

Orders of the Royal Court

**III
2012**

The 3rd day of December, 2012 before Richard John Collas, Esquire, Bailiff; present:- Stephen Edward Francis Le Poidevin, Esquire, Susan Mowbray, John Ferguson, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Terry George Snell, David Percy Langley Hodgetts LVO, Terry John Ferbrache, David Allan Grut, Esquires, Jurats.

No. III Order, 2012

ENTITLED

THE ROYAL COURT (COSTS AND FEES) RULES, 2012

ORDER OF THE ROYAL COURT

ENTITLED

The Royal Court (Costs and Fees) Rules, 2012

THE ROYAL COURT, in exercise of the powers conferred upon it by section 1 of the Royal Court (Costs and Fees) (Guernsey) Law, 1969¹ and all other powers enabling it in that behalf, hereby orders:-

PART I

COURT FEES & RECOVERABLE COSTS

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

1. (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 or by a party's Advocate, 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 and incidental to the proceedings.

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

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

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

Advocates' fees in respect of civil proceedings.

2. (1) In civil proceedings, the maximum Advocates' fees recoverable shall be (subject to the following provisions of this Rule and of Part II of 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 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 £234 per hour.

(3) The hourly rate specified in paragraph (2) shall, on the 1st January, 2014, 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 Rule 83 of the Royal Court Civil Rules, 2007² (payment of costs or security thereof on a full or partial indemnity basis).

(5) Any doubts which a person appointed under Rule 6 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 6 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 civil and criminal proceedings.

3. (1) The allowances recoverable on account of, and payable to -

- (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 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 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 he 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 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.

(5) 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 the amount of the wages actually and reasonably lost by him; and

(b) a subsistence allowance and night allowance not exceeding the amounts referred to in paragraphs (3)(b) and (4);

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 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.

4. (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.

- (3) For the avoidance of doubt, video conference costs are recoverable.

PART II TAXATION OF COSTS

Request for taxation.

5. (1) Where in any proceedings the Court awards costs against any party, that party may, within a period of one month immediately following the date when he or his 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 he 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 a party's own costs payable to his Advocate.

Appointment of person to conduct taxation.

6. (1) On receipt of a request under Rule 5(1), the presiding judge or, as the case may be, the Bailiff shall appoint -

- (a) himself;
- (b) any other person or persons whomsoever (hereinafter called "**Commissioners**"); or

- (c) both himself and one or more Commissioners;

to conduct either the entirety of the taxation or such part thereof as he 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 the presiding judge or, as the case may be, by the Bailiff; and
- (c) may be made subject to such terms and conditions as may be so specified.

(3) The presiding judge or, if he is unavailable, the Bailiff may at any time, if satisfied that it is just to do so, rescind or amend an appointment under paragraph (1), including the purposes stipulated under sub paragraph (2)(b), or make a new such appointment.

Conduct of taxation.

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

(2) The person conducting the taxation may, in his 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 his bill of costs and all necessary papers and vouchers to the person conducting the taxation.

Appeal against taxation decision.

8. (1) The decision of the person conducting the taxation, 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 himself, 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 himself, 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 the decision of the person conducting the taxation shall be final.

Amount recoverable.

9. The amount recoverable in respect of costs shall not exceed the amount stated in the decision of the person conducting the taxation (as varied, where applicable, on appeal).

PART III GENERAL PROVISIONS

Interpretation.

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

"**Advocate**" includes Her Majesty's Procureur,

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

"cause" includes an application or petition,

"costs", in Part II of these Rules, includes -

- (a) recoverable Advocates' fees and recoverable allowances,
- (b) costs on a full or partial indemnity basis under Rule 83 of the Royal Court Civil Rules, 2007,

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

"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,

"presiding judge" has the meaning given by Rule 5(1),

"proceedings" means proceedings before the Court, whether in open court or in chambers, and includes ex parte proceedings, determinations on the papers 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,

"Schedule" means the Schedule to these Rules,

"video conference costs" means the charges made by the Royal Court or other provider of facilities whether in the Royal Court Building or elsewhere

and whether within or outside the Island of Guernsey,

"**witness**" in relation to civil proceedings, includes a party to the 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, 1948³ applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

Repeal of Rules of 2010.

