

Orders of the Royal Court.



I
1975

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of July, 1975, before Ernest Pattison Shanks, Esquire, C.B.E., Deputy Bailiff; present:—Claude Fortescue Nason, Stanley Walter Gavey, D'Arcy George Le Tissier, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., and Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Jurats.

No. 1 Order, 1975

ENTITLED

The Judgments (Reciprocal Enforcement) (Amendment) (Guernsey) Rules, 1975

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

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

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

Amendments
of Rules
of 1972.

1. The Judgments (Reciprocal Enforcement) (Guernsey) Rules, 1972(d), (hereinafter referred to as “the principal Rules”) are hereby amended as follows:—

(a) paragraph (2) of Rule 4 thereof is repealed and the following paragraph is substituted therefor—

“(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 the period of fourteen days from the date of service of the notice of registration of the judgment on the judgment debtor under the provisions of Rule 6

of these Rules:

Provided that—

(a) if at such date as aforesaid, the judgment debtor is absent from the Islands of Guernsey, Herm and Jethou, the period so limited shall, unless the Court otherwise directs, be increased by a period equivalent to one half of the period of the “Terme à Ecrire” which, under the provisions of the Ordinance entitled “Ordonnance au sujet des termes à écrire” of the eighth day of February, nineteen hundred and thirty-

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

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

(d) Order of the Royal Court No. I of 1972.

six, would be appropriate in the circumstances of that person in proceedings directed against that person before the Royal Court; or

- (b) if the service of the notice of registration of the judgment on the judgment debtor was by means of substituted service, the period so limited shall, unless the Court otherwise directs, be increased by a period of sixty days.”;
- (b) sub-paragraph (a) of paragraph (1) of Rule 6 therefor is repealed and the following sub-paragraph is substituted therefor—
- “ (a) if within the jurisdiction—
- (i) personally on the judgment debtor by Her Majesty’s Sergeant; or
- (ii) by substituted service with leave of the Court;”;
- (c) paragraph (1) of Rule 7 is repealed and the following paragraph is substituted therefor—
- “ (1) Subject to the provisions of paragraph (2) of this Rule, notice of the registration of a judgment may be served out of the jurisdiction—
- (a) personally on the judgment debtor by any person without leave of the Court; or
- (b) by substituted service with leave of the Court.”;
- (d) immediately after Rule 7 there is inserted the following additional Rule numbered “ 7A ”—

“ Service by substituted service. 7A. (1) Where it is desired to effect service of notice of the registration of a judgment by

substituted service, application, ex parte, shall be made to the Court for leave to do so specifying—

- (a) the kind of substituted service desired; and
- (b) the reasons for which the application is made.

(2) Where it is desired to effect substituted service by means of advertisement, there shall be submitted to the Court, at the time of the application, a draft of the advertisement which it is proposed to issue and a list of the newspapers in which it is proposed to insert the advertisement; and the advertisement shall be issued in the form, and in the newspapers, approved by the Court.”;

- (e) Rule 9 thereof is repealed and the following Rule is substituted therefor—

“9. (1) Subject to the provisions of the succeeding paragraphs of this Rule, after the expiration of the period which, in accordance with the provisions of paragraph (1) of Rule 4 of these Rules 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 the period so specified is extended by virtue of the provisions of the proviso to paragraph (2) of the said Rule 4 or if an order under paragraph (3) of the said Rule 4 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.

(2) An application under the last preceding paragraph shall not be entertained by the Court unless the application is supported by the appropriate proof of service in accordance with the provisions of the next succeeding paragraph that the judgment debtor has been duly served with the notice of registration of the judgment under the provisions of Rule 6 of these Rules.

(3) The appropriate proof of service within the meaning of the last preceding paragraph shall be—

(a) in the case of personal service—

(i) of service within the jurisdiction, a certificate of service by Her Majesty's Sergeant, which certificate shall be in accordance with Form 5 set out in the Schedule to these Rules;

(ii) of service out of the jurisdiction—

(1) an affidavit of service by the person effecting the same, which affidavit shall be in accordance with Form 6 set out in the Schedule to these Rules;
or

(2) in the case where the provisions of paragraph 2 of Rule 7 of these Rules

apply, an official certificate or declaration in accordance with the provisions of sub-paragraph (c) of paragraph 2 of the said Rule 7;

(b) in the case of substituted service—

(i) of substituted service by advertisement in a newspaper, a copy of the issue of such newspaper containing the said advertisement; or

(ii) in the case where the provisions of paragraph 2 of Rule 7 of these Rules apply, an official certificate or declaration in accordance with the provisions of sub-paragraph (d) of paragraph 2 of the said Rule 7.”;

(f) immediately after Form 4 in the Schedule to these Rules there are inserted the following additional Forms numbered “5” and “6”—

“ FORM 5 Rule 9(3) (a) (i)
CERTIFICATE OF PERSONAL SERVICE

In the Royal Court of Guernsey

In the matter of the Judgments (Reciprocal En-
forcement) (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

A Notice of Registration of the Judgment in this
Matter, dated the day of
19 , was duly served by me on (give
name of person served) at , on the
day of , 19 , by delivering the
Notice to the said personally.

I identified by
(set out means of identification, e.g.
personal knowledge, photo, etc.)

Dated this day of , 19 .

(Signed)
Her Majesty's Sergeant

FORM 6 Rule 9(3) (a) (ii) (i)
AFFIDAVIT OF SERVICE

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

I, of make oath and say:—

That a Notice of Registration of the Judgment in this duly served by me on (give name of person served) at , on the day of , 19 , by delivering the notice to the said personally.

I identified by (set out means of identification, e.g. personal knowledge, photo, etc.)

SWORN etc. ”

2. These Rules may be cited as the Judgments Citation.
(Reciprocal Enforcement) (Amendment) (Guernsey)
Rules, 1975.

3. These Rules and the principal Rules may be Collective
cited together as the Judgments (Reciprocal Enforce- title.
ment) (Guernsey) Rules, 1972 and 1975.

R. H. VIDELO,
Her Majesty's Greffier.