

Orders of the Royal Court

V
1990



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11th day of December, 1990 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present:—Harry Wilson Bisson, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe and Lawrence Oscar Ozanne, Esquires, Jurats.

No. 5 Order, 1990

ENTITLED

The Royal Court (Costs and Fees) Rules, 1990

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:—

Interpretation

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

“Advocate” includes Her Majesty’s Procureur;

(a) Ordres en Conseil Vol. XXII, p. 102.

“Advocates’ fees” means Advocates fees and disbursements;

“cause” includes an application;

“Commissioner” means a Commissioner of the Court;

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

“hearing” means a hearing by the Court of a cause at a time set aside for the purpose, and does not include a hearing in the ordinary course of the business of the Thursday sitting of the Ordinary Court;

“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;

“Pleading List” means the Rôle des Causes à Plaider;

“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;

“the Schedule” means the Schedule to these Rules;

“witness” in relation to civil proceedings, includes a party to the proceedings;

“Witness List” means the Rôle des Causes en Preuve.

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these Rules to an enactment or rule is, unless the context otherwise requires, a reference thereto as amended, applied, repealed or re-enacted from time to time.

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

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

2. (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 an incidental to the proceedings.

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

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

Advocates' fees in respect of civil proceedings

3. (1) In civil proceedings, the maximum Advocate's fee recoverable in respect of a proceeding or matter described in column 1 of the Schedule is (subject to paragraphs (2), (3) and (4) and to any direction of the Court as to the extent to which costs are to be paid) the fee specified in column 3 in relation to the proceeding or matter.

(2) Where in civil proceedings more than one Advocate is engaged by a party, Advocates' fees are recoverable by that party only in respect of the services of the leading Advocate: provided that the Court may direct that an amount not exceeding two-thirds of the amount recoverable in respect of the services of the leading Advocate shall be recoverable in respect of the services of any other Advocate so engaged.

(3) In civil proceedings the Court may, if it considers that the proceedings have been of exceptional complexity, certify that the maximum Advocate's fee recoverable in respect of a proceeding or matter described in column 1 of paragraph 1, 10, 12, 13, 15, 25 or 38 of the Schedule shall be multiple (not exceeding four) of the fee specified in column 3 in relation to the proceeding or matter as the Court may direct.

(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(c) (payment of costs or security therefor on a full or partial indemnity basis).

Witnesses' allowances

4. (1) The allowances recoverable on account of the expenses of—

- (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 shall be paid to—

- (a) a witness attending to give evidence for the prosecution in criminal proceedings (whether or not he gives evidence); and
- (b) any such witness examined in proceedings preliminary to such proceedings,

allowances on account of his expenses determined in accordance with this Rule.

(3) 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.

(4) 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 £75 per day; and

- (b) if he is not resident in the Island of Guernsey, a subsistence allowance not exceeding £12 per day.

(5) 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.

(6) 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 £75 per day for loss of wages; and
- (b) a subsistence allowance and night allowance not exceeding the amounts referred to in paragraphs (4)(b) and (5);

and paragraphs (3) to (5) do not apply to a person in respect of whom an allowance is made under this paragraph.

(7) 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

5. (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.

The Taxation Panel

6. (1) There shall be established and maintained a panel of 7 members to be called the Taxation Panel.

(2) Her Majesty's Procureur and Comptroller shall be ex officio members of the Taxation Panel.

(3) The other members of the Taxation Panel (the "ordinary members") shall be appointed by the Ordinary Court.

(4) Each ordinary member shall be an Advocate of not less than 10 years' standing.

(5) A person shall cease to be an ordinary member if—

(a) he tenders his written resignation to Her Majesty's Procureur;

(b) he ceases to be an Advocate; or

(c) the Ordinary Court, upon the application of Her Majesty's Procureur, revokes his appointment.

(6) When, by virtue of paragraph (5), a person ceases to be an ordinary member, the Ordinary Court may appoint a replacement.

Taxation of costs

7. (1) Where in any proceedings the Court awards costs against a party, that party may, within 6 months of the award, submit a written request to the Bailiff for the costs to be taxed.

(2) Taxation under this Rule is inapplicable in respect of a party's own costs payable to his Advocate.

(3) On receipt of a request under paragraph (1) the Bailiff shall nominate one member of the Taxation Panel to conduct the taxation.

(4) The Bailiff's nomination is final.

(5) The member nominated (the "adjudicator") shall make such decision in respect of the taxation as he thinks just.

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

(7) The party whose costs are to be taxed shall submit his bill of costs and all necessary papers and vouchers to the adjudicator.

(8) The adjudicator's decision, which may confirm, reduce or disallow any of the costs in question, is final.

(9) The amount recoverable in respect of costs shall not exceed the amount stated in the adjudicator's decision.

(10) The adjudicator may also make an award as to his own fees and expenses.

(11) An award under paragraph (10)—

(a) is recoverable by the adjudicator as a civil debt;

(b) shall direct by which of the parties, or by which of the parties' Advocates, the award is to be borne; and

(c) shall not exceed £100 unless the Ordinary Court, upon being satisfied that there are exceptional circumstances making it just to do so, orders otherwise.

