



Jersey

# **SERVICE OF PROCESS RULES 2019**

## **Official Consolidated Version**

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Jersey

## SERVICE OF PROCESS RULES 2019

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Jersey

## SERVICE OF PROCESS RULES 2019

**THE SUPERIOR NUMBER OF THE ROYAL COURT** makes these Rules under Article 13 of the [Royal Court \(Jersey\) Law 1948](#) and of Articles 1, 2 and 11 of the [Service of Process and Taking of Evidence \(Jersey\) Law 1960](#) –

Commencement [[see endnotes](#)]

### PART 1

#### SERVICE OUTSIDE JERSEY OF PROCESS OF JERSEY COURTS

##### 1 Scope of this Part

- (1) This Part applies –
  - (a) service of Jersey process out of the jurisdiction;
  - (b) obtaining the permission of the Court for service; and
  - (c) the procedure for service.
- (2) This Part does not apply to the service of documents in matrimonial causes or matters.

##### 2 Interpretation

In this Part –

“civil procedure convention” means any convention (including the Hague Convention) which applies or has been extended to Jersey regarding service out of the jurisdiction;

“Commonwealth State” means a state listed in Schedule 3 to the British Nationality Act 1981;

“Court” means the Royal Court or the Greffier;

“defendant” includes a third party convened in an action and a respondent to proceedings commenced by representation;

“Greffier” means the Judicial Greffier;

“Hague Convention” means the Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters signed at the Hague on 15 November 1965;

“the jurisdiction” means Jersey;

“plaintiff” includes a defendant who is convening a third party in an action and the representor in proceedings commenced by representation;

“sealed” and “under seal” mean sealed with the seal of Jersey;

“Summons” means process in any civil or commercial matter summoning or citing a person outside Jersey to appear before a court of Jersey.

### **3 Grounds for Service out of the jurisdiction**

- (1) The plaintiff may serve a Summons out of the jurisdiction with the permission of the Court if any of the grounds specified in the Schedule applies.
- (2) Despite paragraph (1) where the parties to a contract have agreed that a Summons can be served in or out of the jurisdiction in a manner specified in the contract, service in the manner specified shall be good and effective service wherever the person to be served is resident.

### **4 Application for permission to serve the Summons out of the jurisdiction**

- (1) An application for permission under Rule 3 must be made to the Greffier in writing.
- (2) Despite paragraph (1) an application for permission under Rule 3 may be made to the Bailiff or to the Inferior Number of the Royal Court if the application is part of or incidental to a matter before the Bailiff or the Inferior Number, as the case may be.
- (3) The application must –
  - (a) state which ground in the Schedule is relied on and show that there is a good arguable case on that ground;
  - (b) show –
    - (i) that there is a serious issue to be tried and that the plaintiff believes that the claim has a reasonable prospect of success,
    - (ii) why Jersey is the proper place in which to bring the claim; and
  - (c) state –
    - (i) the defendant’s address and email address (if known), and
    - (ii) by what means the defendant is to be made aware of the Summons.
- (4) Where the application is made in respect of a claim referred to in paragraph 1(3) of the Schedule, the application must also state the grounds on which the plaintiff believes that there is between the plaintiff and the defendant a real issue which it is reasonable for the Court to try.
- (5) The application must be supported by affidavit.
- (6) The Court will not give permission unless satisfied that Jersey is the proper place in which to bring the claim.

- (7) Where the Court gives permission to serve the Summons out of the jurisdiction –
- (a) the Court will specify –
    - (i) the date upon which the defendant is to appear before the Royal Court of Jersey, or
    - (ii) the time within which the defendant is to file an answer or any other response or document; and
  - (b) the Court may –
    - (i) give directions about the method of service, and
    - (ii) give permission or directions for other documents in the proceedings to be served out of the jurisdiction.

## **5 Service of documents other than the Summons – permission<sup>1</sup>**

Where –

- (a) the Court gives permission for the Summons to be served on a defendant out of the jurisdiction; and
- (b) the Summons states that particulars of claim are to follow, the permission of the Court is not required to serve the particulars of claim.

