

Orders of the Royal Court

VII

1989



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 18th day of July, 1989 before Sir Charles Frossard, Kt., Bailiff; present:— Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, 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 and Kenneth John Rowe, Esquires, Jurats.

No. 7 Order, 1989

ENTITLED

The Royal Court Civil Rules, 1989

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The Royal Court Civil Rules, 1989

THE ROYAL COURT, in exercise of the powers conferred upon it by Article 64 of the Reform (Guernsey) Law, 1948(a) and section 12 of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950(b), and of all other powers enabling it in that behalf, hereby orders:—

PART I

Service of Documents

1. Service within the jurisdiction of a document on an individual shall be effected by the Sergeant—

Service within the jurisdiction on an individual.

- (a) à personne;
- (b) à domicile;
- (c) where, in the action to which the document relates, the individual has made an *élection de domicile* in accordance with Rule 11 or 14, by leaving the document there; or
- (d) where an *élection de domicile* has been made in any document—
 - (i) upon which the action is founded; or
 - (ii) which relates to the action or to the subject-matter thereof,
 being a document to which the individual was a party, by leaving the document there.

2. Service within the jurisdiction of a document on a body corporate shall be effected by the Sergeant—

Service within the jurisdiction on a body corporate.

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

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

- (a) by leaving the document at the registered office in the Island of the body corporate;
- (b) where the body corporate has no such registered office but carries on business in the Island, by leaving the document at any place of business in the Island of the body corporate; or
- (c) in accordance with Rule 1(c) or (d), as if the references therein to the individual were references to the body corporate.

Service on
the States.

3. Service of a document on the States of Guernsey or any Committee thereof shall be effected by the Sergeant by leaving the document at the Chambers of the Law Officers of the Crown.

Sergeant to
make relation
of mode
of service.

4. The Sergeant, having effected service of a document in accordance with Rule 1, 2 or 3, or having attempted so to effect service, shall make his relation as follows—

- (a) in the case of service in accordance with Rule 1(a) or (c), 2(a) or (b) or 3, with the letter "A";
- (b) in the case of service in accordance with Rule 1(b) or (d), where the Sergeant left the summons à domicile with a person who appeared to him to be a reliable adult and who undertook to bring the document to the attention of the person to be served, with the letter "B";
- (c) otherwise, with the letter "C".

Effect of
Sergeant's
relation.

5. A relation under Rule 4—

- (a) with the letter "A" or "B", shall enable the matter to proceed in all respects;

- (b) with the letter "C", shall enable the matter to be tabled, but nothing more, unless, when the matter is tabled—
- (i) the party who was to be served appears (in person or by his advocate); or
 - (ii) the Court is satisfied that that party has notice of the document or that service of the document was good,
- in either of which cases the matter may proceed in all respects.

6. (1) Where service within the jurisdiction of a document in the manner required by these rules would, but for the provisions of this Rule, be impracticable or would entail undue expense, the Court may make such order for substituted or other service, or for the substitution for service of notice, by advertisement or otherwise, as it thinks just.

Substituted
service
within the
jurisdiction.

(2) A party applying for an order under paragraph (1) shall file an affidavit in support of his application.

7. (1) The Court may give leave to effect service of a document out of the jurisdiction.

Service out
of the
jurisdiction.

(2) The Court shall not make an order under paragraph (1) unless satisfied (by affidavit or otherwise) that the matter to which the document relates—

- (a) is properly justiciable before the Court; and
- (b) is a proper one for service out of the jurisdiction.

(3) An order of the Court under paragraph (1) shall state—

- (a) the form, manner and time in which and conditions subject to which service is to be effected; and
- (b) the minimum period which must elapse between the date of service and the date upon which the matter may be pursued.

(4) Where the Court makes an order under paragraph (1), proof of service in accordance with the order shall be by affidavit or, where service was effected by the Sergeant, by the relation of the Sergeant.

Service in other manner permitted by law.

8. The provisions of Rules 1 to 7—

- (a) are in addition to, and not in derogation from, the provisions of any enactment or rule of Court relating to the service of documents;
- (b) do not apply where the Court orders service in some other manner.

