

COURT OF ALDERNEY

**THE COURT OF ALDERNEY
(COSTS AND FEES)
RULES 2004**

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The Court of Alderney (Costs and Fees) Rules 2004

THE COURT OF ALDERNEY in exercise of the powers conferred upon it by sections 18(1) and (2) of the Government of Alderney Law 1987 (Order in Council IV 1987), as amended, hereby orders:-

Interpretation.

- 1(1) In these Rules unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:
- “Advocate” includes Her Majesty’s Procureur;
- “Advocates’ Fees” means Advocates’ Fees and disbursements;
- “cause” includes any application;
- “Chairman” means the Chairman of the Court of Alderney, or his Deputy;
- “Commissioner” means a Commissioner of the Court of Alderney;
- “Clerk” means the Clerk of the Court or his deputy
- “Court” means the Court of Alderney;
- “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;
- “Jurat” means a Jurat of the Court of Alderney;
- “Jurats’ Account” means the account kept by the Chairman/ Clerk of the money due to the Jurats;
- “proceedings” means proceedings before the Court of Alderney whether in open court or in chambers and includes ex parte proceedings and other matters;
- “Schedule” means the schedule to these Rules;
- “witness” in relation to any civil or criminal proceedings, includes a party to such proceedings.
- (2) Any reference in these Rules to an enactment or rule is, unless the context otherwise requires, a reference thereto as from time to time amended, applied, repealed or re-enacted.

- (3) The Interpretation (Guernsey) Law 1948 applies to the interpretation of these Rules as it applies to the interpretation of an enactment.
- Court fees etc. in respect of civil proceedings.
- 2(1) The fees payable to the Clerk, and the fees and disbursements payable to a Jurat or the Jurats' Account, or to a Commissioner of the Court, in respect of any civil proceeding or matter described in the first column of the Schedule shall be the fees and disbursements specified in the second column of the Schedule in relation to that proceeding or matter.
- (2) The fees and disbursements payable under paragraph (1) of this Rule in respect of any civil proceeding or matter shall, subject to any order of the Court as to costs, be payable in advance to the Clerk by the person at whose instance the proceeding or matter was taken, done or carried out, as the case may be.
- Advocates' Fees and disbursements in respect of civil proceedings.
- 3(1) In civil proceedings, the maximum Advocates' fees recoverable shall be (subject to the following provisions of this rule and paragraph 6 and to any direction of the Court as to the extent to which costs are to be paid) the costs of and incidental to the proceedings which have been incurred by the party to whom costs have been awarded and which are reasonable in amount and reasonably incurred.
- (2) The maximum Advocates' fees recoverable shall (unless the Court orders otherwise) be limited to £172 per hour
- (3) The hourly rate specified in paragraph (2) shall, on the 1st January 2006, and on the 1st January in each succeeding year, be subject to a percentage increase (rounded to the nearest pound) equivalent to the annual percentage increase, if any, in the Guernsey Index of Retail Prices most recently published in a Billet d'Etat immediately prior to that date.
- (4) The provisions of this rule are without prejudice to the powers of the Court under Rule 63 of The Court of Alderney Civil Rules 2004 (payment of costs or security therefore on a full or partial indemnity basis).

- (5) In relation to costs awarded on a full or indemnity basis, all costs shall be allowed except insofar as they are unreasonable in amount or unreasonably incurred.

Witnesses' expenses in respect of civil and criminal proceedings.

- 4(1) The allowances recoverable on account of, and payable to:-
- (a) a witness attending to give evidence in any civil or criminal proceedings before the Court, whether or not he gives evidence; and
 - (b) a witness examined in any proceedings preliminary to any proceedings before the Court

shall be determined in accordance with the provisions of this Rule.

- (2) 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.
- (3) There may be allowed in respect of a witness who attends to give evidence, other than professional or expert evidence:-
- (a) if he loses remuneration or necessarily incurs additional expense (other than expense on account of travelling, lodging or subsistence), an allowance not exceeding the amount of:-
 - (i) the remuneration actually and reasonably lost; and
 - (ii) the expense actually and reasonably incurred; and
 - (b) if he is not resident in the Island of Alderney, a subsistence allowance not exceeding the amount of the costs actually and reasonably incurred.
- (4) There may be allowed in respect of a witness who is necessarily absent from his place of residence overnight in order to attend as a witness, an allowance not exceeding the

expense actually and reasonably incurred for board and lodging during the period he is thus detained.

