

Orders of the Royal Court

II

1987



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 3rd day of November, 1987, before Sir Charles Frossard, Kt., Bailiff; present:—Donald Pescott Plummer, Brian Ernest Herbert Joy, Esquires, Charles Henry Hodder, Esquire, O.B.E., Harry Wilson Bisson, James de Sausmarez Carey, John Christopher Bulstrode, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, and Leonard Arthur Moss, Esquire, Jurats.

No. 2 Order, 1987

ENTITLED

The Court of Appeal (Housing Appeals) Rules, 1987

THE ROYAL COURT, in exercise of the powers conferred upon it by sections 12(3) and 40(4) of the Housing (Control of Occupation) (Guernsey) Law, 1982(a) and in exercise of all other powers enabling it in that behalf, hereby orders:—

(a) Ordres en Conseil, Vol. XXVII, p. 448.

Application
of rules to
housing
appeals.

1. (1) The provisions of the Court of Appeal (Civil Division) (Guernsey) Rules, 1964^(b) apply in relation to appeals to the Court of Appeal under the Housing (Control of Occupation) (Guernsey) Law, 1982 as they apply in relation to appeals under Part II of the Court of Appeal (Guernsey) Law, 1961, subject to the modifications specified in Schedule 1 to these Rules.

(2) The provisions of the Court of Appeal (Civil Division) (Costs and Fees) (Guernsey) Rules, 1964^(c) as amended^(d) apply in respect of any proceeding or matter relating to any appeal to the Court of Appeal under the Housing (Control of Occupation) (Guernsey) Law, 1982 as they apply in respect of any proceeding or matter relating to any appeal under Part II of the Court of Appeal (Guernsey) Law, 1961, subject to the modifications specified in Schedule 2 to these Rules.

Interpreta-
tion.

2. A reference in these Rules to any enactment, or to any other Rules, includes a reference to that enactment, or to those other Rules, as it or they may from time to time be amended, repealed and replaced, extended or applied.

Citation.

3. These Rules may be cited as the Court of Appeal (Housing Appeals) Rules, 1987.

Commence-
ment.

4. These Rules come into force on the 3rd day of November, 1987.

^(b) Orders of the Royal Court, etc. Vol. I, p. 234.

^(c) Orders of the Royal Court, etc. Vol. I, p. 228.

^(d) Guernsey Statutory Instrument No. I of 1985.

SCHEDULE 1

Rule 1(1)

*Modifications to the Court of Appeal (Civil Division)
(Guernsey) Rules, 1964 in their application to
housing appeals*

1. In Rule 1 (Interpretation)—
 - (a) in the definition of “ appeal ”, for “ the provisions of Part II of the Law ” substitute “ section 12(3) or section 40(4) of the Housing (Control of Occupation) (Guernsey) Law, 1982; ”;
 - (b) in the definition of “ the Court ”, for “ the Law ” substitute “ the Court of Appeal (Guernsey) Law, 1961 ”;
 - (c) the definition of “ the Law ” is omitted.
2. In Rule 2 (notice of appeal)—
 - (a) the words “ shall be by way of rehearing, except in the case where the appellant is seeking an order for a new trial or to set aside a verdict, finding or judgment, and ” are omitted from paragraph (1);
 - (b) in paragraph (2), for “ judgment or order ” substitute “ decision ”;
 - (c) for paragraph (4) substitute:

“(4) A notice of appeal shall be served upon the respondent.”.
3. In Rule 3 (time for appealing) for “ judgment or order ” substitute “ decision ”.
4. In Rule 4 (setting down), for the words “ every party on whom the notice of appeal was served ”, in paragraph (5), substitute “ the respondent ”.

5. In Rule 5 (respondent's notice) the words and commas “, and upon all parties to the proceedings in the court below who are directly affected by the contentions of the respondent,” are omitted from paragraph (4).

6. In Rule 6 (amendment of notice of appeal and respondent's notice), in paragraph (1)(b) for “each of the parties” substitute “the party”.

7. For Rule 7 (shorthand note and transcript of proceedings in court below) substitute:—

“Transcript
of proceed-
ings in
court
below.

7. The person responsible for transcribing the record of the proceedings to which the appeal relates shall certify the transcript to be a complete and correct transcript of that record.”.

8. In Rule 8 (documents for use of the Court and exchange of cases)—

(a) in paragraph (1)(b) for “judgment, order, decree or award” substitute “decision”;

(b) in paragraph (1)(d) the word “official” is omitted;

(c) paragraphs (1)(e) and (1)(f) are omitted;

(d) for paragraph (1)(g) substitute:

“(g) in cases where a record of the proceedings to which the appeal relates has not been made, the note, if any, of the presiding judge of the court below;”

(e) in paragraph (2), for “every party on whom the notice of appeal was served” substitute “the respondent”.

9. In Rule 9 (abandonment of appeal by non-prosecution) the words "and exhibits" are omitted.
10. In Rule 10 (fixing of date of hearing) for the words "every party on whom the notice of appeal was served", in paragraph (4), substitute "the respondent".
11. In Rule 12 (general powers of the Court)—
 - (a) paragraph (2) is omitted;
 - (b) in paragraph (3), the words "to draw inferences of fact and" are omitted.
12. Rule 13 (powers of the Court as to new trials) and Rule 14 (evidence on appeal) are omitted.
13. In Rule 16 (applications to the Court, to a single judge of the Court and to the presiding judge of any court below) paragraphs (5) and (7), and the reference to paragraph (5) in paragraph (2), are omitted.
14. Rule 18 (addresses for service) is omitted.
15. For Rule 19 (service of notices, etc.) there is substituted:

"19. Every notice or other document which is required by these Rules to be served on any person may be served by delivering it to him, or by sending it by registered post or by recorded delivery service addressed to him at his usual or last known place of abode."
16. Rule 20 (substituted service) is omitted.

AND FURTHER TAKE NOTICE that the grounds of this appeal are as follows:—

.....
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.....
.....
..... (4)

Dated the day of, 19

(Signed) A B or C D (5)

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- (4) Specify the grounds of the appeal shortly and simply and without detailed reasons.
 - (5) The notice of appeal may be signed by the Advocate acting for the appellant on behalf of his client. „

19. Part II of the Schedule is omitted.

*Modifications to the Court of Appeal (Civil Division)
(Costs and Fees) (Guernsey) Rules, 1964 as amended,
in their application to housing appeals*

1. In Rule 1 (interpretation)—

- (a) in the definition of “ appeal ”, for “ the provisions of Part II of the Law ” substitute “ section 12(3) or section 40(4) of the Housing (Control of Occupation) (Guernsey) Law, 1982; ”;
- (b) in the definition of “ the Court ”, for “ the Law ” substitute “ the Court of Appeal (Guernsey) Law, 1961 ”;
- (c) the definitions of “ the Law ” and “ official transcript ” are omitted;
- (d) immediately after the words in the definition of “ Record ” there is inserted “ as applied in relation to housing appeals by the Court of Appeal (Housing Appeals) Rules, 1987 ”.

2. In Rule 4 (other fees and expenses) and in Rule 5 (fee in respect of transcript for “ an official transcript ”, wherever appearing, and for “ the official transcript, if any, ” in each case substitute “ any transcript ”.

K. H. TOUGH,

Her Majesty’s Greffier.

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Her Majesty’s Greffier, Royal Court House, Guernsey.**

PRICE 30p