11. The Royal Court (Costs and Fees) Rules, 2010⁴ are repealed.

Transitional provisions.

12. These Rules have effect in relation to fees payable in respect of a proceeding or matter -

- (a) which is described in column 1 of the Schedule, and
- (b) which occurs or begins on or after the date of commencement specified in Rule 14,

whether the action of which the proceeding or matter forms part began before, on or after that date.

Citation.

13. These Rules may be cited as the Royal Court (Costs and Fees) Rules, 2012.

Commencement.

14. These Rules shall come into force on 1st January, 2013.

c Ordres en Conseil Vol. XIII, p. 355
d O.R.C. No. VI of 2010

J TORODE

Her Majesty's Greffier

SCHEDULE

Rule 1

COURT FEES, ETC. IN RESPECT OF CIVIL & CRIMINAL PROCEEDINGS

1. DESCRIPTION OF PROCEEDING OR MATTER	2. FEE
<p>1. Service of a summons, notice or document in any proceedings other than for recovery of a sum of money</p> <p>(a) Service of a summons, notice or document in proceedings for recovery of a sum of money</p>	<p>Sergeant: £150 for expedited service; £50 otherwise</p> <p>Sergeant: £150 for expedited service; £100 otherwise</p>
<p>2. Preparatory reading by a judge and writing of judgment in respect of any proceedings, unless the judge otherwise directs and provided that no fee shall be payable for the first hour of such reading time or the first hour of such writing time.</p>	<p>Court: £150 per hour or part thereof (in excess of the first hour)</p>
<p>3. (a) First, and each subsequent, tabling of a cause, application or petition filing of defences, and interlocutory applications:</p> <p>(i) in proceedings for the recovery of a sum of money -</p> <p>(A) not exceeding £50,000</p> <p>(B) exceeding £50,000 but not exceeding £500,000</p>	<p>Court: £150</p> <p>Court: £200</p>

	(C) exceeding £500,000 but not exceeding £5,000,000	Court: £250
	(D) exceeding £5,000,000	Court: £300
	(ii) in proceedings relating to an application for a Liquor Licence or a Salle Publique Licence including ancillary applications relating thereto.	Court: £150
	(iii) in proceedings relating to the administration of an oath to a public official	Court: £100
	(iv) in proceedings relating to any civil or criminal appeal from the Magistrate's Court, the Court of Alderney or the Court of the Senechal or any appeal from a decision of an administrative body or tribunal, excluding proceedings described in sub paragraph (vi) below	Court: £140
	(v) in proceedings relating to parochial remèdes	Court: £130
	(vi) in proceedings brought under the Companies (Guernsey) Law, 2008, the Income Tax (Guernsey) Law, 1975,	Court: £210

the Limited Partnerships (Guernsey) Law, 1995 and the Trusts (Guernsey) Law, 2007	
(vii) in proceedings under the Insurance Business (Bailiwick of Guernsey) Law, 2002 for the transfer of long term insurance business	Court: £250
(viii) in proceedings relating to an adoption application	Court: £100
(ix) in proceedings relating to disclosure orders and freezing orders	Court: £250
(x) in proceedings relating interim injunctions	Court: £200
(xi) in any other proceedings	Court: £200
(b) Each other proceeding filed as a Consent Order	Court: The sum calculated under paragraph (a) above reduced by £30
(c) Withdrawal of any cause, application or petition lodged with the Court in proceedings described in this paragraph –	
(i) up to thirty minutes prior to the scheduled time of the Court sitting ("the withdrawal deadline")	Greffier: £40
(ii) after the withdrawal deadline with the leave of the Court given séance tenante	Court: The relevant tabling fee as set out in sub paragraph (a) of this paragraph

