

Orders of the Royal Court.



IV
1955

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 7th day of May, 1955, before Henry James Casey, Esquire, M.B.E., M.C., Lieutenant Bailiff; present:—Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freaque Clark, Ernest Francis Lainé, Bertram Bartlett, Esquires, Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Stephen James Falla, Esquires, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

No. 4 Order, 1955.

ENTITLED

The Magistrate's Court (Civil Appeals) Rules, 1955

THE ROYAL COURT, in pursuance of section fourteen of the Magistrate's Court (Guernsey) Law, 1954, and of all other powers thereunto enabling it, hereby makes the following Rules:—

1. (1) An appeal under the provisions of section **Notice of appeal.**

Greffe within the seven days next following the determination by the Court of the civil action to which the appeal relates a notice of appeal, which shall state the grounds of appeal and whether the whole or part only of the determination is complained of, in the form set out in the Schedule to these Rules.

(2) A copy of the notice of appeal shall within forty-eight hours of the filing thereof be served on every party affected by the appeal.

Transcripts. 2. (1) The appellant shall, on making application in that behalf and on payment of the cost thereof, be furnished by Her Majesty's Greffier with one or more copies certified as correct by the Court Shorthand Reporter of the transcript of the shorthand report to the proceedings in the Court to which the appeal relates (hereinafter referred to as "the transcript").

(2) The appellant shall, at his own expense, within the seven days next following the filing of notice of appeal, deliver to the respondent one copy of the transcript.

Documents for the Royal Court. 3. Her Majesty's Greffier shall, within the seven days next following the filing of notice of appeal, furnish to the Bailiff's Secretary, for the use of the Royal Court, a certified copy of the Act of Court appealed from and three copies of the transcript.

Security for costs. 4. (1) The respondent to an appeal may, within seven days after receiving notice of appeal, apply to the Court for security for his costs of and incidental to the appeal.

(2) If, after taking into account all the circumstances, including the means of the appellant and

the respondent, the Court considers that the appellant should provide security for all or some of the respondent's costs of and incidental to the appeal, it may order the appellant to pay into Court or to give security for such sums as the Court deems just and reasonable, and the Court may direct a stay of the appeal until such order is complied with.

(3) Notice of any such application as aforesaid shall be served by the respondent on the appellant and no such order as aforesaid shall be made by the Court unless the appellant has had an opportunity of being heard thereon.

5. When a date has been fixed for the hearing of an appeal Her Majesty's Greffier shall inform the appellant of the date so fixed and notice shall, as soon as may be, be served by the appellant on every other party affected by the appeal and shall in any case be so served not less than four clear days before the date so fixed. Date of hearing.

6. (1) The Royal Court may by order confirm, reverse or vary the determination of the Court or make such other order in the matter as it thinks fit. Powers of the Royal Court.

(2) Upon the determination of an appeal the costs of and incidental to the proceedings, both on appeal and in first instance, shall, within the scale for the time being laid down according to law, be in the discretion of the Royal Court.

7. (1) The appellant may at any time, not less than two clear days before the date fixed for the hearing, abandon the appeal by giving notice in writing to Her Majesty's Greffier who shall thereupon give notice of such abandonment to the other party to the appeal and to the Bailiff. Abandonment of appeal.

(2) Where an appeal has been so abandoned, the judgment of the Court shall be enforced subject to anything already suffered or done thereunder by the appellant.

(3) The Royal Court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs, within the scale for the time being laid down according to law, as appear to the Royal Court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to him.

(4) The Royal Court may order the forfeiture in whole or in part of the security given or found in connection with the appeal or the restoration to the appellant or other person concerned of the security or any part thereof not declared forfeited.

Service of
transcripts.

8. A copy of a transcript required to be delivered under the provisions of paragraph (2) of Rule two of these Rules may be served—

- (a) on any person by delivering it to him, or by sending it by registered post addressed to him at his usual or last known place of abode;
- (b) on any firm by delivering it to any partner of the firm, or by sending it by registered post to the principal or last known principal place of business of the firm;
- (c) on any body corporate by leaving it at, or by sending it by registered post to, its registered office if situated in the Islands of Guernsey, Herm and Jethou or, if its registered office is not so situated, its principal or last known principal place of business in the said Islands.

9. These Rules in their application to any appeal pending on the date of their coming into operation shall have effect subject to such directions as the Royal Court may in any particular case think fit to give. Transitional provisions. •

10. (1) In these Rules unless the context otherwise requires— Interpretation.

“the Court” means the Magistrate’s Court;

“The Law” means the Magistrate’s Court (Guernsey) Law, 1954;

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

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

(3) Any reference in these Rules to any enactment shall be construed as including a reference to that enactment as amended by any other enactment.

11. These Rules may be cited as the Magistrate’s Court (Civil Appeals) Rules, 1955, and shall come into force on the 7th day of May, 1955. Citation and commencement.

SCHEDULE

Rule one

**The Magistrate's Court (Guernsey) Law,
1954**

*Notice of Appeal in Civil Action to the Royal Court
sitting as an Ordinary Court.*

To H.M. Greffier,
Royal Court House,
St. Peter Port.
Guernsey.

I,
of
hereby give notice of appeal against the determina-
tion of the Magistrate's Court made on
..... the day of
....., 19....., in the
case of

* In the said appeal I complain of and appeal against
the whole of the said determination.

* In the said appeal I complain of and appeal against
that part of the said determination which
.....

The grounds on which I rely in support of my
appeal are set forth in the particulars hereto attached.

Dated this day of
....., 19.....

Signature

* Strike out whichever is not applicable.

JAMES E. LE PAGE,
Her Majesty's Greffier.