

THE ROYAL COURT

APPLICANTS IN PERSON

October 2019

Royal Court House
St James Street
St Peter Port
Guernsey
GY12NZ

www.guernseyroyalcourt.gg



THE ROYAL COURT
OF GUERNSEY

ACTION FOR DEBT OR DAMAGE (CLAIMS OVER £10,000)

There are a number of things, as detailed below, which will help you decide whether to proceed with an Action for Debt or Damage and whether this can be dealt with by the Action for Debt or Damage process.

An Action for Debt or Damage can only be commenced in the Royal Court where the value of the claim is more than £10,000.

Examples of claims you can make include (but are not limited to):

- Claims for debts;
- Claims for damage to your property;
- Claims in relation to the property of a marriage.
- Damage to vehicles caused in Road traffic incidents

Excluded claims— There are cases which may seem to fall into the Action for Debt or Damage category but which are excluded. Examples include (but are not limited to):

- Claims for libel or slander;
- Claims concerning the title to land;
- Claims where the matter is of a value of less than £10,000
- Multiple claims which their sum is greater than £10,000; however individually are less than £10,000.

If you need further information on which claims fall under these categories or require legal advice, please refer to an advocate.

Landlords are advised to read and understand their tenancy agreements, specifically checking for an arbitration clause, before proceeding with an Action for Debt or Damage.

Who are the parties involved?

The 'Plaintiff' refers to any Applicant or other person bringing civil proceedings of any sort before the Royal Court. The 'Defendant' includes any Respondent to an application before the Court or any Debtor. A Defendant will be liable to pay Court fees in respect of proceedings begun by them, for example a counter-claim or counter-application, as if they were a Plaintiff.

What's next?

If you wish to bring an Action for Debt or Damage Application, please complete the Action for Debt or Damage documentation enclosed in this leaflet and submit these at the Royal Court counter. Alternatively, please visit the Royal Court website to download the forms: www.guernseyroyalcourt.gg.

To bring such an application before the Court, an application has to first be made to the Bailiff for permission to serve a Summons upon the Defendant as set out in Application Form A attached. If such permission is granted, an Act of Court will be issued confirming the grant of the permission. The Plaintiff can then proceed to issue a Summons upon the Defendant.

Actions for Debt or Damage are usually listed for the Friday Ordinary Court which sits at 9.30 am on every working Friday of the year.

PLEASE NOTE: Two full sets of the paperwork has to be filed at the Greffe.

Rule 90 of the Royal Court Civil Rules, 2007 – Form A

APPLICATION FORM



Application to the Bailiff for leave for a summons to be signed by the Plaintiff/Claimant in person or by their guardian. Two copies of this form, each with a copy of the proposed summons attached, must be completed and delivered to HM Greffier, together with the application fee of £115.

1. Name and address of Plaintiff/Claimant

.....

.....

.....

2. Name and address of Defendant

.....

.....

.....

3. I hereby apply to the Bailiff for leave to sign the attached summons and serve it on the above Defendant

4. Signed.....

5. Dated.....

Following receipt of this application, HM Greffier will refer it to the Bailiff. HM Greffier will notify the Plaintiff/Claimant of the result of their application by sending to them a copy of this form with the result of the application entered at the top of the form.

If leave is granted, the Plaintiff/Claimant must then request HM Sergeant to serve a copy of the summons, with a copy of this form attached, and pay HM Sergeant the appropriate summons fee.

When processing your personal data, these offices are compliant with the Data Protection (Bailiwick of Guernsey) Law, 2017. For more information about how these offices process your personal data, please view the Fair Processing Notice available at the Royal Court Public Counter or on the Royal Court Website Homepage.



Rule 90 of the Royal Court Civil Rules, 2007 – Form B

SUMMONS FORM

[When leave has been granted by the Bailiff, two copies of this Form, together with the Cause Form and details of the claim, must be delivered by the Plaintiff/Claimant to HM Sergeant for service on the Defendant. The fee for service is £115.00 in proceedings for recovery of a sum of money or £60.00 in any other proceedings]

**SERGEANT
AT THE INSTANCE OF**

[Enter here your name and address as Plaintiff/Claimant]

.....
.....
.....

SUMMON

[Enter here the name and address of the Defendant]

.....
.....
.....

To appear in the Royal Court at 9.30 a.m. on Friday.....

.....20.....