<p>4. Proceedings before the Court requiring a hearing of one hour or more - including</p> <p>(a) determination on the papers, of a cause, application or petition</p> <p>(b) at a Vue de Justice</p> <p>(c) the examination of a witness whose depositions are to be taken in writing or recorded</p>	<p>Court per hour or part thereof : double the appropriate fee specified in column 2 of paragraph 3(a) for the tabling of the cause:</p>
<p>5. Certificate of service by the Sergeant of a summons or notice</p>	<p>Sergeant: £25</p>
<p>6. Appointment of, and every subsequent appearance in Court of, the Sergeant as Judicial Attorney</p>	<p>Sergeant: £45</p>
<p>7. Filing of written notice of élection de domicile or change of élection de domicile</p>	<p>Greffier: £40</p>
<p>8. Inscription of a cause on the Pleading List or Witness List</p>	<p>Greffier: £35</p>
<p>9. Tabling a Scheduled Application within the meaning of the Royal Court (Non-contentious Applications) Rules, 1988</p>	<p>Court: £60</p>
<p>10. Collated copies of a deposition or transcript of evidence</p>	<p>Greffier: £10 per A4 side or part thereof for the first copy and £1.50 per A4 side or part thereof for any additional copy</p>
<p>11. (a) Listening to original magnetically taped recording of proceedings (reel to reel or part thereof).</p>	<p>Greffier: £45 per hour or part thereof during which access to the recording is granted.</p>

<p>(b) Listening to digital recording of proceedings.</p> <p>(c) Provision of CD recordings of hearings.</p>	<p>Greffier: £25 per hour or part thereof.</p> <p>Greffier: £60</p>
<p>12. Video Conferencing</p> <p>(a) Video Conference booking fee</p> <p>(b) Set-up and test video link</p>	<p>Court: £50</p> <p>Court: £150 Set-up and test video link, for the first 15 minutes (or part of), use of equipment and attendance of court officer</p> <p>£25 subsequent 15 minutes (or part of) including use of equipment and attendance of court officer.</p> <p>Additional technical assistance will be charged at £60 per hour (or part thereof).</p> <p>Transmission costs will be charged at cost.</p>
<p>13. Instantaneous transcript production i.e Live Notes</p>	<p>Court: £100 per day or part thereof</p>
<p>14. Hearing before a Commissioner for the taking of evidence (including the execution of a request from a court of another jurisdiction for the taking of evidence on commission) whether at the Court or elsewhere</p>	<p>Court per hour or part thereof at double the appropriate fee specified in column 2 of paragraph 3(a)</p> <p>If the hearing cannot be accommodated within the Royal Court House, the Applicant will also be responsible for the cost of alternative accommodation</p>
<p>15. As respects Clameurs de Haro:</p> <p>(i) application for endorsement of a clameur by the Bailiff</p> <p>(ii) registration of a</p>	<p>Court: £100</p> <p>Greffier: £45</p>

clameur	
16. Execution of an order of the Court (other than an arrest of wages)	Sheriff: £50 per man hour or part thereof plus the cost of making an inventory of any personalty arrested and of making any copies thereof plus £50 per man hour or part thereof spent in the execution or attempted execution of the order and reporting thereon, including the making of an inventory of any personalty arrested
17. Execution of an arrest of wages of a judgment debtor	Sheriff: £50 plus 5% of any amount recovered
18. Attendance by the Sheriff to deliver goods	Sheriff: £50
19. Attendance by the Sheriff at the Court to declare what he has in hand	Sheriff: £50
20. Attendance by the Sheriff at the Court for any other purpose	Sheriff: £50
21. Opposition to the publication of a sale at the instance of the Sheriff	Sheriff: £50 per publication opposed
22. Opposition to, or postponement of, such a sale	Sheriff: £50 per sale opposed or postponed
23. (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

(c) Publication of notice of sale of effects of judgment debtor	Sheriff: Reasonable expenses of such publication
24. Attendance by the Sheriff at the Court upon being actioned to pay the proceeds of sale	Sheriff: £50
25. 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 notified (b) opposition to, or postponement of a letting (c) a letting (d) the hearing of proceedings against the debtor to see the creditor produce an account (e) notifying the debtor of the making of an Interim Vesting Order and certifying that he has been notified (f) opening the register of claims (g) making an entry in the register of claims (h) copies of the register of claims (i) the hearing of proceedings against	 Sheriff: £50 Sheriff: £25 per letting opposed or postponed. Sergeant: £25 per letting opposed or postponed Sheriff: £50 per property let plus the auctioneer's charges and expenses Sergeant: £20 per property let Commissioner: £100 Greffier: £60 Sheriff: £50 Greffier: £50 Greffier: £30 Greffier: £6 per A4 side or part thereof Commissioner: £100 Greffier: £60