## **6 Notice of proceedings – non-parties**

Where notice of proceedings under these Rules is served out of the jurisdiction on a person who is not a party to the proceedings, that person may make an application to the Court under Rule 6/7 of the [Royal Court Rules 2004](#) to dispute the jurisdiction of the Court as if that person were a party.

## **7 Methods of service – general provisions**

- (1) Where a party wishes to serve a Summons or other document on a party out of the jurisdiction, it must be served by the method directed by the Court and otherwise may be served –
  - (a) by any method provided for by –
    - (i) Rule 8 (service through foreign governments, judicial authorities and British Consular authorities),
    - (ii) Rule 10 (service by other methods),
    - (iii) Rule 11 (service of Summons or other document on a State);
  - (b) by any method permitted by a civil procedure convention or treaty; or
  - (c) by any other method permitted by the law of the country in which it is to be served.
- (2) Nothing in this Rule or in any court order authorises or requires a person to do anything in a country where the Summons or other document is to be served which is contrary to the law of that country.

## **8 Service through foreign governments, judicial authorities and British Consular authorities**

- (1) Where a party wishes to serve the Summons or any other document in any country which is a party to a civil procedure convention or treaty providing for service in that country, it may be served –
  - (a) through the authority designated under the relevant civil procedure convention or treaty in respect of that country; or
  - (b) if the law of that country permits –
    - (i) through the judicial authorities of that country, or
    - (ii) through a British Consular authority in that country (subject to any provisions of the applicable convention about the nationality of persons who may be served by such a method).
- (2) Where a party wishes to serve a Summons or any other document in any country with respect to which there is no civil procedure convention or treaty providing for service in that country, the Summons or other document may be served, if the law of that country so permits –
  - (a) through the government of that country, where that government is willing to serve it; or
  - (b) through a British Consular authority in that country.

## **9 Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities**

- (1) This Rule applies where a party wishes to serve a Summons or any other document under Rule 8(1) or Rule 8(2).
- (2) Where this Rule applies, that party must file –
  - (a) a request for service of the Summons or other document specifying one or more of the methods in Rule 8(1) or Rule 8(2);
  - (b) a copy of the Summons or other document;
  - (c) any other documents or copies of documents required by Practice Directions; and
  - (d) any translation required under Rule 12.
- (3) Where a party files the documents specified in paragraph (2), the Greffier will –
  - (a) seal the copy of the summons or other document; and
  - (b) forward the documents to the Bailiff.
- (4) The Bailiff will send documents forwarded under this Rule –
  - (a) where the Summons or other document is being served through the authority designated under a civil procedure convention or treaty, to that authority; or
  - (b) in any other case, to the Foreign and Commonwealth Office with a request that it arranges for the Summons or other document to be served.
- (5) An official certificate which –



- (a) states that the method requested under paragraph (2)(a) has been performed and the date of such performance;
  - (b) states, where more than one method is requested under paragraph (2)(a), which method was used; and
  - (c) is made by –
    - (i) a British Consular authority in the country where the method requested under paragraph (2)(a) was performed,
    - (ii) the government or judicial authorities in that country, or
    - (iii) the authority designated in respect of that country under a civil procedure convention or Treaty, is evidence of the facts stated in the certificate.
- (6) A document purporting to be an official certificate under paragraph (5) is to be treated as such a certificate, unless it is proved not to be.

## **10 Service by other methods**

- (1) Where a party wishes to serve a Summons or any other document in any country with respect to which there is no civil procedure convention or treaty providing for service in that country, the Summons or other document may be served, if the law of that country so permits, through a process server in that country, properly authorised in that regard.
- (2) Where a party wishes to serve the Summons or other document in –
  - (a) any Commonwealth State which is not a party to the Hague Convention or is such a party but the Government of the United Kingdom has not declared acceptance of its accession to the Convention;
  - (b) the United Kingdom, Guernsey or the Isle of Man; or
  - (c) any British overseas territory,the party or the party's agent must effect service either directly or by another method directed by the Court.