[Enter above the date on which you wish the summons to be returnable before the Court. This date should not be entered until after the Bailiff has granted leave to you as Plaintiff/Claimant to sign the summons].



EITHER

[If the claim is for a sum of money]

To see the Plaintiff/Claimant apply to the Court to order the Defendant to pay to the Plaintiff/Claimant the sum of [Enter the sum in writing and in figures].....

.....

As shown on the attached statement of facts.

And the Plaintiff/Claimant claims interest and costs.

OR

[If the claim is for other than a sum of money]

To see the Plaintiff/Claimant apply to the Court for an order in the attached terms, and the Plaintiff/Claimant claims costs.

[Attach a written statement of the material facts on which you rely as Plaintiff/Claimant. The same statement must be attached to the Cause Form]

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NOTICE TO DEFENDANT

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/Claimant's cause attached) and at the same time you must serve a copy on the Plaintiff/Claimant*



5. *If you fail to table your defences (as required by Rule 16 of the Royal Court Civil Rules, 2007) the Plaintiff/Claimant 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/Claimant.7. If you cannot agree such an extension with the Plaintiff/Claimant 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/Claimant, not later than 4.00pm on the Wednesday 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.***



Rule 90 of the Royal Court Civil Rules, 2007 – Form C

CAUSE FORM

1. Name and address of Plaintiff/Claimant (1)

.....

.....

.....

ACTIONS

2. Name and address of Defendant

.....

.....

.....

3. (a) [When the claim is for a sum of money]

TO SEE THE PLAINTIFF/CLAIMANT APPLY TO THE COURT to order the Defendant to
pay to the Plaintiff/Claimant the sum
of.....

together with interest and costs.

- (b) [Where the claim is other than for a sum of money]

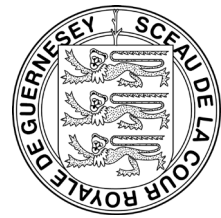
TO SEE THE PLAINTIFF/CLAIMANT APPLY TO THE COURT for an order in the
attached terms, together with costs.

Details of the claim, that is to say a statement of the material facts on which the Plaintiff/Claimant relies, must be attached to this Cause Form. A copy of the Cause Form, after it has been stamped by HM Sergeant to confirm that it has been served on the Defendant, must be filed at the Greffe not later than 4 p.m. on the Wednesday prior to the Friday on which the Summons is returnable before the Royal Court. The minimum Court Fee of £176 (or £231 in the case of an eviction involving domestic premises only) must be paid at the same time. (2)

(1) The Claimant must state his/her address for service, that is to say the address at which any document may be validly served.

(2) Further details are in the following Rules at www.guernseylegalresources.gg

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Rule 90 of the Royal Court Civil Rules, 2007

Guidance Notes for Plaintiffs/Claimants

A person who is considering applying to the Royal Court for permission to pursue in the Guernsey Courts civil proceedings without instructing an Advocate should bear in mind a number of matters.

Directions Hearings

In the Magistrates Court (claims up to £10,000), there may be direction hearings prior to a full hearing. Such direction hearings would be exceptional in that Court.

In the Royal Court (claims above £10,000), directions hearings are routinely held. Indeed they are a feature of civil litigation in that Court. Directions hearings are fixed at short notice, often only a matter of days in advance. There may be a number of directions hearings depending upon the complexity of the case. The personal presence of the Plaintiff/ Claimant is required at directions hearings if not represented by an Advocate. Inevitably that will give rise to travel costs and perhaps accommodation costs. The Interlocutory Court at which such matters are dealt with sits at 10.00 a.m. on Friday mornings.

For those reasons most non-resident claimants instruct a Guernsey Advocate who can represent them at each directions hearing.

Who actively pursues the Litigation?

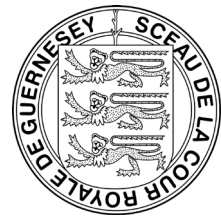
Rule 90 gives discretion to the Bailiff, on application by a Plaintiff/Claimant to dispose with a provision of Guernsey Law that required that an Advocate of the Royal Court should sign a summons.

An Officer of the Court does not conduct proceedings on behalf of a Plaintiff/Claimant. A Plaintiff/Claimant must therefore attend Court on each and every occasion. There is no procedure for a Court Officer to pursue payment on behalf of a Plaintiff/Claimant until the Court has determined liability in the case.