PART II

Commencement of Proceedings

Cause to be tabled.

9. (1) In every action a cause shall be tabled before the Court.

(2) The cause shall contain a statement of the material facts on which the plaintiff relies for his claim, but not the evidence by which those facts are to be proved.

(3) At each successive stage in the action, the plaintiff shall add to the cause a sufficient reference to the last appointment made by the Court in the action, including the date and short particulars of the tenor thereof.

10. (1) A plaintiff intending to table a cause shall give notice of the fact to the defendant by serving a summons upon him. Summons
to be served
on
defendant.

(2) The summons—

- (a) shall be served not less than 2 days before the day of the tabling of the cause;
- (b) shall state the date and time appointed for the tabling of the cause;
- (c) shall contain or have annexed to it a copy of the cause; and
- (d) shall be signed by an Advocate.

11. (1) The cause shall state the plaintiff's *élection de domicile*. Plaintiff's
élection de
domicile.

(2) If at any time the Court is satisfied that service cannot be effected at the domicile elected by the plaintiff it may, on the application supported by affidavit of any defendant to the action, order that the action be dismissed.

(3) The Court may at any time order the plaintiff to make an *élection de domicile* or to amend the *élection de domicile* made by him.

(4) The plaintiff may at any time change the *élection de domicile* made by him; but the change is not effective until written notice thereof is given to the Greffier and to all other parties to the action.

(5) The plaintiff's *élection de domicile*, and any amendment or change validly made thereto under paragraph (3) or (4), shall remain valid until the action is terminated (whether by final execution of the judgment or otherwise).

Failure to appear.

12. (1) If the plaintiff does not appear at the time appointed for the tabling of the cause, the Court may dismiss the action.

(2) If the defendant does not appear when the cause is tabled, the Court may give judgment against him.

Defended actions to be inscrite.

13. Where the cause is tabled and the defendant intimates his intention to defend the action, the Court shall, if it is appropriate to do so, order that the cause be inscrite on le Rôle des Causes à Plaider.

Defendant's élection de domicile.

14. (1) The defendant shall, on the first tabling of the cause, make an élection de domicile.

(2) If the defendant does not comply with paragraph (1), the Court may give judgment against him.

(3) If at any time the Court is satisfied that service cannot be effected at the domicile elected by the defendant it may, on the application supported by affidavit of the plaintiff, give judgment against the defendant.

(4) The Court may at any time order the defendant to make an élection de domicile or to amend the élection de domicile made by him.

(5) The defendant may at any time change the élection de domicile made by him; but the change is not effective until written notice thereof is given to the Greffier and to all other parties to the action.

(6) The defendant's élection de domicile, and any amendment or change validly made thereto under paragraph (4) or (5), shall remain valid until the action is terminated (whether by final execution of the judgment or otherwise).

15. (1) The defendant shall, unless the Court orders otherwise, table his defences to the action upon being required to do so by a summons served on him in that behalf by the plaintiff. Defences.

(2) The summons for defences—

(a) shall be served on the defendant not less than 4 days before the day upon which the defences are to be tabled;

(b) shall state the date and time appointed for the tabling of the defences; and

(c) shall be signed by an Advocate.

(3) Defences to a cause or counterclaim shall, as before, be divided into exceptions, niances and prétentions.

(4) Pleadings subsequent to such defences shall be successively styled répliques and dupliques.

(5) The Court may allow a party acting in person to table defences or subsequent pleadings styled otherwise than as hereinbefore provided.

16. Where the defendant does not table his defences in accordance with Rule 15(1), the Court may give judgment against him. Judgment in default of defences.

PART III

Summary Judgment

17. (1) The plaintiff may, at any time after inscription of the action on le Rôle des Causes à Plaider, apply to the Court for summary judgment against the defendant. Applications and grounds for summary judgment.

(2) The grounds of the application shall be that the defendant has no defence—

- (a) to the plaintiff's claim, or to any particular part thereof; or
- (b) to the claim or part thereof except as to the amount of damages claimed.

Notice of application for summary judgment.

18. (1) A plaintiff intending to apply for summary judgment under Rule 17 shall give notice of the fact to the defendant by serving a signification upon him.