(12) An application for an order under paragraph (11)(c) shall be made by the adjudicator and shall be heard inter partes.

(13) An award under paragraph (10) and order under paragraph (11)(c) is final.

(14) The expression “costs” in this Rule 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.

Repeal and savings

8. The Royal Court (Costs and Fees) Rules, 1981(d), are repealed; provided that those Rules shall, notwithstanding any provision of these Rules, continue to have effect in relation to a proceeding or matter which began or occurred before the commencement of these Rules.

Citation

9. These Rules may be cited as the Royal Court (Costs and Fees) Rules, 1990.

Commencement

10. These Rules shall come into force on the 1st January, 1991.

(d) O.R.C. No. I of 1981.

SCHEDULE

Rule 2 and Rule 3

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
1. (a) Drafting and service of first summons in any proceedings (b) Service of any document which must be served à personne	Sergeant £20 for expedited or special service at request of Advocate £12 otherwise Sergeant £20 for expedited or special service at request of Advocate £12 otherwise	£100
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 £5,000 (B) exceeding £5,000 but not exceeding £50,000 (C) exceeding £50,000 (ii) in eviction proceedings (iii) in any other proceedings (b) Any subsequent cause to be so tabled	Court £30 Court £40 Court £50 Court £10 Court £30 Court £20	£25 £25 £25 £25 £25 £25
3. Service of a summons, notice or other document (except one mentioned in paragraph 1)	Sergeant £20 for expedited or special service at request of Advocate £7 otherwise	
4. Certificate of service by the Sergeant of a summons or notice	Sergeant £5	£5

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
5. Settling a second or subsequent summons in the same proceedings		£15
6. Where more than one summons or notice is issued simultaneously in the same proceedings, settling each additional summons or notice		£10
7. Appointment of, and every subsequent appearance in Court of, the Sergeant as Judicial Attorney	Sergeant £10	
8. Inscription of a cause on the Pleading List or Witness List	Greffier £10	
9. Appearance in Court on behalf of a respondent upon the tabling of a cause		£20
10. Attending Client, taking instructions and writing and perusing correspondence and other documents— (a) in proceedings for the recovery of a sum of money not exceeding £5,000 (b) in any other proceedings		£100 £200
11. Attending, and taking proof of, witness		£50 per hour
12. Consultation with a client prior to the hearing of a cause— (a) in proceedings for the recovery of a sum of money not exceeding £5,000 (b) in any other proceedings		£100 £200
13. Preparing a written defence— (a) in proceedings for the recovery of a sum of money not exceeding £5,000 (b) in any other proceedings		£100 £200

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
14. Searching any public records of the Bailiwick of Guernsey in connection with proceedings		£50 per hour plus any search fee payable
15. Preparing notes of facts and arguments and preparing generally for the hearing of a cause, including conferring with other Advocates engaged by the same party or by different parties in the same interest— (a) in proceedings for the recovery of a sum of money not exceeding £5,000 (b) in any other proceedings		£200 £600
16. Making an application to the 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	£20
17. Appearance before the Court (not being a proceeding or matter described elsewhere in this Schedule)— (a) on the hearing of a 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 Senschal	Court per (Double the half day (appropriate fee or part (specified in thereof (column 2 of paragraph 2(a) (for the tabling (of the first cause	£60 per hour plus the cost of transport for the Court, Greffier and Advocate to the place at which a Vue de Justice is held
18. Copy of a document supplied to the Court	Provided that no Court fee or Advocate's fee shall be allowed under sub-paragraph (a) in respect of eviction proceedings	25p per page or part thereof

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
19. Tabling a Scheduled Application within the meaning of the Royal Court (Non-contentious Applications) Rules, 1988(e)	Court £15	£20
20. Settling— (a) a summons or notice to a party to attend the taking of a deposition in writing or to examine a witness (b) a summons to a witness		£10 £10
21. Collated copies of a deposition or transcript of evidence	Greffier £6 per A4 side or part thereof of the first copy and £1.00 per A4 side or part thereof for any additional copy	
22. 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 £10 per hour or part thereof plus the cost of travel where the attendance is not at the Court Greffier £30 per half day or part thereof	£50 per hour
23. Settling the report of a Commissioner		£7.50 per 200 words or part thereof
24. (a) As respects clameurs de Haro— (i) application for endorsement of a clameur by the Bailiff	Court £40	£25

(e) O.R.C. No. II of 1988 and No. V of 1989.