<p>claimants for the purpose of marshalling their claims</p> <p>(j) 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>(k) registration of a Final Vesting Order</p>	<p>Court: £200</p> <p>Greffier: £50</p>
<p>26. Registration of petition</p>	<p>Greffier: £50</p>
<p>27. Execution of a document relating to a transaction for value before the Court</p>	<p>Court: £80 Jurats: £60</p>
<p>28. 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</p>	<p>Jurats: £25</p>
<p>29. Making a declaration</p>	<p>Court: £20</p>
<p>30. Application to appoint a Commissioner pursuant to Practice Direction No. 2 of 2009</p>	<p>Court: £60</p>
<p>31. In désastre proceedings, 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</p>	<p>Commissioner: £100 Greffier: £60 Sheriff: £50</p>
<p>32. Hearing before a Commissioner in proceedings brought under the</p>	<p>Commissioner: £100 Greffier: £60</p>

	Companies (Guernsey) Law 1994 or the Companies (Guernsey) Law, 2008 in respect of the examination of a liquidator's accounts.	Sheriff: £50
33.	Hearing before a Commissioner not otherwise provided for in these Rules	Commissioner: £100 Greffier: £60 Sheriff: £50
34.	Attending at any place outside the Court for the purpose of signing a document	Jurats: £50
35.	Attending any sale or letting	Jurats: £50 per property, subject to a maximum fee of £100
36.	Execution of an eviction order	Sheriff: £50 plus £50 per man hour or part thereof; and, in addition - (a) the cost of making an inventory of personalty removed into storage under Rule 2 of the Eviction Procedures Rules, 1989 and the cost of printing copies thereof (if any) (b) the reasonable cost incurred in removing the personalty from the premises subject to the eviction order and transporting it into storage for safe keeping, and (c) the cost of publication of the notice under Rule 3(1) of the said Rules
37.	Filing of an affidavit	Greffier: £50
38.	Payment into Court	Greffier: £80
39.	Reserving or setting down a date for trial in any matter	(1) Court: £100 and

	<p>(2) £150 per half day set down. Provided that -</p> <p>(a) if and only if the date is vacated on the 14th day before the appointed day (or earlier), the fee at 2 above shall be refunded</p> <p>(b) the fee, at 2 above, shall be credited against any fees chargeable under paragraph 4</p>
<p>40. Acts of Court (including Pleadings) and Certificates</p> <p>(i) Certified copies (excluding the original certified copy provided to the Plaintiff/Applicant following proceedings specified elsewhere in these Rules)</p> <p>(ii) Uncertified copies</p>	<p>Greffier: £7 for the first page of each document and £1.50 for each additional page</p> <p>Greffier: £3.50 for the first and £1.00 for each additional page</p>
<p>41. Application to the Bailiff for leave to serve a summons signed by the applicant in person</p>	<p>Court: £100</p>
<p>42. Taxation proceedings -</p> <p>(a) Filing of request for taxation</p> <p>(b) Determination of request to appoint judge/commissioner</p> <p>(c) Filing of Points of Dispute by paying party</p> <p>(d) Filing of Response by receiving party</p>	<p>Greffier: £60</p> <p>Court: £120</p> <p>Greffier: £120</p> <p>Greffier: £120</p>

(e) Fixing of date for taxation hearing	Court: £120
(f) Preparatory reading by a judge and writing of judgment in respect of any proceedings, unless the judge otherwise directs and provided that no fee shall be payable for the first hour of such reading time or the first hour of such writing time.	Court: £150 per hour or part thereof (in excess of the first hour)
(g) Taxation hearing	Court: £360 per hour or part thereof