- (2) The signification—
 - (a) shall be served not less than 4 days before the day of the application;
 - (b) shall state the date and time appointed for the hearing of the application;
 - (c) shall be signed by an Advocate;
 - (d) shall contain or have annexed to it a copy of the application and of the affidavit under Rule 19; and
 - (e) shall contain a statement of the effect of the application, if successful.

Application to be supported by affidavit.

19. An application under Rule 17 shall be supported by an affidavit—

- (a) verifying the facts on which the claim or part thereof is based; and
- (b) stating that, in the deponent's belief, there is no defence to the claim or part thereof, or no defence except as to the amount of damages claimed, and the reasons for such belief.

Court may give judgment for plaintiff.

20. Unless on the hearing of the application under Rule 17 the Court dismisses the application, or the defendant satisfies the Court that there is an issue

or question in dispute which ought to be tried or that there ought for some other reason to be a trial, the Court may give such judgment against the defendant on the claim or part thereof as the Court thinks just.

21. The Court may by order, subject to such conditions, if any, as it thinks just, stay execution of any judgment given under Rule 20 until after the trial of any counterclaim set up by the defendant in the action or of any separate action commenced or to be commenced by the defendant against the plaintiff.

Stay of execution.

22. (1) A defendant may show cause against an application under Rule 17 by affidavit or otherwise to the satisfaction of the Court.

Defendant may show cause against the application.

(2) The Court may order a defendant showing cause (or, where the defendant is a body corporate, any director, manager, secretary or similar officer thereof or any person purporting to act in any such capacity)—

(a) to produce any document;

(b) if it appears to the Court that there are special circumstances making it desirable that he should do so, to attend and be examined on oath.

23. The Court may by order give the defendant against whom the application under Rule 17 is made leave to defend the claim or part thereof subject to such conditions, if any, as it thinks just.

Court may give leave to defend.

24. (1) Where in any action the defendant sets up a counterclaim he may, at any time thereafter, apply to the Court for summary judgment against the plaintiff on the counterclaim.

Applications and grounds for summary judgment on counterclaim.

(2) The grounds of the application shall be that the plaintiff has no defence—

- (a) to the counterclaim, or to any particular part thereof; or
- (b) to the counterclaim or part thereof except as to the amount of damages claimed.

(3) Rules 18 to 23 apply to an application under paragraph (1) subject to the following modifications—

- (a) references to Rule 17 shall be construed as references to Rule 24;
- (b) references to the plaintiff and defendant shall be respectively construed as references to the defendant and plaintiff;
- (c) references to the claim shall be construed as references to the counterclaim; and
- (d) in Rule 21 the words “any counterclaim set up by the defendant in” and the words “or of any separate action commenced or to be commenced by the defendant against the plaintiff” are omitted.

**Further
conduct of
action.**

25. (1) Where an application (whether or not successful) has been made under Rule 17 or 24, the Court may make such order as to the further conduct of the action as it thinks just.

(2) Where an application under Rule 17 or 24 succeeds, the applicant may proceed with the claim or counterclaim (as the case may be) as respects the remainder thereof or against any other defendant thereto.

Costs.

26. On an application under Rule 17 or 24—

- (a) where it appears to the Court that the applicant knew that the defendant or plaintiff (as the case may be) was relying on a contention which would entitle him to unconditional leave to defend, the Court may dismiss the application with costs;
- (b) in any other case, the Court may make such order as to the costs of the application as it thinks just.

PART IV

Counterclaims and consolidation, etc.

27. (1) A defendant may, by his defences tabled in any action, and provided that his defences are signed by an Advocate, set up a counterclaim against the plaintiff. Counter-claims.

(2) The counterclaim shall have effect as a cross-action, enabling the Court to pronounce a final judgment in the action both on the plaintiff's claim and on the counterclaim.

(3) The Court may order that a counterclaim be struck out or tried separately if satisfied that the subject-matter thereof ought not to be disposed of by way of counterclaim but in an independent action.

(4) A counterclaim may be proceeded with and shall remain inscribed on le Rôle des Causes à Plaidier notwithstanding that the plaintiff's claim is stayed, discontinued or dismissed or that judgment is given for the plaintiff on his claim.