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
(ii) copy of a clameur delivered to a defendant (iii) registration of a clameur (b) Application with or without affidavit for an order for the arrest of a person or personalty, or for an interim injunction	Greffier £10 Court £40	£5 £25 Provided that where the hearing of an application described in sub-paragraph (a)(i) or (b) lasts for more than one hour there shall be payable the fees specified in columns 2 and 3 respectively of paragraph 17
25. Taking instructions from the client and settling any document in connection with an application described in paragraph 24(a)(i) or (b)		£100
26. Receiving instructions for the execution of an order of the Court (other than an arrest of wages)	Sheriff £15 plus the cost of making an inventory of any personalty arrested and of making any copies thereof plus £20 per hour or part thereof spent in the execution or attempted execution of the order and reporting thereon	
27. Execution of an arrest of wages of a judgment debtor	Sheriff £15 plus 5% of any amount recovered	
28. Attendance by the Sheriff to deliver goods	Sheriff £10	

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
29. Attendance by the Sheriff at the Court to declare what he has in hand	Sheriff £10	
30. Attendance by the Sheriff at the Court (other than attendance described in paragraph 28, 29 or 36) under direction of the Court	Sheriff £10	
31. Settling and publishing a notice of sale at the instance of the Sheriff		£10 plus cost of publication
32. Settling a summons to attend such sale		£10
33. Opposition to the publication of such a sale	Sheriff £10 per publication opposed	
34. Opposition to, or postponement of, such a sale	Sheriff £10 per sale opposed or postponed Sergeant £5 per sale opposed or postponed	
35. (a) Sale by auction or tender before Sheriff or by private treaty by Sheriff (b) Sale by auction where auction is conducted by Sheriff	Sheriff 2½% of the proceeds of sale plus the auctioneer's charges and expenses Sheriff 10% of the proceeds of sale	
36. Attendance by the Sheriff at the Court upon being actioned to pay the proceeds of sale	Sheriff £10	

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
37. 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 so notified (b) settling and publishing a notice to let (c) opposition to, or postponement of, a letting (d) a letting (e) in proceedings against the debtor to see the creditor produce an account— (i) settling the summons to the debtor to appear before a Commissioner	Sheriff £10 Sheriff £5 per letting opposed or postponed Sergeant £5 per letting opposed or postponed Sheriff £10 per fonds let plus the auctioneer's charges and expenses Sergeant £5 per fonds let	£10 plus cost of publication £10
(ii) the hearing of the proceedings (iii) preparing the Commissioners report (f) notifying the debtor of the making an Interim Vesting Order and certifying that he has been so notified (g) settling and publishing a notice of the opening of the register of claims (h) opening the register of claims (i) making an entry in the register of claims (j) copies of the register of claims	Commissioner £10 Greffier £10 Sheriff £10 Greffier £10 Greffier £5 Greffier £3 per A4 side or part thereof	£25 £20 £10 plus cost of publication

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
(k) in proceedings against claimants for the purpose of marshalling their claims— (i) settling a summons to a claimant (ii) the hearing of the proceedings (iii) settling the Commissioner's report (l) in 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— (i) settling the cause against any claimant (ii) the hearing of the proceedings (m) registration of a Final Vesting Order	Commissioner £5 per claimant Greffier £10 Court £30 Greffier £10	£10 £25 £10 £10 £30
38. Settling a petition		£60
39. Copies of a petition delivered to a respondent		£2 per copy
40. Any matter relating to the preparation for hearing of a petition, being a matter corresponding to one described in column 1 of any of paragraphs 10 to 15		The fee specified in column 3 in relation to the corresponding matter
41. 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 (b) where the proceedings last for more than one hour	Court £30 Court The fee specified in column 2 of paragraph 17	£30 The fee specified in column 3 of paragraph 17

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
42. Registration of petition	Greffier £10	
43. A second or subsequent successful application for an adjournment of a cause or petition	Court £20	£10
44. Execution of a document relating to a transaction of value before the Court	Jurats £15	
45. 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 £3	
46. Making of a declaration	Court £3	
47. As respects désastre proceedings— (a) 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 (b) settling and publishing a notice convening meeting of creditors (c) attending before the Commissioner, preparation of his report and distribution of the proceeds to creditors by the Advocate acting for the arresting creditor who has conduct of the proceedings	Commissioner £2 per creditor or £20, whichever is greater Greffier £10	£10 plus cost of publication £70 per hour plus £3 per dividend paid by or on behalf of arresting creditor (such sum to be deducted from dividend payable)

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
48. Attending at any place outside the Court for the purpose of signing a document	Jurat £15	
49. Attending any sale or letting	Jurat £15 per fonds, subject to a maximum fee of £30	
50. Execution of an eviction order	Sheriff £20; and in addition— (a) the cost of making an inventory of personalty removed into storage under Rule 2 of the Eviction Procedures Rules, 1989(<i>f</i>), and the cost of printing copies thereof (if any); (b) the reasonable charges of any removal contractor employed to remove the personalty from the premises subject to the eviction order and to transport it into storage for safe keeping; and (c) the cost of publication of the notice under Rule 3(1) of the said Rules	

(*f*) O.R.C. No. XIII, 1989.

1. Description of proceeding or matter	2. Fee	3. Advocate's Fee
51. Preparation and filing of an affidavit	Greffier £10	£50
52. Attendance for the taking of evidence on commission in a foreign jurisdiction		£60 per hour attending before Commissioner plus a reasonable allowance for travel and subsistence
53. Payment into Court under Rule 45 of the Royal Court Civil Rules, 1989	Greffier £30.	

K. H. TOUGH,
Her Majesty's Greffier.