Recoverable Costs

In the Magistrates Court there is no provision for the Magistrate to award legal costs to either side other than in respect of fees levied by the Court for hearings and for the service by the process server (HM Sergeant) for serving documents.

In the Royal Court the presiding judge has power to award costs and will invariably do so. This will normally be on a recoverable costs basis. The Court also has power to order costs on a full or partial indemnity basis. The maximum recoverable costs rate for an Advocate's time was fixed at £268 per hour with effect from 1 January 2018. This rate increases each year in accordance with the Guernsey Retail Price Index. On a full indemnity basis the Advocates hourly fee rate will be substantially higher than this.



It follows that any Plaintiff/Claimant resident in another jurisdiction unfamiliar with Guernsey Law should consider carefully whether to enter into litigation without the benefit of Guernsey legal advice and representation.

Address for Service

A non-resident Plaintiff/Claimant will be required to state to the Court an address in Guernsey at which documents may be served by the Court or by other parties in a case. It follows that someone must ordinarily be resident there or conducts business there so that such communications can be acted upon swiftly.

Security for Costs

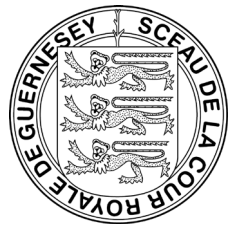
A resident Defendant in Royal Court proceedings will invariably seek an Order that a non-resident Plaintiff/Claimant should lodge with the Royal Court a sum by way of security for costs.

Witnesses

A Plaintiff/Claimant should note that in any disputed case there is every prospect all relevant witnesses will be required to give live evidence in Court.

Alternative Dispute Resolution

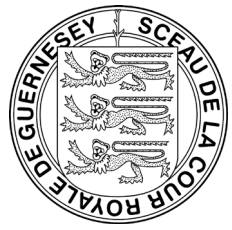
Alternative dispute resolution in the form of mediation or arbitration is encouraged by the Guernsey Courts.



**The Royal Court Civil Rules, 2007
(O.R.C. IV of 2007)**

**Rule 90 - Procedure for Issuing Summonses in the Royal Court
without instructing an Advocate**

1. A Plaintiff/Claimant can bring an action for debt or damages before the Magistrate's Court (as a Petty Debt) for a sum not exceeding £10,000, by instructing HM Sergeant to issue a summons. Claims in excess of £10,000 can only be pursued before the Royal Court.
2. This Rule provides for a Plaintiff/Claimant to issue a summons in civil proceedings before the Royal Court without instructing an Advocate. (A copy of Rule 90 is attached)
3. The Plaintiff/Claimant must first apply to the Bailiff for leave to issue a Summons. He or she does this by delivering to HM Greffier the following three forms, Application Form A, Summons Form B (or, if the action is for eviction, Summons Form B for Evictions) and Cause Form C. A written summary of the material facts, which the Plaintiff/Claimant will rely upon in support of their action, must be attached to the Summons form. The Greffe requires two complete sets of the forms and documentation to be filed. The Application Fee must be paid when the application is delivered to the Greffe.
4. The Bailiff will usually consider the application on the papers and HM Greffier will then write to the Plaintiff/Claimant telling them of the Bailiff's decision.
5. If the application is granted, HM Greffier will send a standard letter to the Plaintiff/Claimant enclosing:-
 - (1) The Application Form A duly certified to indicate that it has been granted;
 - (2) Copies of Summons Form B and Cause Form C; and
 - (3) Extract from the Royal Court (Costs and Fees) Amendment Rules, (2018) is attached so that the Plaintiff/Claimant is aware of the Court fees they may be charged. If the Plaintiff/Claimant is unsuccessful they may also be ordered by the Royal Court to pay the costs of the Defendant. For example, if the Defendant has engaged an Advocate, on the standard recoverable basis the Advocate's time can be charged for at a figure not exceeding the amount stated in Rule 2 of the Royal Court (Costs and Fees) Rules. Thereafter the rate will be increased in accordance with the Guernsey Retail Price Index.
6. The Plaintiff/Claimant is required to instruct HM Sergeant to issue a summons two clear working days prior to the Friday Court ie by 12 noon on the Tuesday preceding the



Court, and to lodge with HM Greffier the cause, bearing HM Sergeant's certificate of service, by close of business (4.00 pm) on the Wednesday before the Friday 9.30 am sitting of the Royal Court.