(5) The plaintiff shall, unless the Court orders otherwise, table his defences to the counterclaim upon being required to do so by a summons served on him in that behalf by the defendant.

(6) The summons for defences to the counterclaim—

- (a) shall be served on the plaintiff not less than 4 days before the day upon which the defences to the counterclaim are to be tabled;
- (b) shall state the date and time appointed for the tabling of the defences; and
- (c) shall be signed by an Advocate.

(7) Where the plaintiff does not table his defences in accordance with paragraph (5), the Court may give judgment against him on the counterclaim.

Consolidation or severance of actions.

28. (1) Where two or more actions or counterclaims are pending before the Court and it appears to the Court—

- (a) that some common question of law or fact arises in all of them;
- (b) that the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or
- (c) that for some other reason it is desirable to make an order under this Rule,

the Court may order the actions or counterclaims to be consolidated (crocheté), or to be tried at the same time or one immediately after another, or that any of them shall be stayed until any other of them is determined.

(2) Where in the same action or counterclaim—

- (a) there are claims in respect of two or more causes of action or there are two or more plaintiffs or defendants; and

(b) it appears to the Court that inconvenience, embarrassment or delay may result, the Court may order that the action or counterclaim be severed and that there shall be separate trials.

(3) An order under paragraph (2) may be made notwithstanding that the action or counterclaim has at some stage of the proceedings been consolidated under paragraph (1).

PART V

Parties to proceedings

29. (1) An infant or person under legal disability may not be a party to, intervene in, or make or resist any application in any proceedings before the Court except by his tuteur or curateur, as the case may be.

Actions by
or against
infants, etc.

(2) Anything which in the ordinary conduct of any proceedings is required or authorised by these Rules to be done by a party to the proceedings shall or may, if the party is an infant or person under legal disability, be done by his tuteur or curateur, as the case may be.

30. (1) Where numerous persons have the same interest in any proceedings, one or more of them—

Representa-
tive pro-
ceedings.

- (a) may sue or be sued; or
- (b) may be appointed by order of the Court to defend,

for or on behalf of all or any of them

(2) A judgment or order given in proceedings under this Rule—

(a) shall be binding on all persons represented; but

(b) shall not be enforced against a person not a party to the proceedings without leave of the Court.

(3) On an application for leave under paragraph (2)(b), the person against whom enforcement is sought may dispute the application on the grounds that, by reason of facts and matters peculiar to his case, the judgment or order should not be enforced against him.

Class
members.

31. (1) Where—

(a) the rights or obligations (whether present, future, contingent or unascertained) of any members of a class (including any persons unborn) depend upon the construction which the Court may put upon a document;

(b) the identity of any of the members is unknown or difficult to ascertain; and

(c) the Court considers that in order to save expense or for some other reason it is convenient to have the question of construction determined before the identity of the members is ascertained

the Court may by order appoint one or more persons to represent the members or any of them, and the persons represented shall be bound by any order or judgment of the Court given in the proceedings.

(2) Where in any other case any members of a class have an interest in any proceedings, the Court

may by order, if it appears expedient to do so having regard to—

- (a) the nature and extent of their interest; and
 - (b) the difficulty of ascertaining their identity,
- appoint one or more persons to represent them or any of them, and the persons represented shall be bound by any order or judgment of the Court given in the proceedings.

32. The Court may, in any proceedings in which or in respect of which an appointment has been made under Rule 30 or 31, make such order as to the costs of the proceedings as it thinks just.

Costs in
representa-
tive pro-
ceedings.

33. (1) Where in any action the defendant claims—
- (a) against a person not a party to the action any contribution or indemnity;
 - (b) against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or
 - (c) that any question or issue relating to or connected with the original subject-matter of the action should be determined not only between the plaintiff and himself, but also between either or both of them and a person not a party to the action,

Third
Parties.

the defendant may join that person as a third party by serving upon him a summons in that behalf signed by an Advocate.

(2) The Court may make such order as it thinks just in relation to the joining of the third party as to—

- (a) the filing of pleadings;

- (b) the delivery of affidavits; and
- (c) any other incidental matter.

