

CAYMAN ISLANDS



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**GRAND COURT LAW (2008 REVISION)**

**THE GRAND COURT (AMENDMENT No. 2) RULES 2011**

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### **THE GRAND COURT (AMENDMENT No. 2) RULES 2011**

These Rules are made by the Rules Committee pursuant to Section 19(3) of the Grand Court Law (2008 Revision).

#### **1. Citation, Commencement and Interpretation.**

- (1) These Rules shall be referred to as the Grand Court (Amendment No. 2) Rules 2011.
- (2) These Rules shall apply to every proceeding which is pending or commenced in the Court on or after these Rules come into operation.
- (4) Words and expressions in these Rules which are also used in the Grand Court Rules 1995 (Revised Edition) shall have the same meaning in these Rules as they have in the Grand Court Rules 1995 (Revised Edition).

#### **2. Revocation and Replacement of Order 32**

- (1) GCR Order 32 is hereby revoked and replaced by the Order contained in the Schedule hereto.

Made by the Rules Committee on the 12th day of July 2011.

The Honourable Anthony Smellie QC, Chief Justice  
The Honourable Sam Bulgin QC, Attorney General  
Graham Ritchie QC, Legal Practitioner  
Colin D. McKie, Legal Practitioner

**ORDER 32****APPLICATIONS AND PROCEEDINGS IN CHAMBERS****Mode of making application (O.32, r.1)**

1. Except as provided by Order 25, rule 7, every application in Chambers not made ex parte must be made by summons.

**Issue of summons (O.32, r.2)**

2.
  - (1) Issue of a summons by which an application in Chambers is to be made takes place on its being sealed and filed by the Clerk of the Court.
  - (2) No summons may be issued unless it specifies a date and time at which the hearing will take place.
  - (3) A summons may not be amended after issue without leave of the Court.
  - (4) Every summons must have indorsed upon it by the party issuing it his estimate of the length of the hearing and it shall be that party's duty to notify the Clerk of the Court if for whatever reason his estimate is no longer considered to be accurate.
  - (5) Every summons shall be in Form No. 17 of Appendix I.

**Service of summons (O.32, r.3)**

3.
  - (1) A summons asking only for extension or abridgement of any period of time may be served on the day before the day specified in the summons for the hearing of the application.
  - (2) Except as provided by paragraph (1), and unless the Court otherwise orders or any of these rules otherwise provides -
    - (a) a summons must be served on every other party not less than four days before the day specified in the summons for the hearing of the application;
    - (b) any evidence relied on in support of the application must be served with the summons.

**Adjournment of hearing (O.32, r.4)**

4.
  - (1) The hearing of a summons may be adjourned from time to time either generally or to a particular date, as may be appropriate.

- (2) If the hearing is adjourned generally, the party by whom the summons was taken out may restore it to the list on 4 clear days' notice to all the other parties on whom the summons was served.

**Proceeding in the absence of party failing to attend (O.32, r.5)**

5. (1) Where any party to a summons fails to attend on the first or any resumed hearing thereof, the Court may proceed in his absence if, having regard to the nature of the application, it thinks it expedient so to do.
- (2) Before proceeding in the absence of any party the Court may require to be satisfied that the summons or, as the case may be, notice of the time appointed for the resumed hearing was duly served on that party.
- (3) Where the Court hearing a summons proceeds in the absence of a party, then, provided that any order made on the hearing has not been perfected, the Court, if satisfied that it is just to do so, may re-hear the summons.
- (4) Where an application made by summons has been dismissed without a hearing by reason of the failure of the party who took out the summons to attend the hearing, the Court, if satisfied that it is just to do so, may allow the summons to be restored to the list.

**Order made ex parte may be set aside (O.32, r.6)**

6. The Court may set aside an order made ex parte.

**Subpoena for attendance of witness (O.32, r. 7)**

7. A writ of subpoena ad testificandum or a writ of subpoena duces tecum to compel the attendance of a witness for the purposes of proceedings in Chambers may be issued by the Clerk of the Court, if the Judge so authorises.

**Officers may administer oaths (O.32, r.8)**

8. The following persons shall have authority to administer oaths in proceedings in Chambers namely –
  - (a) a Judge;
  - (b) the Clerk of the Court;
  - (c) the Chief Marshall; or
  - (d) a court usher.