## **11 Service of summons or other document on a State**

- (1) This Rule applies where a party wishes to serve the summons or other document on a State.
- (2) In this Rule, "State" has the meaning given by section 14 of the State Immunity Act 1978 (as extended to Jersey by the State Immunity (Jersey) Order 1985).
- (3) The party must file in the Bailiff's Chambers –
  - (a) a request for service to be arranged by the Foreign and Commonwealth Office;
  - (b) a copy of the summons or other document; and
  - (c) any translation required under Rule 12.
- (4) The Bailiff will send the documents filed under this Rule to the Foreign and Commonwealth Office with a request that it arranges for them to be served.

- (5) An official certificate by the Foreign and Commonwealth Office stating that a summons or other document has been duly served on a specified date in accordance with a request made under this Rule is evidence of that fact.
- (6) A document purporting to be such a certificate is to be treated as such a certificate, unless it is proved not to be.
- (7) Where –
  - (a) section 12(6) of the State Immunity Act 1978 (as extended to Jersey by the State Immunity (Jersey) Order 1985) applies; and
  - (b) the State has agreed to a method of service other than through the Foreign and Commonwealth Office,the summons or other document may be served either by the method agreed or in accordance with this Rule.

## **12 Translation of summons or other document**

- (1) Except where paragraph (4) or (5) applies, every copy of the summons or other document filed under Rule 8 (service through foreign governments, judicial authorities etc.) or Rule 11 (service of summons or other document on a State) must be accompanied by a translation of the Summons or other document.
- (2) The translation must be –
  - (a) in the official language of the country in which it is to be served; or
  - (b) if there is more than one official language of that country, in any official language which is appropriate to the place in the country where the Summons or other document is to be served.
- (3) Every translation filed under this Rule must be accompanied by a statement by the person making it that it is a correct translation, and the statement must include that person's name, address and qualifications for making the translation.
- (4) A party is not required to file a translation of a Summons or other document filed under Rule 8 (service through foreign governments, judicial authorities etc.) where the Summons or other document is to be served –
  - (a) in a country of which English is an official language; or
  - (b) on a British citizen (within the meaning of the British Nationality Act 1981),unless a civil procedure convention or treaty requires a translation.
- (5) A party is not required to file a translation of a summons or other document filed under Rule 11 (service of summons or other document on a State) where English is an official language of the State in which the summons or other document is to be served.

## **13 Undertaking to be responsible for expenses**

Every request for service filed under Rule 8 (service through foreign governments, judicial authorities etc.) or Rule 11 (service of summons or other document on a State) must contain an undertaking by the person making the request –

- (a) to be responsible for all expenses incurred by the Foreign and Commonwealth Office or foreign judicial authority; and
- (b) to pay those expenses to the Foreign and Commonwealth Office or foreign judicial authority on being informed of the amount.

#### **14 Substituted service**

- (1) The Court may make all such orders for substituted service or otherwise as may be necessary to give effect to these Rules.
- (2) The prescription of a right of action is suspended on the making of an order for substituted service under paragraph (1).
- (3) However, prescription is not suspended where –
  - (a) the service is invalid;
  - (b) the action is discontinued; or
  - (c) the defendant is discharged from the proceedings.

#### **15 Proof of service before obtaining judgment**

Where –

- (a) a hearing is fixed when the Summons is issued;
- (b) the Summons is served on a defendant out of the jurisdiction; and
- (c) that defendant does not appear at the hearing,

the plaintiff may not obtain judgment against the defendant until the plaintiff files written evidence that the Summons has been duly served in accordance with this Part.

## **PART 2**

### **SERVICE OF DOCUMENTS FROM COURTS OR TRIBUNALS OUTSIDE JERSEY**

#### **16 Scope of this Part**

This Part applies to the service in Jersey of any document in connection with civil or commercial proceedings in a foreign court or tribunal.

#### **17 Interpretation**

In this Part –

- (a) “convention country” means a country in relation to which there is a civil procedure convention (within the meaning of Rule 2);
- (b) “foreign court or tribunal” means a court or tribunal in a country outside Jersey.

