

Orders of the Royal Court.



I
1972

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of July, 1972, before Sir William Arnold, Kt., C.B.E., Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Esquires, and Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Jurats.

No. 1 Order, 1972

ENTITLED

The Judgments (Reciprocal Enforcement) (Guernsey) Rules, 1972

THE ROYAL COURT, in exercise of the powers conferred upon it by Article sixty-four of the Reform (Guernsey) Law, 1948(a), section twelve of the Royal Court of Guernsey (Miscellaneous Reform

(a) Ordres en Conseil Vol. XIII, p. 288.

Provisions) Law, 1950(b), section five of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957(c), and of all other powers enabling it in that behalf, hereby makes the following Rules:—

Application
for
registration.

1. An application under section four of the Law to have a judgment to which Part II of the Law applies registered in the Royal Court may be made *ex parte* to the Court.

Evidence in
support of
application.

2. (1) An application for registration shall be supported by an affidavit of the facts—

- (a) exhibiting a certified copy of the judgment issued by the original court and authenticated by its seal and where the judgment is not in the English language a translation of the judgment in the English language certified by a notary public or authenticated by affidavit;
- (b) stating to the best of the information or belief of the deponent—
 - (i) that the judgment creditor is entitled to enforce the judgment;
 - (ii) as the case may require, either that at the date of the application the judgment has not been satisfied, or, the amount in respect of which it remains unsatisfied;
 - (iii) that at the date of the application the judgment can be enforced by execution in the country of the original court;
 - (iv) that if the judgment were registered, the registration would not be, or be

(b) Ordres en Conseil Vol. XIV, p. 388.

(c) Ordres en Conseil Vol. XVII, p. 178.

liable to be, set aside under section six of the Law;

- (c) specifying the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the time of registration;

and shall be accompanied by such other evidence with respect to the matters referred to in sub-paragraph (b) (iii) or sub-paragraph (c) of this paragraph as may be required having regard to the provisions of the Ordinance extending the Law to the country of the original court.

(2) Where the sum payable under the judgment is expressed in a currency other than the currency of Guernsey, the affidavit shall state the amount which that sum represents in the currency of Guernsey calculated at the rate of exchange prevailing at the date of the judgment.

(3) The affidavit shall state the full name, title, trade or business and the usual or last known place of abode or of business of the judgment creditor and the judgment debtor respectively, so far as known to the deponent.

(4) Where a judgment is in respect of different matters, and some, but not all, of the provisions of the judgment are such that, if those provisions had been contained in separate judgments, those judgments could properly have been registered, the affidavit shall state the provisions in respect of which it is sought to register the judgment.

3. Save as otherwise provided by or under any enactment the Court may order the judgment creditor to give security for the costs of the application for registration and of any proceedings which may be brought to set aside the registration. Security for costs.

Order on
application
for
registration.

4. (1) Subject to the provisions of the next succeeding paragraph an order giving leave to register a judgment shall state the period within which an application may be made to set aside the registration and shall contain a notification that execution on the judgment will not issue until after the expiration of that period.

(2) For the purposes of the last preceding paragraph the period within which an application to set aside the registration may be made shall be such period as is prescribed in the Ordinance entitled "Ordonnance au sujet des termes à écrire" of the eighth day of February, nineteen hundred and thirty-six(*d*), in respect of an absentee, as if the judgment debtor named in the application for the registration of the judgment were an absentee for the purposes of that Ordinance.

(3) The Court may, on the application made at any time while it remains competent for any party to apply to have the registration set aside, grant an extension of the period (either as originally fixed or as subsequently extended) during which an application to have the judgment set aside may be made.

Register of
judgments.

5. Her Majesty's Greffier shall keep at the Greffe a register of the judgments ordered to be registered under the Law.

Notice of
registration.

6. (1) Notice in writing of the registration of a judgment shall be served by the judgment creditor on the judgment debtor—

(a) if within the jurisdiction, by Her Majesty's Sergeant;

(*d*) Recueil d'Ordonnances Tome VIII, p. 307.

- (b) if out of the jurisdiction, in accordance with the provisions of Rule 7 of these Rules.
- (2) The notice of registration shall state—
 - (a) full particulars of the judgment registered and the order for registration; and
 - (b) the name and address of the judgment creditor or of his Advocate on whom, and at which, any summons issued by the judgment debtor may be served; and
 - (c) the right of the judgment debtor to apply to have the registration set aside; and
 - (d) the period within which an application to set aside the registration may be made.

7. (1) Notice of the registration of a judgment may be personally served out of the jurisdiction without leave of the Court by any person, subject to the provisions of paragraph (2) of this Rule. Service out of the jurisdiction.