(3) Where a third party is joined, he shall from that time be a party to the action as if he were a defendant sued in the ordinary way by the party who joined him, and the provisions of these Rules shall apply accordingly.

(4) Where judgment (by default or otherwise) is pronounced against the third party, the judgment shall not affect the rights of the original parties to the action as between themselves.

(5) Where a third party is joined, the Court may, at or after the trial of the action (or, if the action is decided otherwise than by trial, on an application by summons), give such judgment as the nature of the case may require for the defendant against the third party or for the third party against the defendant.

(6) Where judgment is pronounced—

- (a) against a defendant; and
- (b) for the defendant against a third party, the judgment against the third party shall not be executed without leave of the Court, whether or not the judgment against the defendant has been wholly or partially satisfied.

(7) Where in any action the defendant claims in his defences—

- (a) against a person already a party to the action any contribution or indemnity;
- (b) against such a person any relief or remedy relating to or connected with the original subject-matter of the action and substantially the same as some relief or remedy claimed by the plaintiff; or

- (c) that any question or issue relating to or connected with the original subject-matter of the action should be determined not only between the plaintiff and himself, but also between either or both of them and a person already a party to the action,

the Court may order that that person be joined as a third party, and the provisions of paragraph (2) shall apply accordingly.

(8) Where a third party is joined, and he makes such a claim as is mentioned in paragraph (1) or (7), this Rule shall apply as if the third party were a defendant; and similarly where any other person to whom by virtue of this paragraph this Rule applies as if he were a third party makes such a claim.

34. (1) The Court may in any proceedings order that— **Removal or joining of parties.**

(a) any person who has been improperly or unnecessarily made a party, or who has ceased to be a proper or necessary party, shall cease to be a party;

(b) any person—

(i) who ought to have been joined as a party; or

(ii) between whom and any party to the proceedings there exists a question or issue arising out of or relating to or connected with any relief or remedy claimed in the proceedings which, in the opinion of the Court, it would be just and convenient to determine as between him and that party as well as between the parties to the proceedings, shall be joined as a party.

(2) No person shall be joined as a plaintiff without his consent.

PART VI

General Conduct of Proceedings

Amendment of pleadings.

35. No party to an action may amend his pleadings except with the consent of all other parties or by leave of the Court.

Striking out.

36. (1) The Court may order any cause, counterclaim or other pleading, or anything therein, to be struck out or amended on the grounds that—

- (a) it discloses no reasonable cause of action or defence, as the case may be;
- (b) it is scandalous, frivolous or vexatious;
- (c) it may prejudice, embarrass or delay the fair trial of the action or any other proceedings; or
- (d) it is otherwise an abuse of the process of the Court;

and the Court may order the claim or counterclaim to be stayed or dismissed or judgment to be entered accordingly, as the case may be.

(2) The Court may also order a cause or counterclaim to be struck out for want of prosecution.

Further and better particulars.

37. (1) The Court may order any party to an action to furnish another party with further and better particulars of any claim, defence or other matter stated in his pleadings, or with a further and better statement of the nature of the case on which he relies.

(2) An order under paragraph (1) shall not be made before the tabling of the defences unless in the opinion of the Court the order is necessary or

desirable to enable the defendant to plead or for some other special reason.

(3) Where the applicant for an order under paragraph (1) did not apply by letter for the particulars or statement required by him, the Court may refuse to make the order unless of opinion that there were sufficient reasons for not applying by letter.

(4) All further and better particulars and statements, whether or not given in pursuance of an order under paragraph (1), shall be filed by the party furnishing them with the Greffier within 24 hours of being furnished to the requesting party.

(5) "Defences" and "defendant" in paragraph (2) include defences and a defendant to a counter-claim.

38. (1) The Court may, on the application of any party to the proceedings, give leave to serve upon any other party interrogatories relating to any matter in question between them in the proceedings. Interrogatories.

(2) A copy of the proposed interrogatories shall be annexed to the signification by which notice of the intended application under paragraph (1) is given.

(3) Interrogatories shall, unless the Court orders otherwise, be answered by affidavit within 14 days of being served.

