



In the Royal Court of the Island of Guernsey

The

Orders of the Royal Court

IV

2024

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 15th day of July, 2024 before Sir Richard James McMahon, Bailiff; present:- Stephen Murray Jones, OBE, Esquire, Claire Helen Le Pelley, Jonathan Grenfell Hooley, David John Robilliard, Stuart Michael Crisp, Esquires, Marilyn Jasmine King, Tina Jane Le Poidevin, James Robert Toynton, Esquire, Jurats.

No. IV Order, 2024

ENTITLED

THE MATRIMONIAL CAUSES (COSTS AND FEES) RULES, 2024

The Matrimonial Causes (Costs and Fees) Rules, 2024

THE ROYAL COURT, in exercise of the powers conferred upon it by section 49 of the Matrimonial Causes (Bailiwick of Guernsey) Law, 2022^a, section 34 of the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988^b, section 121 of the Children (Guernsey and Alderney) Law, 2008^c and all other powers enabling it in that behalf, hereby orders:-

PART I

COURT FEES AND RECOVERABLE COSTS

Application of Rules.

1. (1) These Rules apply in relation to proceedings in the Matrimonial Causes Division of the Royal Court.

(2) For the avoidance of doubt, these Rules apply to appeals to the Matrimonial Causes Division under Part XIV of the Children (Guernsey and Alderney) Law, 2008.

^a Order in Council No. I of 2023.

^b Ordres en Conseil Vol. XXXI, p. 171; this enactment has been amended.

^c Order in Council No. XIV of 2009; this enactment has been amended.

Court fees.

2. (1) There shall be payable and (subject to these Rules and to any direction of the Court as to the extent to which costs are to be paid) recoverable, in respect of a proceeding or matter described in column 1 of the Schedule, the fee specified in relation to that proceeding or matter in column 2 of the Schedule (a "**Court fee**").

(2) Column 2 of the Schedule specifies to whom Court fees are payable.

(3) A Court fee is, unless the Court orders payment by another party, payable by the party at whose instance the proceeding or matter was taken, done or carried out.

(4) The Court may if it thinks fit remit, in whole or in part, any fee specified in column 2 of the Schedule.

(5) Any fee specified in column 2 of the Schedule is recoverable as a civil debt.

Advocates' fees.

3. (1) In any proceedings the maximum Advocates' fees recoverable shall be (subject to these Rules 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 are 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 £325 per hour.

(3) The hourly rate specified in paragraph (2) shall, on the 1st January, 2025, 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 for the period ending 30th September in the preceding year.

(4) The provisions of this Rule are without prejudice to the powers of the Court under Rules 38, 39 and 40 of the Matrimonial Causes Rules, 2024.

(5) Any doubts which a person appointed under Rule 7 to conduct a taxation may have as to whether costs are reasonable in amount or reasonably incurred shall, except in relation to costs awarded on a full or partial indemnity basis, be resolved in favour of the paying party.

(6) In relation to costs awarded on a full or partial indemnity basis, all costs shall be allowed except insofar as they are unreasonable in amount or unreasonably incurred, and any doubts which a person appointed under Rule 7 to conduct a taxation may have as to whether such costs are reasonable in amount or reasonably incurred shall be resolved in favour of the receiving party.

Witnesses' allowances in respect of proceedings.

4. (1) The allowances recoverable on account of and payable to -
 - (a) a witness attending to give evidence in any proceedings (whether or not the witness gives evidence), and
 - (b) a witness examined in preliminary proceedings,

shall be determined in accordance with 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 the witness thereby 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 the witness is not resident in the Island of Guernsey, 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 the witness's 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.

(5) 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.

(6) An allowance payable to any person under this Rule is, unless the Court orders payment by another party, payable by the party on whose behalf that person attends to give evidence.

Other fees and amounts.

5. (1) The amount recoverable in respect of a fee payable upon the swearing of a declaration or statement shall be the amount of the fee.

