

The Royal Court (Costs and Fees) Rules, 2000

THE ROYAL COURT, in exercise of the powers conferred upon it by section 1 of the Royal Court (Costs and Fees) (Guernsey) Law, 1969^a and of all other powers enabling it in that behalf, hereby orders:-

PART I

COURT FEES & RECOVERABLE COSTS

Court fees, etc. in respect of civil and criminal proceedings.

1. (1) In civil proceedings there shall be paid, in respect of a proceeding or matter described in column 1 of the Schedule, a fee of the amount specified in column 2 in relation to the proceeding or matter.

(2) A fee payable under paragraph (1) is, unless the Court orders payment by another party, payable by the person at whose instance the proceeding or matter was taken or carried out.

(3) In criminal proceedings there shall be paid, in respect of a proceeding or matter corresponding to one described in column 1 of the Schedule, a fee of the amount specified in column 2 in relation to the corresponding proceeding or matter.

(4) A fee payable under paragraph (3) is payable by the person (if any) ordered by the Court to pay the costs of and incidental to the proceedings.

(5) Column 2 of the Schedule specifies to whom the fees mentioned therein are payable.

Advocates' fees in respect of civil proceedings.

2. (1) In civil proceedings, the maximum Advocates' fees recoverable shall be (subject to the following provisions of this Rule and of Part II of these Rules and to any direction of the Court as to the extent to which costs are to be paid) the costs of and incidental to the proceedings which have been incurred by the party to whom costs have been awarded and which are reasonable in amount and reasonably incurred.

(2) The maximum Advocates' fees recoverable shall (unless the Court orders otherwise) be limited to £150 per hour.

(3) The hourly rate specified in paragraph (2) shall, on the 1st January 2001, and on the 1st January in each succeeding year, be subject to a percentage increase (rounded to the nearest pound) equivalent to the annual percentage increase, if any, in the Guernsey Index of Retail Prices most recently published in a Billet d'État immediately prior to that date.

(4) The provisions of this Rule are without prejudice to the powers of the Court under Rule 48(3) of the Royal Court Civil Rules, 1989^b (payment of costs or security therefor on a full or partial indemnity basis).

(5) Any doubts which a person appointed under Rule 6 to conduct a taxation may have as to whether costs are reasonable in amount or reasonably incurred shall, except in relation to costs awarded on a full or partial indemnity basis, be resolved in favour of the paying party.

^a Ordres en Conseil Vol. XXII, p. 102.

^b O.R.C. No. VII of 1989.

(6) In relation to costs awarded on a full or partial indemnity basis, all costs shall be allowed except insofar as they are unreasonable in amount or unreasonably incurred; and any doubts which a person appointed under Rule 6 to conduct a taxation may have as to whether such costs are reasonable in amount or reasonably incurred shall be resolved in favour of the receiving party.

Witnesses' allowances in respect of civil and criminal proceedings.

3. (1) The allowances recoverable on account of, and payable to -
- (a) a witness attending to give evidence in civil or criminal proceedings (whether or not he gives evidence); and
 - (b) a witness examined in proceedings preliminary to such proceedings;

shall be determined in accordance with this Rule.

(2) There may be allowed, in respect of a professional or expert witness, for attending to give professional or expert evidence and for work in connection with its preparation, an allowance of the amount considered reasonable having regard to the nature and difficulty of the case and the work necessarily involved.

(3) There may be allowed, in respect of a witness who attends to give evidence other than professional or expert evidence -

- (a) if he thereby loses remuneration or necessarily incurs additional expense (other than expense on account of travelling, lodging or subsistence), an allowance not

exceeding the amount of -

- (i) the remuneration actually and reasonably lost;
and
 - (ii) the expense actually and reasonably incurred;
and
- (b) if he is not resident in the Island of Guernsey, a subsistence allowance not exceeding the amount of the costs actually and reasonably incurred.

(4) There may be allowed, in respect of a witness who is necessarily absent from his place of residence overnight for the purpose of attending to give evidence, a night allowance not exceeding the amount actually and reasonably incurred for board and lodging for the night.

(5) There may be allowed, in respect of a seaman who is detained on shore for the purpose of attending to give evidence and who thereby misses his ship, for the time during which he is, and is likely to be, necessarily detained on shore -

- (a) an allowance not exceeding the amount of the wages actually and reasonably lost by him; and
- (b) a subsistence allowance and night allowance not exceeding the amounts referred to in paragraphs (3)(b) and (4);

and paragraphs (2) to (4) do not apply to a person in respect of whom an allowance

is made under this paragraph.

(6) There shall be allowed, in respect of a witness who necessarily incurs expense in travelling to and from the Court or any other place for the purpose of attending to give evidence, an allowance not exceeding the expense actually and reasonably incurred.

Items used for proceedings.