(5) There may be allowed in respect of a seaman who is detained on shore for the purpose of attending to give evidence and thereby misses his ship, for the time during which he is, and is likely to be, necessarily detained on shore:-

(a) an allowance in respect of loss of wages as appears to be reasonable; and

(b) an allowance not exceeding the sum actually and reasonably incurred for his maintenance;

and paragraphs (2) to (4) do not apply to a person in respect of whom an allowance is made under this paragraph.

(6) There shall be allowed, in respect of a witness who necessarily incurs expenses in travelling to and from the Court or any other place for the purpose of attending to give evidence and allowance not exceeding the expenses 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 reasonable paid for the item.

(2) The amount recoverable in respect of a fee payable upon the swearing of a declaration shall be the amount of such fee.

References to H.M. Procureur in case of dispute

6. In the event of any difference or dispute between any parties to any proceedings as to fees, disbursements and allowances recoverable in accordance with these Rules, the difference or dispute shall be referred to Her Majesty's Procureur, whose decision is final.

Repeal of previous rules

7. The Court of Alderney (Civil Costs and Fees) Rules 1991 are hereby repealed.

Interim continuation of previous rules.

8. Notwithstanding anything contained in these Rules the provisions of the Court of Alderney (Civil Costs and Fees) Rules 1991 as amended shall have effect in relation to any costs or fees incurred before the coming into force of these Rules in all respect as if these Rules had not been made.

- Citation. 9. These Rules may be cited as the Court of Alderney (Costs and Fees) Rules 2004.
- Commencement. 10. These Rules shall come into force on the 1st day of January 2005.

SCHEDULE

Court Fees etc in respect of civil proceedings

1 Description of proceeding or matter	2 Fee
1. On the inscription of any cause on the Court List	Clerk
2. On the hearing of any cause by the Court:-	£
A. If the cause is disputed:-	1
(a) for the recovery of a sum of money:-	5
(i) not exceeding £10,000	
(ii) exceeding £10,000 but not exceeding £100,000	
(iii) exceeding £100,000	
(b) in eviction cases	£
(c) in any other cases	5
	0
B. If the cause is undisputed	£
	5
	0
3. For the preparation of a summons under £2,500	
4. For service by the Clerk or his agent of any summons or notice	Jurats' Account

<p>5. For every certificate of service by the Clerk or his agent or any summons or notice</p>	<p>£ 6 0</p>
<p>6. On the appointment of the Clerk as Judicial Attorney and every subsequent Court attendance</p>	<p>Clerk £ 6 0</p>
<p>7. On tabling a cause before the Court for permission to have the deposition of a witness in writing before a Commissioner</p>	<p>Jurats' Account £70</p>
<p>8. On the examination and cross examination of a witness whose depositions are taken in writing</p>	<p>Clerk £ 7 0</p>
<p>9. On attendance before a Commissioner</p>	<p>Jurats' Account</p>
	<p>£ 3 0</p>
	<p>Clerk £ 3 0</p>
<p>10. "Clameur de Haro":-</p>	<p>Jurats' Account</p>
<p>(a) for settling a "Clameur" (b) on the endorsement of a "Clameur" by the Chairman</p>	<p>£</p>
<p>(c) for copy of a "Clameur" delivered to a defendant</p>	<p>7 5</p>
<p>(d) for registration of a "Clameur"</p>	<p>Clerk</p>
<p>11. "Vues de Justice"</p>	<p>£ 7 5</p>
<p>12. On obtaining the grant from the Chairman, upon affidavit, of a permit to arrest personalty</p>	<p>Half the amounts quoted in sub-paragraph A above</p>
<p>(a) Arrest of Wages</p>	<p>Clerk</p>