**18 Request for service – letter of request**

- (1) The Viscount will serve on a person in Jersey a document to which this Part applies upon receipt from the Attorney General of a written request for service –
  - (a) in the case of a convention country, from a consular or other authority of the country; or
  - (b) in other cases, from the Foreign and Commonwealth Office, with a recommendation that service be effected.
- (2) The request must be accompanied by –
  - (a) a translation of the request into English;
  - (b) two copies of the document to be served; and
  - (c) unless the foreign court or tribunal certifies that the person to be served understands the language of the document, two copies of a translation of it into English.

**19 Other forms of request for service**

- (1) The Viscount may serve on a person in Jersey a document to which this Part applies upon receipt of a written request for service other than a request referred to in Rule 18(1).
- (2) The Viscount may require the request to be accompanied by –
  - (a) a translation of the request into English;
  - (b) two copies of the document to be served; and
  - (c) unless the person to be served understands the language of the document, two copies of a translation of it into English.

**20 Method of service**

- (1) The Viscount will serve the document or a copy of it, together with a copy of any translation, by personal service in accordance with Part 5 of the [Royal Court Rules 2004](#).
- (2) If the request for service specifies a different method of service, the Viscount may use that method as well as or instead of personal service.

**21 If service is not possible**

- (1) Where the Viscount has not been able to serve a document, he or she will return the document –
  - (a) in the case of a request within Rule 18, to the Attorney General; or,
  - (b) in the case of a request within Rule 19, to the person who lodged the request,together with a statement why the document could not be served.
- (2) If the Attorney General so requests in the case of a request within Rule 18, the Viscount will specify the costs incurred attempting to serve the document.

- (3) In the case of a request within Rule 19, the Viscount will specify the costs incurred attempting to serve the document.

## **22 After service has been effected**

- (1) Where service of a document has been effected by the Viscount, he or she will return a copy of the document together with a record certifying when and how service was effected –
  - (a) in the case of a request within Rule 18, to the Attorney General; or
  - (b) in the case of a request within Rule 19, to the person who lodged the request.
- (2) If the Attorney General so requests in the case of a request within Rule 18, the Viscount will specify the costs incurred in serving the document.
- (3) In the case of a request within Rule 19, the Viscount will specify the costs incurred in serving the document.

## **23 Certification to the requesting party**

- (1) In relation to a request within Rule 18, the Attorney General will send to the person who requested service a certificate stating when and how the document was served or the reason why it has not been served.
- (2) The certificate will also state, where appropriate, the amount of the costs of serving or attempting to serve the document.
- (3) The certificate will be accompanied by a copy of the document served (or by the original if the document was not served).

# **PART 3**

## **CLOSING PROVISIONS**

## **24 <sup>2</sup>**

## **25 Citation and commencement**

- (1) These Rules may be cited as the Service of Process Rules 2019.
- (2) These Rules come into force on 28th October 2019.

## SCHEDULE

(Rule 3(1))

### GROUND FOR SERVICE OUT OF THE JURISDICTION

#### 1 General grounds

- (1) A claim is made for a remedy against a person domiciled within the jurisdiction or who has a residential and employment status within the meaning of the [Control of Housing and Work \(Jersey\) Law 2012](#).
- (2) A claim is made for an injunction ordering the defendant to do or refrain from doing an act within the jurisdiction.
- (3) A claim is made against a person (“the defendant”) on whom the Summons has been or will be served (otherwise than in reliance on this paragraph) and –
  - (a) there is between the plaintiff and the defendant a real issue which it is reasonable for the Court to try; and
  - (b) the plaintiff wishes to serve the Summons on another person who is a necessary or proper party to that claim.
- (4) A claim is made against the defendant in reliance on one or more of –
  - (a) sub-paragraph (2);
  - (b) paragraphs 2(1) to 6(6);
  - (c) paragraph 9(1) or (2),and a further claim is made against the same defendant which arises out of the same or closely connected facts.

#### 2 Claims in relation to contracts

- (1) A claim is made in respect of a contract where the contract –
  - (a) was made within the jurisdiction;
  - (b) was made by or through an agent trading or residing within the jurisdiction;
  - (c) is governed by Jersey law; or
  - (d) contains an agreement to the effect that the Court shall have jurisdiction to determine any claim in respect of the contract.
- (2) A claim is made in respect of a breach of contract committed within the jurisdiction.
- (3) A claim is made for a declaration that no contract exists where, if the contract was found to exist, it would comply with any of the conditions set out in sub-paragraph (1).