(2) Subject to the provisions of any relevant Convention between Her Majesty and the Government of a foreign country, the provisions of which extend to the Bailiwick, the undermentioned procedure shall apply to service where the person to be served is not a British Subject and is not within any part of Her Majesty's dominions:—

- (a) request for service abroad shall be made to the Bailiff in accordance with Form 1 set out in the Schedule to these Rules;
- (b) on the granting of the request, the document to be served shall be sealed with the seal of the Royal Court and transmitted by the Bailiff to His Excellency the Lieutenant-Governor, together with a copy thereof translated at the instance and cost of the person making the request into an

official language of the country in which service is to be effected, if such language is not the language in which the document is expressed, and with a request, in accordance with Form 2 set out in the Schedule to these Rules for the further transmission of the same, through Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to the Government of the foreign country in which it is proposed to serve the document;

- (c) an official certificate, or declaration on oath or otherwise, transmitted through the diplomatic channel by the Government of the foreign country to the Bailiff, if it certifies or declares the document to have been personally served, or to have been duly served in accordance with the law of the foreign country, or words to that effect, shall be deemed sufficient proof of such service;
- (d) where an official certificate or declaration transmitted to the Bailiff in the aforesaid manner, certifies or declares that endeavours to serve a document have been unsuccessful, or where it otherwise appears that personal service probably cannot be effected, the Court may, upon the ex parte application of the judgment creditor, order that the judgment creditor may, through the Bailiff, in the aforesaid manner, bespeak a request for substituted service of such document; the said order and request shall be respectively in accordance with Forms 3 and 4 set out in the Schedule to these Rules.

8. An application to set aside the registration of a judgment shall be made by way of summons supported by affidavit. Application to set aside registration.

9. After the expiration of the period which, in accordance with the provisions of paragraph (1) of Rule 4 is specified in the Act of Court giving leave to register as the period within which an application may be made to set aside the registration, or, if an order is made extending the period so specified, after the expiration of the extended period the Court may on the application, ex parte, of the judgment creditor give leave to enforce the registered judgment in such manner as may be specified in the Act of Court. Issue of Execution.

10. (1) An application under section eleven of the Law for a certified copy of a judgment given in the Royal Court shall be made ex parte to the Bailiff by the judgment creditor. Certified copy of judgments given in the Royal Court.

(2) An application for the purposes of this Rule shall—

- (a) give particulars of the proceedings in which the judgment was obtained; and
- (b) state that the judgment is not subject to any stay of execution; and
- (c) state that the time for appealing has expired and that notice of appeal against the judgment has not been entered.

(3) Where an application for a certified copy of a judgment is duly made under this Rule, there shall be issued a copy of the Act of Court embodying the judgment sealed with the seal of the Royal Court and certified by Her Majesty's Greffier that it is a true copy of a judgment given in the Royal Court and that it is issued in accordance with section eleven of the Law, and stating—

- (a) the manner in which process was served on the defendant or that the defendant appeared thereto; and
- (b) what objections, if any, were made to the jurisdiction; and
- (c) the grounds on which the judgment was based; and
- (d) that the time for appealing has expired; and
- (e) whether notice of appeal against the judgment has been entered; and
- (f) such other particulars as it may be necessary to give to the Court in the country in which it is sought to obtain execution of the judgment; and
- (g) the rate at which the judgment carries interest, if any.

Interpretation.

11. (1) In these Rules, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“ Advocate ” means Advocate of the Royal Court;

“ the Court ” means the Royal Court sitting as an Ordinary Court;

“ the Law ” means the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957;

and any other expressions have the same meanings as in the Law.

(2) The forms set out in the Schedule to these Rules, or forms to the like effect shall, subject to all relevant specific requirements contained in these Rules, be used in the cases to which they refer, with such variations as circumstances may require.

(3) The Interpretation (Guernsey) Law, 1948(e), applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

(4) Any reference in these Rules to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including these Rules.

12. These Rules may be cited as the Judgments Citation. (Reciprocal Enforcement) (Guernsey) Rules, 1972.

13. These Rules shall come into force on the eleventh day of July, nineteen hundred and seventy-two. ^{Commence-}
^{ment.}

(e) Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE

FORM 1 Rule 7.(2) (a)

REQUEST FOR SERVICE ABROAD OF NOTICE OF REGISTRATION OF JUDGMENT

In the Royal Court of Guernsey

In the matter of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957, and in the matter of a Judgment of the (name of the court) obtained in (description of cause or matter) and dated the day of 19

Between A.B. Judgment Creditor and C.D. Judgment Debtor

TO THE BAILIFF:

I hereby request that a Notice of the Registration of the Judgment in this Matter be transmitted through the proper channel to (name of country) for service (or, substituted service) on the Judgment Debtor at , or elsewhere in (name of country).