7. The Plaintiff/Claimant is required to pay the appropriate tabling fee at the Greffe when they lodge their cause in accordance with paragraph 6.

The tabling fees vary according to the amount claimed.

8. Copies of Application Form A, Summons Form B, and Cause Form C are attached.
9. For further information, and copies of Forms, please contact:

H M Greffier
The Greffe
Royal Court House
St Peter Port
Guernsey GY1 2NZ

Tel: 01481 725277
Fax: 01481 715097
E-mail: HM.greffier@gov.gg

EXTRACT FROM THE ROYAL COURT CIVIL RULES, 2007

Signing of summonses etc. otherwise than by an Advocate.

90. (1) A summons, signification or other document is not formally invalid by reason only of the fact that it is not signed by an Advocate, notwithstanding the provisions -

- (a) of these Rules,
- (b) of the Ordonnance relative aux Ajours et aux Causes mises devant la Cour Royale of the 27th October, 1934¹, or
- (c) of any other rule of statutory or customary law imposing formal requirements as to the signing of summonses,

provided that the conditions set out in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are -

- (a) the person wishing to serve the summons ("the applicant") has lodged two copies of the summons with the Greffier,
- (b) the Greffier, at the request of the applicant (made in such form as the Greffier may require), has fixed a date, time and place for the making of an ex parte application to the Bailiff for leave under subparagraph (c), and
- (c) the Bailiff, on hearing the application, has given leave for the summons to be signed by the applicant himself or, where appropriate, by his tuteur or curateur or by the person

appointed to act on his behalf pursuant to the provisions of Rule 32(1).

(3) The Bailiff, on an application under this rule, may give such directions as he thinks fit as to the hearing of the matter and may -

(a) grant leave, subject to such conditions as he thinks fit, or

(b) refuse leave,

and the decision of the Bailiff is final.

(4) For the purposes of this rule, "summons" includes a signification, petition or other document to be served by Her Majesty's Sergeant in connection with proceedings instituted, or to be instituted, before the Court.



Guernsey Court Fees

Name of Case:

Application to Bailiff for leave to serve a summons or notification signed by applicant in person.

£115.00

Service of a summons, notice or document in any proceedings other than for recovery of a sum of money.

£60.00

Service of a summons, notice or document in proceedings for recovery of a sum of money.

£115.00

Preparatory reading by a judge and writing of judgment in respect of any proceedings, per hour or part thereof, 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.

N/A

First and each subsequent tabling of a cause, application or petition, filing of defences, and interlocutory applications.

a) in proceedings for the recovery of a sum of money.

£176.00 - £345.00
(Depending on sum claimed)

b) in proceedings relating to other matters

£115.00 - £291.00

Proceedings before the Court requiring a hearing (up to 1 hour). (Exceeding one hour double the appropriate fee specified per hour or part thereof).

£115.00 - £345.00 up to 1 hour (Depending on sum claimed or type of proceedings)

Lodging of Affidavits

£60.00

I have seen the schedule of fees set out in The Royal Court (Cost and Fees) (Amendment) Rules, 2018 relevant to my application, and is available on the www.guernseylegalresources.gg website, and I understand that I will be charged for each application I make and the cost of the court hearing and other applicable fees.

Signed..... Date.....

Full name..... Telephone number

E-mail address

PLEASE COMPLETE AND SIGN BOTH PAGES OF THIS DOCUMENT AND RETURN TO THE GREFFE TO ENABLE A COURT FEE ACCOUNT TO BE OPENED IN THE NAME OF THE APPLICANT. FAILURE TO DO SO MAY RESULT IN THE APPLICATION NOT BEING HEARD BEFORE THE COURT.

SECTION A - Where the Applicant is an individual

Title: Mr/Mrs/Miss

Surname

First name(s)

Middle name(s)

Maiden name

Date of birth

Address (including post code):

.....

Home telephone number

SECTION B - Where the Applicant is a company

Company name

Company address (including post code)

.....

Main (business) telephone number

E-mail address

Correspondence address (if different to address given above)

.....

Directors of the Company

.....

Company Registration Number

I CERTIFY THAT THE ABOVE DETAILS ARE ACCURATE TO THE BEST OF MY KNOWLEDGE

Signed..... Date.....

Full name..... Contact telephone number

E-mail address

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