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PRACTICE DIRECTION NO 1 of 2008

Royal Court Civil Rules, 2007 - Implementation

1. General Principles

Filing of causes at each stage of the action

- 1.1 The Advocate for the Plaintiff will continue to be responsible, as at present, for filing of causes, together with one all-inclusive agenda, for business for Friday and Tuesday Ordinary Courts and Monday Full Courts. (See paragraph 2 below)

Plaintiff generally responsible for costs

- 1.2 The Plaintiff will continue to be charged for matters tabled by the Plaintiff before the Court, pursuant to the Royal Court (Costs and Fees) Rules, 2000 to 2007. (Applications etc tabled by the Defendant will be charged to the Defendant.)
- 1.3 A Consent Order, Interlocutory or like application will be charged, as at present, to the Plaintiff or Applicant.

Notice to Defendant

- 1.4 The summons or notice served by the Plaintiff at each stage of the action must include, at the end, a notice in bold type informing the Defendant that failure to comply may result in judgment being given against him/her. (See paragraph 3.1 below for an example of the wording which should be used in the case of the initial Summons, drawing attention to the procedure for filing defences.)

This practice will be of particular assistance when the Defendant is unrepresented, to minimise misunderstanding, cost and delay.

2. Timetable for filing causes, agendas etc

- 2.1 All relevant papers must be filed, in the appropriate folder held behind the Greffe public counter, not later than: -
- (i) 4.00pm on the preceding Friday, for the Tuesday Ordinary Court
 - (ii) 4.00pm on the preceding Wednesday, for the Friday Ordinary Court (both the general 9.30am sitting and the 10.00am Interlocutory sitting)

- (iii) 4.00pm on the preceding Thursday, for the Monday Full Court

These deadlines are advanced by one or two days, as appropriate, when a public holiday intervenes.

- 2.2 See paragraph 4 below for the special provision for filing of defences.
- 2.3 In respect of Friday Ordinary Courts, three copies of each cause, marked respectively 'Bailiff's Copy', 'Greffier's Copy' as at present, and a clean unmarked copy, together with two copies of other documents, must be lodged. [The additional clean, unmarked copy of the cause is needed to speed issue of the Act of Court.]

Three additional, coloured, copies of the plans must be lodged with Terre à l'Amende applications. In respect of Tuesday Ordinary Courts, in addition to the above copies, three more copies must be lodged at the Greffe marked 'Jurat's Copy'.

Each firm's business must be headed by an all-inclusive agenda. The agenda must include all items adjourned to that day, as well as new business, and it is the responsibility of each firm to locate any adjourned causes etc., and place them in the Causes Folder. (If Defences have been filed by the firm during that week, they must be included in the firm's 9.30am Friday agenda.)

- 2.4 Causes must be on A4 paper and punched to aid filing. Items associated with a cause, such as reports etc., must be stapled to the cause and not attached with a paperclip. **Ten** centimetres must be left clear at the top of the first page of each cause, to enable the Greffe stamp to be applied. The firm's name or initials, and the date, must appear in the top left hand corner of the cause. In addition each cause or application must bear the name of the Advocate responsible for its content.
- 2.5 The Greffe copy of the cause must bear the original *relation* of HM Sergeant.
- 2.6 The original affidavits must be supplied to the Greffe, with a copy attached to the Bailiff's cause.
- 2.7 Causes and applications lodged for a given court may be removed from the list (by email request to the relevant member of the Greffe staff) not later than 15 minutes before the sitting. After that time, leave of the court must be sought for withdrawal of a matter *séance tenante*, and the tabling fee will be charged.

3. Example of Notice to Defendants

- 3.1 On the initial summons (Rule 11): -

"1. If you do not appear before the Royal Court at the date and time stated in this summons the Court may give judgment against you.

2. *When you appear before the Court you have three options: -*

- (i) You can consent to judgment for all or part of the sum claimed*
- (ii) You can apply for an adjournment on showing good cause, for example that you need further time to consult an Advocate*
- (iii) You can indicate that you will defend the action in whole or in part. The action may then be placed on the Pleading List.*

3. *You will be required to give an address for service (which must be in Guernsey) at which future summonses and notices can be served on you by being delivered to that address by HM Sergeant.*
4. *You must then table your defences in writing by delivering them to the Greffe not later than 9.15am on the 28th day after the action was placed on the Pleading List ("the relevant Friday sitting"). You must lodge three copies at the Greffe (each with a copy of the Plaintiff's cause attached) and at the same time you must serve a copy on the Plaintiff.*
5. *If you fail to table your defences (as required by Rule 16 of the Royal Court Civil Rules, 2007) the Plaintiff may, without further notice to you, apply to the Royal Court, at the relevant Friday sitting at 9.30am (or at any later date) for judgment to be awarded against you.*
6. *The period of time within which you must file your defences may be extended by up to three months, by agreement in writing between you and the Plaintiff.*
7. *If you cannot agree such an extension with the Plaintiff you may apply in writing to the Royal Court for an extension beyond the standard 28 day period. You must lodge that application with the Greffe, and copy it to the Plaintiff, not later than 4.00pm one clear working day prior to the relevant Friday sitting. You must then attend before the Royal Court at 9.30am at the relevant Friday sitting to make your application.*
8. *This is a matter on which you should take independent legal advice. You should also refer generally to the Royal Court Civil Rules, 2007."*

4. Tabling of Defences (Rule 16)

4.1 The Defendant shall table his/her Defences by delivering to the Greffe, at any time prior to 9.15am on the 28th day after the action was placed on the Pleading List, three sets of the following: -

- (i) An Application for Filing of Defences, which shall be in Form 1 attached to this Practice Direction.
- (ii) The Defences
- (iii) The Cause or Summons to which these Defences relate.