(4) If the person upon whom the interrogatories are served answers any of them insufficiently, the Court may order him to make a further answer by affidavit or on oral examination.

(5) The interrogatories and answers thereto shall be annexed to the pleadings.

39. (1) The Court may, on the application of any party to the proceedings, order any other party— Discovery of documents.

- (a) to furnish the applicant with a list of the documents which are or have been in his possession, custody or power relating to any matter in question between them in the proceedings;
- (b) to verify the list by affidavit.

(2) An order for discovery under paragraph (1) may be limited to such documents or classes thereof, or to such only of the matters in question, as may be specified or described in the order.

(3) If it is desired to claim that any documents are privileged from production, the claim must be made in the list of documents with a sufficient statement of the grounds of privilege.

Inspection of documents.

40. A party who furnishes another party with a list of documents under Rule 39(1) must—

- (a) allow the other party to inspect the listed documents (other than those which are claimed to be privileged from production) and to take copies thereof; and
- (b) when furnishing the list, give the other party written notice specifying a time (which shall be within 7 days of furnishing the list) and place at which the documents may be inspected.

Orders for inspection.

41. (1) Where a party who furnishes a list of documents under Rule 39(1)—

- (a) fails to give written notice in accordance with Rule 40(b);
- (b) claims that any of the listed documents are privileged from production; or
- (c) offers inspection at a time or place which in the opinion of the Court is unreasonable,

the Court may, on the application of the party entitled to inspection, make an order for the inspection and copying of the documents in question at such time and place and in such manner as it thinks just.

(2) Where a party to the proceedings makes reference to a document in his pleadings or affidavits, the Court may, on the application of any other party, make an order for the inspection and copying of the document at such time and place and in such manner as it thinks just.

42. Before applying for an order under Rule 39(1) or 41(1) or (2), a party may apply by letter or otherwise to the other party for the discovery or inspection of documents. **Informal discovery and inspection.**

43. The Court may by order give directions as to the hearing of any action or any question raised by the pleadings, including any exception, fin de non-recevoir or other preliminary point in issue, and may (without prejudice to the generality of the foregoing)— **Order for directions.**

- (a) order that any facts specified or described in the order shall be proved by affidavit;
- (b) order that not more than a specified number of expert witnesses may be called;
- (c) order that the evidence of a particular witness shall be taken by commission; and
- (d) order the manner in which such evidence is to be taken.

44. (1) No party may—

- (a) discontinue or withdraw an action, counter-claim or any claim therein; or

Discontinuance and withdrawal of actions.

(b) withdraw his defences or any part thereof, except with the consent of all other parties to the action or by leave of the Court.

(2) Subject to the terms of any order by which leave to discontinue or withdraw is granted, the fact that a party has discontinued or withdrawn an action, counterclaim or claim is not a defence to a subsequent action, counterclaim or claim.

(3) Where a party—

(a) is liable to pay any costs in respect of an action, counterclaim or claim which has been discontinued or withdrawn under paragraph (1); and

(b) before payment of such costs, brings or makes an action, counterclaim or claim for the same or substantially the same cause of action,

the Court may order the action, counterclaim or claim to be stayed until the costs are paid.

Payment into Court. 45. (1) A party to an action may at any time pay into Court a sum of money in satisfaction of any claim made against him in the action.

(2) The payment into Court shall be made by lodging the sum of money with the Greffier.

(3) The Greffier shall—

(a) deposit the money with a person registered under section 4 of the Protection of Depositors (Bailiwick of Guernsey) Ordinance, 1971(c), as amended(d); and

(b) within 7 days of the making of the payment, give notice of the payment to the other parties to the action.

(4) No payment into Court may be withdrawn except with the consent of all other parties to the action or by leave of the Court.

(5) Unless the payment into Court is disclosed to the Court by the party who made the payment, the fact of payment shall not be so disclosed until all questions of liability and of the amount of damages or indebtedness have been determined.

(6) Without prejudice to the Court's complete discretion to make such order as to costs as it thinks just, the Court, when awarding costs, may take the fact and date of payment into Court into account.