		£ 3 0
(b) Execution of an arrest of Personalty	Clerk	£ 3 0
13. For attendance by the Clerk to deliver goods		
14. For declaration by the Clerk to the Court of what he has in hand	Clerk	£ 1 0
15. For publication by the Clerk of a notice of sale		
16. On opposition being made to such sale or on the postponement of such a sale		
	Clerk	£ 3 0
17. On a sale before the Clerk		
	Jurats' Account £30	
	Clerk £30	
18. Upon the Clerk being actioned in the Court to pay the proceeds of sale		
19. As respects "saisie" proceedings:-	Commissioner £50 per witness	
(a) upon the Clerk notifying the person against whom a Preliminary Vesting Order has been obtained of the making of the order, and certifying that such person has been so notified	Clerk £10 for each A4	
(b) for publication of a notice to let in the "Alderney Gazette" or in any other newspaper	Commissioner £20 for each	

<p>(c) on opposition being made to a letting or the postponement of a letting</p>	<p>hour or part of such</p>
<p>(d) on a letting</p>	<p>period Clerk £20 for each hour or part of such period</p>
<p>(e) proceedings against the debtor to see the creditor produce an account:- (i) on the hearing of the proceedings (ii) for preparing the Commissioner's report</p>	<p>Jurats' Account £50 Clerk £25</p>
<p>(f) upon the Clerk notifying the debtor of the making of any Interim Vesting Order and certifying that the debtor has so been notified</p>	<p>Jurats' Account £50 Clerk £20</p>
<p>(g) on the opening of the register of claims (h) on the making of an entry in the register of claims (i) for copies of the register of claims</p>	<p>Jurats' Account £100</p>
<p>(j) proceedings against claimants for the purpose of marshalling their claims:- (i) on hearing of the proceedings</p>	<p>Clerk £25 per hour or part thereof</p>
<p>(ii) for settling the Commissioners report (k) on the hearing of 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</p>	<p>plus 5% of any amount recovered</p>
<p>(l) on the making and registering of a Final Vesting Order</p>	<p>plus 5% of any amount recovered</p>

20. On the hearing of a petition	Clerk £100
21. On the registration of a petition	
22. For copies of a petition	Clerk £20 for each hour or part thereof
23. On the execution of a Will of Realty or a Power of Attorney or any document where the value of the transaction to which the document relates is not an essential element of the transaction	Jurats' Account £20
24. For a Jurat attending at any place outside the Court for the purpose of signing a document	Clerk £15
25. On the making of any declaration	Clerk £20
26. Application to register an appeal	
27. Collated copies of a deposition or transcript of evidence	Clerk £20 for each sale opposed or postponed, as the case may be
28. Payment into Court	
29. Reserving or setting down a date for trial in any matter	Clerk 2½% of the proceeds of the sale with a minimum charge of £50 plus the auctioneer's charges and
30. Execution of an Eviction Order	expenses Clerk £15

	Clerk £15
	Clerk £15
	Clerk £15 for each letting opposed or postponed as the case may be
	Clerk £15 for each “fonds” let and in addition the auctioneers charges and expenses
	Commissioner £30

	Clerk £15
	Clerk £15
	Clerk £15
	Clerk £10
	Clerk £5 per copy
	Commissioner £10 for each claimant
	Clerk £15
	Jurats' Account £50
	Jurats' Account £10
	Clerk £15

	Jurats' Account £50
	Clerk £50
	Clerk £15
	Clerk £5 per copy
	Jurats' Account £10
	Jurats' Account £20
	Jurats' Account £10
	Clerk £20
	Clerk £10 per A4 and £2 per each
	additional A4 copy
	Clerk £45
	Jurats' Account £50 per half day set down

provided that:-

- (a) if the date is vacated on the 14th day before the appointed date (or earlier), the fee shall be refunded;
- (b) the fee shall be credited against any fees chargeable under paragraph 8.

Clerk £30
and in addition:

(a) the cost of making an inventory of personalty removed into storage under an Order of Eviction and the cost of printing copies thereof; and

(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 reasonable charges of any storage of the personally from the premises subject to the eviction order