**No rule (O.32, r.9)**

**Applications for a direction under the Limitation Law (1996 Revision) (O.32, r.9A)**

- 9A.** (1) The jurisdiction to direct, under Section 39 of the Limitation Law (1996 Revision), that Section 13 or Section 16 of that Law should not apply to an action or to any specified cause of action to which the action relates shall be exercisable by the Judge in Chambers.
- (2) An application for a direction under paragraph (1) above shall be by originating summons and must be supported by an affidavit setting out the grounds on which such leave is sought and any facts necessary to substantiate those grounds.

**No rules (O.32, rr.10-12)****Power to direct hearing in Court (O.32, r.13)**

- 13.** (1) The Judge in Chambers may direct that any summons, application or appeal shall be heard in Court or shall be adjourned into Court to be so heard if he considers that by reason of its importance or for any other reason it should be so heard.
- (2) Any matter heard in Court by virtue of a direction under paragraph (1) above may be adjourned from Court into Chambers.

**No rules (O.32, rr.14-15)****Obtaining assistance of experts (O.32, r.16)**

- 16.** If the Court thinks it expedient in order to enable it better to determine matters arising in proceedings in Chambers, it may obtain the assistance of any person specifically qualified to advise on that matter and may act upon his opinion.

**Service and notice of affidavit (O.32, r.17)**

- 17.** (1) Any party filing an affidavit intended to be used by him in any proceedings in Chambers shall serve a copy of such affidavit on every other party to the proceedings.
- (2) Any party intending to use in such proceedings any affidavit filed by him in previous proceedings shall give notice to every other party of his intention so to do and serve a copy of such affidavit on every other party to the proceedings.

**No rule (O.32, r.18)****Disposal of matters in Chambers (O.32, r.19)**

- 19.** The judge may by any judgment or order made in Court in any proceedings direct that such matters (if any) in the proceedings as he may specify shall be disposed of in Chambers.

**No rule (O.32, r.20)****Papers for use of Court, etc. (O.32, r.21)**

- 21.** (1) Copies of documents may be used in evidence in proceedings in Chambers provided that such copies are exhibited to an affidavit stating that such copies are or are believed to be true copies of the originals.
- (2) Any party upon whom is served an affidavit to which are exhibited copies of documents may serve a notice requiring the party intending to rely upon such affidavit to produce for inspection within 4 days the original of any such copies.
- (3) Any party who fails to produce for inspection the original of any document required to be produced pursuant to paragraph (2) shall be permitted to use the copy thereof in evidence only with the leave of the Court.

**Notes of proceedings in Chambers (O.32, r.22)**

- 22.** (1) A note shall be kept of all proceedings in Chambers with the dates thereof so that all such proceedings in any cause or matter are noted in chronological order with a short statement of the matter decided at each hearing.
- (2) The Clerk of the Court shall provide any party to the proceeding with a photocopy or typed transcript of such note if requested to do so unless the Judge otherwise orders.

**No Rules (O.32, rr.23-26)****Judgments and orders in Chambers (O.32, r.27)**

- 27.** (1) On the making of any judgment or order in Chambers the Judge may direct that an office copy of such judgment or order is to be filed in the Register of Judgments to be kept pursuant to Order 63, rule 7(1).
- (2) A direction pursuant to paragraph (1) that an office copy of any judgment or order is to be filed in the Register of Judgments shall be noted in writing on such judgment or order and all copies thereof for filing.

**Applications outside of Chambers, etc. (O. 32, r. 28)**

- 28.** (1) For the avoidance of doubt, nothing in this Order shall prevent a Judge from hearing an interlocutory application without him being physically present in his Chambers. In an appropriate case a Judge may hear any interlocutory application
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- (a) where he is present by telephone, by video-link or via other electronic means (and whether he is physically in the Islands or outside the Islands);
- (b) elsewhere in the Islands; or

- (c) any place outside the Islands.

Without limitation, an appropriate case would ordinarily included cases where a Judge has already been assigned to the cause or matter and it is not convenient (having regard to the Overriding Objective) to assign a different Judge to hear the application.

- (2) Notwithstanding Order 1, rule 2(4), this Rule shall apply to any proceedings that are: governed by the Matrimonial Causes Rules (2005 Revision, as amended); governed by the Grand Court (Bankruptcy) Rules 1977, as amended; governed by the Companies Winding Up Rules 2008, as amended; on appeal from Civil Proceedings in the Summary Court.
- (3) Order 33 shall continue to apply in respect of the place of any trial of a cause or matter, or any question or issue arising therein.