PART VII

Requêtes Civiles

46. (1) A requête civile shall henceforth be presented to and determined by the Ordinary Court or, where the order from which relief is sought was made by the Full Court, or by the Full Court. **Requêtes civiles.**

(2) A requête civile shall be presented by way of petition and shall be signed by the petitioner or his Advocate.

(3) A requête civile shall not be presented except by leave of the Court on application made *ex parte*.

(c) Recueil d'Ordonnances Tome XVII, p. 225;

(d) Recueil d'Ordonnances Tome XVIII, p. 55; Tome XXI, p. 524.

(4) A person given leave under paragraph (3) shall give notice to the respondent that he intends to present a requête civile by serving a signification upon him.

(5) The signification—

- (a) shall be served not less than 2 days before the day of the hearing of the petition;
- (b) shall state the date and time appointed for the hearing; and
- (c) shall contain or have annexed to it a copy of the requête civile.

(6) The Court may at any time order the petitioner—

- (a) to deposit with the Greffier a monetary sum, or security therefor;
- (b) to give security for costs,

in such amount, on such terms and in such manner as the Court thinks just.

PART VIII

General Provisions

Mode of
making
application
to Court.

47. (1) Where the Court has power to make an order under these Rules, the order may be made—

- (a) at any stage of the proceedings;
- (b) of the Court's own motion or on the application of any party to the proceedings;
- (c) on such terms (including terms as to costs and security therefor) as the Court thinks just.

(2) A person intending to apply to the Court for an order under these Rules shall give notice of the fact to the opposite party to the application by serving a signification upon him.

(3) The signification—

- (a) shall be served not less than 2 days before the day of the application;
- (b) shall state the date and time appointed for the hearing of the application;
- (c) shall contain or have annexed to it a copy of the application; and
- (d) shall be signed by an Advocate.

(4) The provisions of this Rule do not apply to the extent that contrary provision is made elsewhere in these Rules.

48. (1) The Court may in any action

- (a) make such order as to the cost of the proceedings, or of any stage of or application in the proceedings;
- (b) order any party to give security for costs in such amount, on such terms and in such manner,

**Costs and
security
therefor.**

as the Court thinks just.

(2) An order under paragraph (1)(b) for the giving of security for costs may provide that—

- (a) the proceedings shall be stayed until the security is given;
- (b) if the security is not given within such time as may be specified in the order, the

proceedings may be dismissed by order of the Court.

(3) Notwithstanding the provisions of the Royal Court (Costs and Fees) Rules, 1981 or of any other rule of Court or enactment, the Court may, in the circumstances mentioned in paragraph (4), order that costs or security for costs shall be paid on a full or partial indemnity basis.

(4) The circumstances referred to in paragraph (3) are as follows—

(a) where, in the special circumstances of the case, it is the opinion of the Court that costs should be ordered otherwise than on the basis provided by the Royal Court (Costs and Fees) Rules, 1981; or

(b) where any party has pleaded or otherwise pursued or defended an action, claim or counterclaim unreasonably, scandalously, frivolously or vexatiously, or has otherwise abused the process of the Court.

(5) In the event of any difference or dispute between the parties as to the costs recoverable under an order of the Court under paragraph (3), the difference or dispute shall be referred to Her Majesty's Procureur, whose decision is final.

**Witness
summons.**

49. Every summons to a witness shall, unless the Court orders otherwise, be served by the Sergeant à personne on the witness not less than 4 days before the day of the hearing in question.

Peremption. 50. Where an action becomes périmé—

(a) the Court's powers under Rule 48 are not prejudiced; and

(b) any party to the action may apply to the Court for an order that the action be restored.

51. Notwithstanding the provisions of any enactment or rule of Court, Rule 12(2) shall apply in relation to an action for the recovery, forfeiture or enforcement of a penalty or amende. **Recovery of penalties or amendes.**

52. (1) In calculating any time limit set by these Rules, no account shall be taken of a non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958, as amended(e). **Computation of time limits.**

(2) For the purposes of these Rules, "day" does not mean a clear day.

53. (1) The Court may, on such terms as it thinks just, by order extend or abridge the period within which a person is required or authorised by any order or direction of the Court to do any act, and may (subject to paragraph (3)) extend any such period notwithstanding that the application for extension is made after the expiration of that period. **Extension or abridgement of time.**

(2) Any such period may be extended by consent in writing without an order of the Court in that behalf.