4. (1) Where the cost of any item is recoverable, the amount recoverable is the amount actually and reasonably paid for the item.

(2) The amount recoverable in respect of a fee payable upon the swearing of a declaration is the amount of the fee.

PART II
TAXATION OF COSTS

Request for taxation.

5. (1) Where in any proceedings the Court awards costs against any party, that party may, within a period of one month immediately following the date when he or his Advocate receives the opposing party's bill of costs, submit a written request -

(a) to the judge who presided over the proceedings ("**the presiding judge**"); or

(b) if the presiding judge is unavailable, to the Bailiff;

for the costs to be taxed.

(2) The presiding judge or, if he is unavailable, the Bailiff may allow further time for the submission of a request under paragraph (1) upon being satisfied that there are exceptional circumstances making it just to do so.

(3) Taxation under this Part of these Rules is inapplicable in respect of a party's own costs payable to his Advocate.

Appointment of person to conduct taxation.

6. (1) On receipt of a request under Rule 5(1), the presiding judge or, as the case may be, the Bailiff shall appoint -

- (a) himself;
- (b) any other person or persons whomsoever (hereinafter called "**Commissioners**"); or
- (c) both himself and one or more Commissioners;

to conduct either the entirety of the taxation or such part thereof as he may specify.

(2) An appointment under paragraph (1) -

- (a) shall, subject to paragraph (3), be final;
- (b) may be made for all purposes of the taxation or for such limited purposes thereof as may be specified by the presiding judge or, as the case may be, by the Bailiff; and
- (c) may be made subject to such terms and conditions as

may be so specified.

(3) The presiding judge or, if he is unavailable, the Bailiff may at any time, if satisfied that it is just to do so, rescind or amend an appointment under paragraph (1) or make a new such appointment.

Conduct of taxation.

7. (1) The person conducting the taxation shall make such decision in respect of the taxation as he thinks just; and, in making his decision, he may, without limitation, take into account the seniority and experience of the Advocate whose costs are to be taxed.

(2) The person conducting the taxation may, in his absolute discretion, accept oral or written representations from any of the parties to the proceedings or from any of their Advocates.

(3) The party whose costs are to be taxed shall submit his bill of costs and all necessary papers and vouchers to the person conducting the taxation.

Appeal against taxation decision.

8. (1) The decision of the person conducting the taxation, which may confirm, reduce or disallow any of the costs in question, shall be subject to appeal, by any party aggrieved by the decision, as follows -

(a) where the decision is that of the presiding judge himself, the decision shall be deemed to be part of the Court's award as to costs, and appealable as such;

(b) where the decision is not that of the presiding judge himself, the decision shall be subject to appeal to the

Ordinary Court constituted by the Bailiff sitting alone.

(2) An appeal under paragraph (1)(b) shall be instituted, within a period of one month immediately following the date of the decision, by way of summons served on the other party.

(3) The grounds of the appeal shall be that the decision was wrong in law.

(4) In all other respects the decision of the person conducting the taxation shall be final.

Amount recoverable.

9. The amount recoverable in respect of costs shall not exceed the amount stated in the decision of the person conducting the taxation (as varied, where applicable, on appeal).

Costs of person conducting taxation.

10. (1) The person conducting the taxation -

(a) may make an award as to his own costs, fees and expenses; and

(b) may order any party to give security for costs in such amount, on such terms and in such manner as he thinks just; and the provisions of rules 48(2) to 48(5) of the Royal Court Civil Rules, 1989 shall apply in relation to an order under this subparagraph.

(2) An award under paragraph (1)(a) -

- (a) shall be final;
- (b) shall be recoverable by the person conducting the taxation as a civil debt;
- (c) shall direct by which of the parties, or by which of the parties' Advocates, the award is to be borne; and
- (d) shall not exceed £150 per hour (subject to increase in the manner set out in Rule 2(3) above) unless the Ordinary Court, constituted by the Bailiff sitting alone, upon being satisfied that there are exceptional circumstances making it just to do so, orders otherwise.

(3) An application for an order under paragraph (2)(d) shall be made by the person conducting the taxation and shall be heard inter partes.

(4) An order under paragraph (2)(d) shall be final.

PART III GENERAL PROVISIONS

Interpretation.

