¹ Rule 12/2 substituted by R&O.62/2002
- ⁶² Rule 12/3 substituted by R&O.62/2002
- ⁶³ Rule 12/4 substituted by R&O.62/2002
- ⁶⁴ Rule 12/5 substituted by R&O.62/2002; former rule substituted by R&O.8970
- ⁶⁵ Part XIIA (Rules 12A/1 – 12A/10) inserted by R&O.10/2000
- ⁶⁶ chapter 13.875
- ⁶⁷ chapter 04.360
- ⁶⁸ chapter 18.800
- ⁶⁹ chapter 05.025
- ⁷⁰ chapter 20.100
- ⁷¹ chapter 20.600
- ⁷² chapter 20.750
- ⁷³ chapter 20.775
- ⁷⁴ chapter 02.900
- ⁷⁵ chapter 04.120
- ⁷⁶ chapter 22.375
- ⁷⁷ chapter 25.700
- ⁷⁸ chapter 22.225
- ⁷⁹ chapter 27.700
- ⁸⁰ chapter 07.840
- ⁸¹ chapter 12.550.75
- ⁸² chapter 05.575
- ⁸³ chapter 05.700
- ⁸⁴ chapter 05.900
- ⁸⁵ chapter 18.135
- ⁸⁶ chapter 18.180
- ⁸⁷ L.20/1983
- ⁸⁸ chapter 08.580
- Rule 13/3(1) amended by R&O.8573, R&O.8970, R&O.138/2001
- ⁸⁹ Rule 14/1 substituted by R&O.9398
- ⁹⁰ Rule 14/2(5) amended by R&O.8971
- ⁹¹ Rule 14/4 substituted by R&O.8800
- ⁹² chapter 18.495
- ⁹³ chapter 24.960
- ⁹⁴ Rule 14/4(3) amended by R&O.8824, R&O.138/2001
- ⁹⁵ Rule 14/5A inserted by R&O.9106
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- ⁹⁶ *chapter 18.180*
- ⁹⁷ *Part XIVA (Rules 14A/1 – 14A/2) inserted by R&O.152/2001*
- ⁹⁸ *Rule 15/2(3) substituted by R&O.9106*
- ⁹⁹ *Rule 15/2(4) inserted by R&O.9106*
- ¹⁰⁰ *Rule 15/5(1) amended by R&O.8573*
- ¹⁰¹ *Rule 15/5(2) inserted by R&O.8573*
- ¹⁰² *First Schedule amended by R&O.8573, R&O.8970, R&O.9106, R&O.10/2000, R&O.62/2002*
- ¹⁰³ *Third Schedule substituted by R&O.62/2002*
- ¹⁰⁴ *Fourth Schedule substituted by R&O.8800*
- ¹⁰⁵ *Fifth Schedule inserted by R&O.9106*
- ¹⁰⁶ *Sixth Schedule inserted by R&O.10/2000*
- ¹⁰⁷ *Seventh Schedule inserted by R&O.138/2001*