And I hereby personally undertake to be responsible for all expenses incurred by Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs in respect of the service hereby requested, and I undertake that, on receiving due notification of the amount of such expenses, I will pay the same to the Chief Clerk, the Foreign and Commonwealth Office, or as the Court directs and that I will produce the receipt for such payments to Her Majesty's Greffier, if required so to do.

Dated at this day of , 19

(Signed) Advocate for the Judgment Creditor.

FORM 2

Rule 7.(2)(b)

REQUEST TO LIEUTENANT-GOVERNOR FOR
TRANSMISSION OF NOTICE OF REGISTRA-
TION OF JUDGMENT TO FOREIGN
GOVERNMENT

The Bailiff of Guernsey presents his compliments to His Excellency the Lieutenant-Governor, and begs to forward herewith a Notice of the Registration of the Judgment between (Judgment Creditor) and (Judgment Debtor) and issued, pursuant to order, out of the Royal Court of Guernsey, for transmission, through Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to the Ministry of Foreign Affairs in (name of country) , with the request that the same may be served personally upon (Judgment Debtor) , against whom a Judgment has been registered in the Royal Court of Guernsey under the provisions of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957, and with the further request that evidence of the service of the same upon the said (Judgment Debtor) may be officially certified to the Royal Court of Guernsey, or declared upon oath, or otherwise, in such manner as is consistent with the usage or practice of the Courts of (name of country) , in proving service of legal process.

The Bailiff begs further to request that if efforts to effect personal service of the said Notice of the Registration of the Judgment prove ineffectual, the Government or Court of the said country may certify accordingly to the Royal Court of Guernsey.

Dated at Guernsey, this _____ day of _____, 19 _____ .

(Signed)

Bailiff.

ORDER GIVING LEAVE TO A JUDGMENT CREDITOR TO BESPEAK A REQUEST FOR SUBSTITUTED SERVICE OF NOTICE OF REGISTRATION OF JUDGMENT ON A FOREIGN COUNTRY

IN THE ROYAL COURT OF GUERNSEY

This day of , 19 .

In the matter of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957, and in the matter of a Judgment of the (name of the court) obtained in (description of the cause or matter) and dated the day , 19 . Between A.B. Judgment Creditor and C.D. Judgment Debtor

THE COURT upon reading the (certificate or declaration) provided for in sub-paragraph (d) of paragraph (2) of Rule 7 (entitled "Service out of the jurisdiction") of the Judgments (Reciprocal Enforcement) (Guernsey) Rules, 1972,

ORDERS that the Judgment Creditor be at liberty to bespeak a request for substituted service of Notice of the Registration of the Judgment in this Matter on the Judgment Debtor at or elsewhere in (name of country).

(Signed) Her Majesty's Greffier.

Seal of the Royal Court.

REQUEST TO LIEUTENANT-GOVERNOR IN
CASE OF SUBSTITUTED SERVICE, IN A
FOREIGN COUNTRY, OF NOTICE OF
REGISTRATION OF JUDGMENT

The Bailiff of Guernsey presents his compliments to His Excellency the Lieutenant-Governor, and begs to forward herewith a Notice of the Registration of the Judgment in the Royal Court of Guernsey under the provisions of the Judgments (Reciprocal Enforcement) (Guernsey) Law, 1957, between (Judgment Creditor) and (Judgment Debtor) in which the said (Judgment Creditor) has obtained an Order of the Royal Court of Guernsey (which Order is also enclosed), giving leave to bespeak a request that the said Notice of Registration of the Judgment may be served by substituted service on the said (Judgment Debtor) at
in (name of country).

The Bailiff requests that the said Notice of Registration of the Judgment and Order may be forwarded, through Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to the proper authority in (name of country), with the request that the same may be transmitted by post addressed to the said (Judgment Debtor) at (the last known place of abode or place of business of the said (Judgment Debtor)), or there delivered in such manner as may be consistent with the usage or practice of the Courts of (name of country) for service of legal process where personal service cannot be effected; and with the further request that the same may be officially certified to the Royal Court of Guernsey or declared upon oath,

or otherwise in such manner as is consistent with the practice of the Courts of (name of country) in proving service of legal process.

Dated at Guernsey, this _____ day of
19 .

(Signed)
Bailiff.

R. A. MALLETT,
Her Majesty's Deputy Greffier.