(3) The Court may not extend any such period upon an application made after the expiration of that period if the failure to act within the period has resulted in judgment being given.

Affidavits.

54. An affidavit for the purposes of these Rules—

- (a) if made in the Island of Guernsey, Herm or Jethou, shall be made before the Bailiff, Deputy Bailiff or Lieutenant-Bailiff, before any Jurat of the Royal Court or before a notary public;
- (b) if made in the Island of Alderney, shall be made before any Jurat of the Court of Alderney or before a notary public;
- (c) if made in the Island of Sark, shall be made before the Seneschal or before a notary public;
- (d) if made elsewhere, shall be made before a British consular officer or before any person authorised by law in that place to administer an oath for any judicial or other legal purpose;
- (e) if the deponent is serving in any of the regular armed forces of the Crown, shall be made before an officer holding a commission in any of those forces.

Court may direct summary procedure.

55. Notwithstanding the provisions of these Rules or of any other rule of Court or enactment, the Court may order that any proceedings or any stage thereof shall be dealt with summarily.

Commencement of actions.

56. For the purposes of these Rules an action commences when the summons is handed by the plaintiff to the Sergeant.

Repeals.

57. The legislation set out in column 1 of the Schedule to these Rules is repealed to the extent set out in column 2 thereof.

58. (1) In these Rules, except where the context requires otherwise— Interpretation.

“Advocate” means an Advocate of the Royal Court of Guernsey;

“the Court” means the Ordinary Court or the Full Court, as the case may require;

“élection de domicile” means an élection de domicile in the Island of Guernsey;

“Full Court” means the Royal Court sitting as a Full Court;

“Greffier” means Her Majesty’s Greffier of the Royal Court or any of his deputies;

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“leave of the Court” means leave of the Court given by order, and “leave” shall be construed accordingly;

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

“Sergeant” means Her Majesty’s Sergeant of the Royal Court or any of the Deputy or Assistant Sergeants.

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

(3) Any reference in these Rules to an enactment, rule or order is a reference to that enactment, rule or order as amended, extended, re-enacted or applied by or under any other enactment, rule or order (including these Rules).

Citation. 59. These Rules may be cited as the Royal Court Civil Rules, 1989.

Commencement and transitional. 60. (1) These Rules shall come into force on 1st October, 1989, but shall not apply to any action which, on 18th July, 1989, was inscribed on le Rôle des Causes en Preuve.

(2) Subject to paragraph (1), the Court may make such orders in respect of actions commenced before 1st October, 1989, as it thinks just.

SCHEDULE

Rule 57.

Repeals

1. The legislation repealed	2. Extent of repeal
The Ordinance of 1836 entitled "Style de Procéder. Abolition de plusiers Délais, etc."(g).	In section 13, the paragraph headed "En Cour Ordinaire".
The Ordinance of 1851 entitled "Des Exceptions et Fins de Non-Receiver"(h).	The whole Ordinance.
The Ordinance of 1851 entitled "Rôle des Causes à Plaider"(i).	Sections 1 to 3.
The Ordinance of 1854 entitled "Style de Procéder"(j).	The whole Ordinance.
The Ordonnance au sujet des termes à écrire, 1936(k).	The whole Ordinance.
The Orders of the Royal Court of 1949 entitled "Procedure for the Appointment of one person to represent others in certain proceedings before the Court"(l) and "Procedure for permitting substituted or other service, or for notice instead of service, in certain cases"(m).	The whole orders.
The Royal Court (Security for Costs) Order, 1957(n).	The whole order.

- (g) Recueil d'Ordonnances Tome II, p. 470.
(h) Recueil d'Ordonnances Tome III, p. 177.
(i) Recueil d'Ordonnances Tome III, p. 207.
(j) Recueil d'Ordonnances Tome III, p. 335.
(k) Recueil d'Ordonnances Tome VIII, p. 307.
(l) O.R.C. Vol. 1, p. 3.
(m) O.R.C. Vol. 1, p. 4.
(n) O.R.C. Vol. 1, p. 177.

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