[A special folder for Defences will be provided behind the Greffe public counter.]

- 4.2 The Defendant must, at the same time as he delivers his Defences to the Greffe, serve a copy on the Plaintiff.
- 4.3 The Defences delivered to the Greffe during each week will be formally tabled at the 9.30am Friday sitting of the Ordinary Court held that week. It will not be necessary for either the Defendant or the Plaintiff to attend, or be represented, at that sitting.
- 4.4 The Court will normally then order that the action be placed on the Witness List. The Greffe will issue a confirmatory Act of Court to both parties. If necessary, the Court may direct that the Plaintiff list the matters at an early Interlocutory Court for directions.

5. Civil Action File – Reference Number

5.1 For ease of reference, the Greffe opens a Civil Action File on contested matters, including:

- (a) Any civil action in respect of which defences are filed or an interlocutory application is made
- (b) Administrative appeals – housing, planning etc

The file number will be given on all Acts issued by the Greffe, and should be quoted on all items lodged relating to that action.

6. Chronology to be attached to cause at each stage of the action

6.1 The Plaintiff must attach an updated chronology of all relevant events, including procedural steps, in the course of the action to date. This should be on a separate sheet of paper but stapled to the cause.

7. Tabling of Civil Business

9.30am Friday Court – before Bailiff alone

7.1 The Ordinary Court will continue to sit, as at present, at 9.30am on Friday to deal with 'Bailiff's business', that is to say

1. Matters of law and procedure not requiring a finding of fact
2. Awarding of judgments, inter alia, by consent or in default of appearance by the Defendant
3. Non-contentious matters which require opposition to be called (such as change of company name) and various ex parte applications (such as migration of companies, leave to serve process outside the jurisdiction etc).

10.00am Friday Court – Interlocutory Court

7.2 The Ordinary Court will continue to sit, as at present, at 10.00am on Fridays to deal with Interlocutory business. Unless otherwise directed, procedural applications under the 2007 Rules should be lodged, in the first instance, with the Interlocutory Court. A special time may then be appointed where the business cannot be accommodated within the Interlocutory sitting, for example a full Case Management Conference.

7.2.1 Interlocutory Papers – Organisation

Counsel involved in any civil interlocutory hearings before the Royal Court must submit in advance of the hearing of each new application two copies of a single agreed bundle containing *all those papers necessary for the Judge to reach a decision on the particular matter before the Court*. This bundle should be indexed and paginated and include the application in question and any affidavits, exhibits, authorities, correspondence or previously filed material necessary for the hearing.

7.2.2 If it is anticipated that a particular matter will be heard over a long period of time counsel will be required to submit a bundle that allows within its indexing system for the inclusion of any new material that the parties may in due course put before the Court.

7.2.3 In order to assist Counsel parties may seek to retrieve bundles lodged with the Greffe in respect of particular applications in order to recycle them for further applications. This will avoid the need to recopy bundles previously supplied to the Court.

7.2.4 Usually a single bundle only will be required. In those instances where multiple volumes of documents are to be laid before the Court, counsel will on the direction of the presiding Judge submit separate paginated volumes labelled alphabetically and containing respectively:

- A *Cause & Summons, Applications and Orders, and Chronology*
- B *Affidavits*
- C *Exhibits*
- D *Skeleton Arguments*
- E *Authorities (Guernsey authorities and those from other jurisdictions to be listed separately)*
- F *Correspondence and Other Documents*

All such interlocutory bundles both single and multiple will be lodged with the Greffe prior to the hearing on a date to be specified by the Judge.

7.2.5 With impecunious parties the Court will by prior arrangement endeavour to accommodate any problem that Advocates have in complying with this direction.

7.3 **Correspondence**

Where exceptionally Advocates wish to communicate with HM Greffier by letter rather than by submitting a formal application, the letter, should it have to be signed by any person other than an Advocate, should clearly indicate the name of the Advocate having charge of the matter on whose behalf the letter is written.

7.3.1 The Greffe receives far too many copies of sometimes contentious correspondence between Advocates without explanation as to why they are being submitted. If it is necessary for Judges to see this sort of material in order to do justice to the matter in hand such documents should be submitted under cover of an A4 sheet containing the title to the action and clearly indicating the court bundle into which the correspondence is to be inserted.

7.4 Practice Direction No 7 of 2002 is hereby repealed.

8. **Listing Questionnaire**

8.1 The Listing Questionnaire required by Rule 44 shall be in Form 2 attached to this Practice Direction.

K H TOUGH
Her Majesty's Greffier