#### 3 Claims in tort etc.

A claim is made in respect of a civil wrong where –

- (a) damage was sustained, or will be sustained, within the jurisdiction; or
- (b) damage which has been or will be sustained results from an act committed, or likely to be committed, within the jurisdiction.

#### **4 Enforcement**

A claim is made to enforce any judgment or arbitral award.

#### **5 Claims about Jersey immovables**

The subject matter of the claim relates wholly or principally to immovables within the jurisdiction, provided that nothing under this paragraph shall render justiciable the title to or the right to possession of immovable property outside Jersey.

#### **6 Claims about trusts etc.**

- (1) A claim or application is made under Article 5 of the [Trusts \(Jersey\) Law 1984](#) or otherwise a claim is made in respect of a trust which is created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, and which is governed by Jersey law.
- (2) A claim is made in respect of a trust which is created by the operation of law, or by a written instrument, or created orally and evidenced in writing, and which provides that jurisdiction in respect of such a claim shall be conferred upon the courts of Jersey.
- (3) A claim is made for any remedy which might be obtained in proceedings for the administration of the estate of a person who died domiciled within the jurisdiction or whose estate includes assets within the jurisdiction.
- (4) A claim is made in relation to a testate or intestate succession of movable or immovable estate, including an application –
  - (a) for –
    - (i) the annulment or rectification of a will, or
    - (ii) the reduction of a will *ad legitimum modum*,
  - (b) for *bénéfice d'inventaire*, or
  - (c) concerning a claim of *avancement de succession*.
- (5) A claim is made against the defendant as constructive trustee, or as trustee of a resulting trust, where the claim arises out of acts committed or events occurring within the jurisdiction or relates to assets within the jurisdiction.
- (6) A claim is made for restitution where –
  - (a) the defendant's alleged liability arises out of acts committed within the jurisdiction;
  - (b) the enrichment is obtained within the jurisdiction;
  - (c) the assets claimed are within the jurisdiction; or
  - (d) the claim is governed by Jersey law.

**7 Claim for costs order in favour of or against third parties**

A claim is made by a party to proceedings where the Court has jurisdiction under the [Civil Proceedings \(Jersey\) Law 1956](#) to make a costs order in favour of or against a person who is not a party to those proceedings.

**8 Salvage etc. claims**

A claim is –

- (a) in the nature of salvage and any part of the services took place within the jurisdiction; or
- (b) to enforce a claim under Part 2 of the [Shipping \(Oil Pollution\) \(Liability and Compensation\) \(Jersey\) Law 2015](#).

**9 Claims under various other enactments**

- (1) A claim is made under the [Forfeiture of Assets \(Civil Proceedings\) \(Jersey\) Law 2018](#).
- (2) A claim or application is made under the [Companies \(Jersey\) Law 1991](#) and the person to be served is a necessary or proper party.
- (3) A claim is made under an enactment (including an enactment of the United Kingdom extended to Jersey by Order in Council or otherwise having effect in Jersey) which allows proceedings to be brought and those proceedings are not covered by any of the other grounds referred to in this Schedule.

**10 Claims for breach of confidence or misuse of private information**

A claim is made for breach of confidence or misuse of private information where –

- (a) detriment was suffered, or will be suffered, within the jurisdiction; or
- (b) detriment which has been, or will be, suffered results from an act committed, or likely to be committed, within the jurisdiction.

**11 Claims for financial relief with respect to a child**

A claim is made for an order for financial relief with respect to a child in accordance with Schedule 1 to the [Children \(Jersey\) Law 2002](#).



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Service of Process Rules 2019	<a href="#">R&amp;O.91/2019</a>	28 October 2019	
Service of Process (Amendment) Rules 2021	<a href="#">R&amp;O.115/2021</a>	23 September 2021	

Projects available at [statesassembly.gov.je](http://statesassembly.gov.je)

### Table of Endnote References

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- <sup>1</sup> Rule 5                                      amended by R&O.115/2021  
<sup>2</sup> Rule 24                                      spent, omitted