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

"Advocate" includes Her Majesty's Procureur;

"Advocates' fees" means Advocates' fees and disbursements;

"**cause**" includes an application;

"**Commissioner**" means a person appointed by the presiding judge under Rule 6(1)(b) to conduct a taxation;

"**costs**", in Part II of these Rules, includes -

- (a) recoverable Advocates' fees and recoverable allowances;
- (b) costs on a full or partial indemnity basis under Rule 48 of the Royal Court Civil Rules, 1989;

"**Court**" means the Royal Court sitting as a Full Court or as an Ordinary Court, and whether exercising original or appellate jurisdiction;

"**Her Majesty's Procureur**" includes Her Majesty's Comptroller;

"**items**" means models, plans, photographs, transcripts, documents and other things, in each case used for the purposes of proceedings;

"**Ordinary Court**" means the Royal Court sitting as an Ordinary Court;

"**presiding judge**" has the meaning given by Rule 5(1);

"**proceedings**" means proceedings before the Court, whether in open court or in chambers, and includes ex parte proceedings and other matters;

"**recoverable**", in relation to Advocates' fees and in relation to allowances and other amounts, means recoverable by a party to whom costs are awarded by the Court from the party against whom costs are awarded;

"**Schedule**" means the Schedule to these Rules;

"**witness**" in relation to civil proceedings, includes a party to the proceedings.

(2) Any reference in these Rules to an enactment or rule is, unless the context otherwise requires, a reference thereto as from time to time amended, applied, repealed or re-enacted.

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

Repeal of Rules of 1990.

12. The Royal Court (Costs and Fees) Rules, 1990^d, the Royal Court (Costs and Fees) (Amendment) Rules, 1994^e and the Royal Court (Costs and Fees) (Taxation Amendments) Rules 1999^f are repealed.

Transitional provisions.

13. These Rules shall have effect in relation to costs incurred on or after the date of commencement specified in Rule 15, whether the proceeding or matter

^c Ordres en Conseil Vol. XIII, p. 355.

^d O.R.C. No. V of 1990.

^e O.R.C. No. II of 1994.

^f O.R.C. No. I of 1999.

in relation to which the costs were incurred began or occurred before, on or after that date.

Citation.

14. These Rules may be cited as the Royal Court (Costs and Fees) Rules, 2000.

Commencement.

15. These Rules shall come into force on the 18th day of April, 2000.

SCHEDULE

Court fees, etc. in respect of civil & criminal proceedings

1	2
Description of proceeding or matter	Fee
1.(a) Service of first summons in any proceedings.	Sergeant: £30 for expedited or special service at request of Advocate; £18 otherwise.
(b) Service of any document which must be served à personne.	Sergeant: £30 for expedited or special service at request of Advocate; £18 otherwise.
2.(a) The first cause to be tabled before the Court -	
(i) in proceedings for the recovery of a sum of money -	
(A) not exceeding £10,000;	Court: £50
(B) exceeding £10,000 but not exceeding £100,000;	Court: £60
(C) exceeding £100,000;	Court: £70
(ii) in eviction proceedings involving only domestic premises;	Court: £15
(iii) in any other proceedings.	Court: £50.
(b) Any subsequent cause to be so tabled.	Court: £30.

3. Service of a summons, notice or other document (except one mentioned in paragraph 1).	Sergeant: £30 for expedited or special service at request of Advocate; £10.50 otherwise.
4. Certificate of service by the Sergeant of a summons or notice.	Sergeant: £7.50
5. Appointment of, and every subsequent appearance in Court of, the Sergeant as Judicial Attorney	Sergeant: £15.
6. Inscription of a cause on the Pleading List or Witness List.	Greffier: £15.
7. Making an application to Greffier for the listing of a cause for hearing.	Greffier: The appropriate fee specified in column 2 of paragraph 2 (a) for the tabling of the first cause.
8. Appearance before the Court (not being a procedure or matter described elsewhere in this Schedule) -	
(a) on the hearing of a cause;	Court per hour or part thereof: double the appropriate fee specified in column 2 of paragraph 2 (a) for the tabling of the first cause.
(b) at any Vue de Justice;	
(c) on the examination of a witness whose depositions are to be taken in writing or recorded.	
(d) on the hearing of a civil appeal from the Magistrate's Court, the Court of Alderney or the Court of the Seneschal.	
9. Tabling a Scheduled Application within the meaning of the Royal Court (Non-contentious Applications) Rules, 1988.	Court: £22.50.

10. Collated copies of a deposition or transcript of evidence.	Greffier: £9 per A4 side or part thereof for the first copy and £1.50 per A4 side or part thereof for any additional copy.
11. Attendance before a Commissioner (including attendance on the execution of a request from a court of another jurisdiction for the taking of evidence on commission) whether at the Court or elsewhere.	Commissioner (other than an Advocate, whose fee is specified by the Bailiff): £20 per hour or part thereof plus the cost of travel where the attendance is not at the Court. Greffier: £45 per half day or part thereof.
12.(a) As respects Clameurs de Haro -	
(i) application for endorsement of a clameur by the Bailiff;	Court: £50.
(ii) registration of a clameur.	Greffier: £15.
(b) Application with or without affidavit for an order for the arrest of a person or personalty, or for an interim injunction.	Court: £100. Provided that where the hearing of an application described in subparagraph (a) (i) or (b) lasts for more than one hour there shall be payable the fee specified in column 2 of paragraph 8.
13. Receiving instructions for the execution of an order of the Court (other than an arrest of wages).	Sheriff: £22.50 plus the cost of making an inventory of any personalty arrested and of making any copies thereof plus £30 per ;hour or part thereof spent in the execution or attempted execution of the order and reporting thereon.
14. Execution or an arrest of wages of a judgment debtor.	Sheriff: £22.50 plus 5% of any amount recovered.
15. Attendance by the Sheriff to deliver goods.	Sheriff: £15.
16. Attendance by the Sheriff at the Court to declare what he has in hand.	Sheriff: £15.

