

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

EVICITION

If you, as a landlord/owner, wish to evict a tenant/occupier from a property you must first serve a Notice to Quit. upon the tenant/occupier. An immediate Notice to Quit may be given if a tenant/occupier is in arrears of rent, otherwise a period of notice to leave the premises must equate to the rental period ie weekly or monthly. HM Sheriff staff will arrange for the Notice to Quit to be produced and served upon the tenant/occupier. A fee is charged for this service.

It is advisable to obtain the services of an advocate to commence and conduct eviction proceedings in Court as the Royal Court has to be satisfied that there is a legal basis for eviction of a tenant/occupier.

What do I need to do?

In order to commence eviction proceedings the landlord/owner must first complete the Eviction Application Form, Cause Form, and Summons Form and submit them, in duplicate, to the Royal Court either in person at the Royal Court counter or by post, along with payment of the relevant fees. An explanation of the fees is also enclosed within this leaflet.

What is the procedure?

The basic procedure for an eviction is:

- 1) The landlord/owner provides the required completed documents to the Greffe in duplicate.
- 2) The Bailiff reviews the Application and either rejects or grants permission for the landlord/owner to issue a Summons on the tenant/occupier.
- 3) Upon receiving permission, the tenant/occupier should be served with a Summons to attend an eviction hearing in the Royal Court.
- 4) The Judge will consider whether an eviction order can be granted as a matter of law. If the tenant/occupier wishes to request a stay of eviction, any such request will be considered at a later court sitting with Jurats. The Jurats will decide on the facts before them whether a stay of eviction can be given and the length of the stay.
- 5) Once an eviction order has been made the services of HM Sheriff may be used to effect the eviction of tenants and occupiers from the premises.

Please note that the forms referred to above can also be obtained on the Royal Court website: www.guernseyroyalcourt.gg.

Should you require legal advice please refer to an advocate.

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 landlord/owner 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 landlord/owner

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

2. Name and address of tenant

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

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 landlord/owner of the result of the application by sending them a copy of this form with the result of the application entered at the top of the form.

If leave is granted, the landlord/owner 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.



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

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 (written summary of the material facts), must be delivered by the landlord/owner to HM Sergeant for service on the tenant/occupier. The minimum fee for service is £60]

**SERGEANT
AT THE INSTANCE OF**

[Enter here your name and address below as landlord/owner]

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

SUMMON

[Enter here the name and address of the tenant/occupier]

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

To appear in the Royal Court at 09.30 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 landlord/owner to sign the summons]

The tenant/occupier of premises known as

.....

to see the landlord/owner obtain permission from the Court to use the services of H.M. Sheriff to evict the tenant/occupier from the premises he/she having no right to remain in possession thereof

[enter alternative (i) or (ii) below as appropriate]

- (i) having failed to comply with the notice to quit served on him/her by
H.M. Sergeant on the [Enter date here].....
to quit the premises on or before [Enter date here].....

OR (ii) having failed to pay the agreed rent in respect thereof pursuant to the terms of the said tenancy.



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.

NOTICE TO TENANT/OCCUPIER

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 the eviction order being made.*
 - (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 apply for the matter to be adjourned to a Court sitting with Jurats if you wish to apply for a stay of eviction.*
3. ***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 landlord/owner (1)

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

ACTIONS

2. Name and address of tenant/occupier

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

3. TO SEE THE LANDLORD/OWNER 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 landlord/owner 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 tenant/occupier, must be filed at the Greffe not later than 4p.m. on the Wednesday prior to the Friday on which the Summons is returnable before the Royal Court. The minimum Court Fee of £231 must be paid at the same time. (2)

(1) The landlord/owner 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

The Royal Court (Civil) Rules, 2007
The Royal Court (Costs and Fees) (Amendment) Rules, 2018

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EVICTIONS

Minimum information to be elicited in average case.

FACTS

1. Name of Tenant(s) and status as Tenant/Occupier

2. Family members/others also in property
 - (a) Married
 - (b) Partner
 - (c) Children (number)
 - (d) Others

3. Premises
 - (a) Open or local market
 - (b) Brief description eg. 1 bed flat, 3 bed house

 - (c) Furnished or unfurnished

4. Date of commencement of tenancy/occupation of property

5. Rent charged per week/month

6. (a) Has a notice to Quit been served by HM Sheriff? If so when?
 - (b) What is the expiry date stated in the Notice?

7. Reasons for seeking eviction. Please complete (a) or (b)

(a) Arrears of rent

History –

Amount unpaid –

Warning of eviction given if any –

(b) Any other grounds

8. Income of tenants(s) (if known)

(a) Employment

(b) Supplementary benefit

(a) Any other income

9. Estimated expenditure per week of tenant(s) (if known)

(a) Assets if any

(b) Debts if any (other than arrears of rent)

10. Any attempts by the tenant(s) to secure re-housing

(a) With relatives

(b) Elsewhere

(c) None

11. Has landlord offered any alternative accommodation

(a) When

(b) Where

(c) Rent

(d) Suitability

(e) None

12. Matters to be taken into account by the Court with a view to deciding whether the Court should suspend execution of an eviction order (section 3 (a) – (h) of the 1946 Law)

13. Is landlord willing to accept any minimum stay of eviction?

(a) How long

(b) On what conditions

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FOR ROYAL COURT USE ONLY

FOR PRESIDING JUDGE

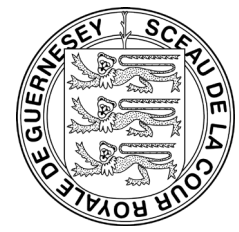
Is eviction order to be granted as a matter of law

FOR JURATS

(a) Resolution of any factual issues before decision on law

(b) What stay of eviction, if any

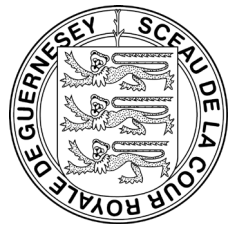
(c) Conditions attached to stay of eviction, if any



**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 and 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 required 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, 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 sitting of the Royal Court.

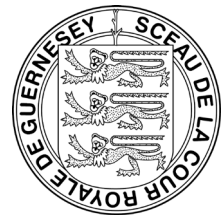
7. The Plaintiff/Claimant is required to pay the appropriate tabling fee at the Greffe when they lodge their cause in accordance with paragraph 6.

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



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?

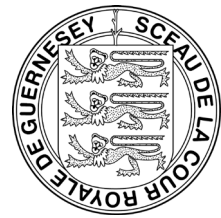
Rule 90 gives discretion to the Bailiff, on application by a Plaintiff/Claimant to dispose with a provision of Guernsey Law that required that an Advocate of the Royal Court should sign a summons.

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 conduct 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.

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

¹ Recueil d'Ordonnances Tome VII, p. 17.

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.

N/A

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.

N/A

b) in proceedings relating to Eviction

£231.00

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

£231.00 (£462.00 per hour or part thereof)

Lodging of Affidavits

£60.00

Filing of Documents (Matrimonial Causes)

N/A

I have been shown the schedule of fees set out in the Cost and Fees Rules relevant to my application, which 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 (W)

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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