(2) Where the cost of any item is recoverable, the amount recoverable is the amount actually and reasonably paid for the item.

PART II

TAXATION OF COSTS

Request for taxation.

6. (1) Where in any proceedings the Court awards costs against any party ("P"), P may, within a period of one month immediately following the date when P or P's Advocate receives the opposing party's bill of costs, submit a written request -

(a) to the judge who presided over the proceedings (the "**presiding judge**"), or

(b) if the presiding judge is unavailable, to the Bailiff,

for the costs to be taxed.

(2) The presiding judge or, if the presiding judge is unavailable, the Bailiff, may allow further time for the submission of a request under paragraph (1) upon being satisfied that there are exceptional circumstances making it just to do so.

(3) Taxation under this Part of these Rules is inapplicable in respect of P's own costs payable to P's Advocate.

(4) In these Rules, "J" is the judge to whom a request is made under paragraph (1).

Appointment of person to conduct taxation.

7. (1) On receipt of a request under Rule 6(1), J shall appoint -

(a) J,

(b) any other person or persons whomsoever (hereinafter called "**Commissioners**"), or

(c) J and one or more Commissioners,

to conduct either the entirety of the taxation or such part thereof as J may specify.

(2) An appointment under paragraph (1) -

- (a) shall, subject to paragraph (3), be final,
- (b) may be made for all purposes of the taxation or for such limited purposes thereof as may be specified by J, and
- (c) may be made subject to such terms and conditions as may be so specified.

(3) J may at any time, if satisfied that it is just to do so, rescind or amend an appointment under paragraph (1) or make a new such appointment.

Conduct of taxation.

8. (1) The person ("T") conducting the taxation shall make such decision in respect of the taxation as T thinks just, and, in making the decision, T may, without limitation, take into account the seniority and experience of the Advocate whose costs are to be taxed.

(2) T may, in T's absolute discretion, accept oral or written representations from any of the parties to the proceedings or from any of their Advocates.

(3) The party whose costs are to be taxed shall submit a bill of costs and all necessary papers and vouchers to T.

Appeal against taxation decision.

9. (1) T's decision, which may confirm, reduce or disallow any of the costs in question, shall be subject to appeal, by any party aggrieved by the decision, as follows -

- (a) where the decision is that of the presiding judge, the decision shall be deemed to be part of the Court's award as to costs, and appealable as such,
- (b) where the decision is not that of the presiding judge, the decision shall be subject to appeal to the Ordinary Court constituted by the Bailiff sitting alone.

(2) An appeal under paragraph (1)(b) shall be instituted, within a period of one month immediately following the date of the decision, by way of summons served on the other party.

(3) The grounds of the appeal shall be that the decision was wrong in law.

(4) In all other respects T's decision shall be final.

Amount recoverable.

10. The amount recoverable in respect of costs shall not exceed the amount stated in T's decision (as varied, where applicable, on appeal).

Costs of person conducting taxation.

11. (1) T may -

- (a) make an award as to T's own costs, fees and expenses, and
- (b) order any party to give security for costs in such amount, on such terms and in such manner as T thinks

just, and an order under this paragraph for the giving of security for costs may provide that -

- (i) the taxation proceedings shall be stayed until the security is given, and
- (ii) if the security is not given within such time as may be specified in the order, the taxation proceedings may be dismissed by T.

(2) An award under paragraph (1)(a) shall -

- (a) be final,
- (b) be recoverable by T as a civil debt,
- (c) direct by which of the parties, or by which of the parties' Advocates, the award is to be borne, and
- (d) not exceed £325 per hour (subject to increase in the manner set out in Rule 3(3) above) unless the Ordinary Court, constituted by the Bailiff sitting alone, upon being satisfied that there are exceptional circumstances making it just to do so, orders otherwise.

(3) An application by T for an order under paragraph (2)(d) shall be heard inter partes.

(4) An order under paragraph (2)(d) shall be final.