17.	Attendance by the Sheriff at the Court (other than an attendance described in paragraph 15, 16 or 21) under direction of the Court.	Sheriff: £15.
18.	Opposition to the publication of a sale at the instance of the Sheriff.	Sheriff: £15 per publication opposed.
19.	Opposition to, or postponement of, such a sale.	Sheriff: £15 per sale opposed or postponed.
20.(a)	Sale by auction or tender before Sheriff or by private treaty by Sheriff.	Sheriff: 2½ % of the proceeds of sale plus the auctioneer's charges and expenses.
(b)	Sale by auction where auction is conducted by Sheriff.	Sheriff: 10% of the proceeds of sale.
21.	Attendance by the Sheriff at the Court upon being actioned to pay the proceeds of sale.	Sheriff: £15.
22.	As respects saisie proceedings -	
(a)	notifying the person against whom a Preliminary Vesting Order has been obtained of the making of the order and certifying that he has been notified;	Sheriff: £15.
(b)	opposition to, or postponement of a letting;	Sheriff: £7.50 per letting opposed or postponed. Sergeant: £7.50 per letting opposed or postponed.
(c)	a letting;	Sheriff: £15 per fonds let plus the auctioneer's charges and expenses. Sergeant: £7.50 per fonds let.
(d)	the hearing of proceedings against the debtor to see the creditor produce an account;	Commissioner: £30. Greffier: £15.

(e) notifying the debtor of the making of an Interim Vesting Order and certifying that he has been notified;	Sheriff: £15.
(f) opening the register of claims;	Greffier: £15.
(g) making an entry in the register of claims:	Greffier: £7.50.
(h) copies of the register of claims;	Greffier: £4.50 per A4 side or part thereof.
(i) the hearing of proceedings against claimants for the purpose of marshalling their claims;	Commissioner: £7.50 per claimant. Greffier: £15.
(j) the hearing of proceedings against claimants to declare whether or not they elect to have the real property of the debtor vested in them for an estate of inheritance;	Court: £50.
(k) registration of a Final Vesting Order.	Greffier: £15.
23. Appearance before the Court on the determination of a petition (not being a proceeding or matter described elsewhere in this Schedule) -	
(a) where the proceedings do not last for more than one hour;	Court: £50.
(b) where the proceedings last for more than one hour.	Court: the fee specified in column 2 of paragraph 8.
24. Registration of petition.	Greffier: £15.
25. A second or subsequent	Court: £30.

	successful application for an adjournment of a cause or petition.	
26.	Execution of a document relating to a transaction for value before the Court.	Jurats: £22.50.
27.	Execution of a document (including a Power of Attorney, a Will of Realty and a deed poll) where the value of the transaction to which the document relates is not an essential element of the transaction.	Jurats: £4.50.
28.	Making a declaration.	Court: £4.50.
29.	In désastre proceedings, attending a meeting of creditors for the proving of claims against a debtor whose affairs have been declared to be in a state of désastre.	Commissioner: £3 per creditor or £30 whichever is the greater. Greffier: £15.
30.	Attending at any place outside the Court for the purpose of signing a document.	Jurats: £22.50.
31.	Attending any sale or letting.	Jurats: £22.50 per fonds, subject to a maximum fee of £45.
32.	Execution of an eviction order.	Sheriff: £30; and in addition - (a) the cost of making an inventory of a personalty removed into storage under Rule 2 of the Eviction Procedures Rules, 1989 and the cost of printing copies thereof (if any); (b) the reasonable charges of any removal contractor employed to

<p>33. Preparation and filing of an affidavit.</p> <p>34. Payment into Court under Rule 45 of the Royal Court Civil Rules, 1989.</p> <p>35. Reserving or setting down a date for trial in any matter.</p>	<p>remove the personalty from the premises subject to the eviction order and to transport it into storage for safe keeping; and</p> <p>(c) the cost of publication of the notice under Rule 3 (1) of the said Rules</p> <p>Greffier: £15.</p> <p>Greffier: £45.</p> <p>Court: £50 per half day set down. Provided that -</p> <p>(a) if any only if the date is vacated on the 14th day before the appointed day (or earlier), the fee shall be refunded;</p> <p>(b) the fee shall be credited against any fees chargeable under paragraph 8.</p>
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