PART III
GENERAL PROVISIONS

Interpretation.

12. In these Rules, unless the context requires otherwise -

"**Advocates' fees**" means Advocates' fees and disbursements,

"**Commissioner**" means a person appointed under Rule 7(1)(b) to conduct a taxation,

"**costs**", in Part II of these Rules, includes recoverable Advocates' fees and recoverable allowances,

"**Court fee**" means fees payable under Rule 2,

"**Court**" means the Matrimonial Causes Division of the Royal Court,

"**item**" means models, plans, photographs, transcripts, documents and other things, in each case used for the purposes of proceedings,

"**presiding judge**" has the meaning given by Rule 6(1)(a),

"**proceedings**" means proceedings in the Court, whether in open court or in chambers, and includes ex parte proceedings, preliminary or incidental proceedings, and other matters,

"**recoverable**", in relation to Court fees, Advocates' fees and other fees,

allowances and amounts referred to in these Rules, means recoverable by a party to whom costs are awarded by the Court from the party against whom costs are awarded,

"**witness**", in relation to proceedings, includes a party to the proceedings.

Transitional provisions.

13. These Rules shall have effect in relation to costs and fees incurred on or after the date of commencement specified in Rule 15, whether the proceeding or matter in relation to which the costs or fees were incurred began or occurred before, on or after that date.

Citation.

14. These Rules may be cited as the Matrimonial Causes (Costs and Fees) Rules, 2024.

Commencement.

15. These Rules come into force on the 19th July, 2024.

SCHEDULE

Rule 2

	1. DESCRIPTION OF PROCEEDING OR MATTER	2. FEES PAYABLE TO COURT, GREFFIER & SERGEANT
1.	All Applications.	Court: £139
2.	Determination of an application on the papers.	Court: £94
3.	Hearing of causes, applications or issues, including hearings conducted by video, telephone, or MS Teams.	Court: £462 per hour or part thereof
4.	Preparing and issuing of a judgment following a hearing.	Court: Cost of hearing multiplied by 4
5.	Issuing of a copy of an order.	Greffier: £30
6.	Filing of document, including any item of correspondence.	Greffier: £19
7.	Issuing of Vesting Orders.	Court: £139
8.	Witnessing a declaration of a rescission of Judicial separation.	Greffier: £33
9.	Hearing of an Appeal from the Magistrate's Court	Court: £462 per hour or part thereof
10.	Service of any document including a notice of application.	<p>Sergeant: £213 for expedited or special service at request of party or in cases where acknowledgement of service required, £73 otherwise.</p> <p>In this item, "special service" means service which is to be given –</p> <p>(a) at an address or place known to HM Sergeant which is other than the address given by the applicant for service,</p>

		(b) á personne at an address or place known to HM Sergeant which is other than the address given by the applicant for service, and "expedited service" means same day service.
11.	Service: certificate of service.	Sergeant: £40
12.	Service: sealing document to be served.	Greffier: £19
13.	Service: transmission of document to be served to His Excellency the Lieutenant-Governor.	Sergeant: £19
14.	Service: certificate of transmission of document to be served to His Excellency the Lieutenant-Governor.	Sergeant: £40
15.	Reserving or setting down a date for a hearing.	Court: £139
16.	Listening to digital recording of proceedings.	Greffier: £40 per hour or part thereof.
17.	Setting up equipment for a hearing by video or Microsoft Teams.	Greffier: £30
18.	Taxation proceedings -	
	(a) Filing of request for taxation.	Greffier: £87
	(b) Determination of request to appoint judge/commissioner.	Court: £166
	(c) Filing of Points of Dispute by paying party.	Greffier: £166
	(d) Filing of Response by receiving party.	Greffier: £166
	(e) Fixing of date for taxation hearing.	Court: £166
	(f) Preparatory reading by a judge	Court: £166
	(g) Taxation hearing.	Court: £497 per hour or part thereof.
	(h) Other Applications.	Greffier: £166