



HIGH COURT ACT 1991

RULES OF THE HIGH COURT OF JUSTICE (AMENDMENT) (NO. 3) 2011

<i>Laid before Tynwald</i>		2011
<i>Coming into operation</i>	<i>1st December</i>	2011

The Deemsters make these Rules under section 25 of the High Court Act 1991¹.

1. Title

The title of these Rules is the Rules of the High Court of Justice (Amendment) (No. 3) 2011.

2. Commencement

These Rules come into operation on 1st December 2011

3. Interpretation

In these Rules "the principal Rules" means the Rules of the High Court of Justice 2009².

4. Normal procedure for possession claims

In rule 5.2 of the principal Rules, after paragraph (5) insert —

"(5A) The summary procedure is the normal procedure for a claim for possession of land or premises, except where —

- (a) it is combined with a money claim whose financial value exceeds the summary limit, or

¹ 1991 c.12

² SD 352/09

Price: 85p

- (b) the chancery procedure is the normal procedure under paragraph (2).".

5. Judgment in foreign currency

- (1) After rule 10.3 of the principal Rules insert —

"10.3A Judgment in foreign currency

- (1) Unless the court otherwise orders, where any judgment (including a default judgment) is given for a sum of money expressed in a foreign currency, the judgment shall be for an amount expressed in the foreign currency with the addition of 'or the sterling equivalent at the time of payment'.
- (2) A judgment given in a foreign currency may carry interest on the amount of the judgment in foreign currency, and the interest shall be added to the judgment for the purposes of enforcement of the judgment."
- (2) In rule 12.8 of the principal Rules, for "Where —" substitute "Subject to rule 12.9A, where —".
- (3) After rule 12.9 of the principal Rules insert —

"12.9A Execution for amount in foreign currency

- (1) Execution may not be granted on a judgment for an amount in a foreign currency otherwise than —
 - (a) on an application under rule 12.9, and
 - (b) for the sterling equivalent of the amount as certified in accordance with paragraph (2).
- (2) The application for execution must include or be accompanied by a certificate signed by the advocate for the judgment creditor (or by the judgment creditor if acting in person) and stating —
 - (a) the rate at which that currency was offered for sale by Isle of Man Bank Limited at the close of business on the last business day before the date of the application; and
 - (b) the sterling equivalent of the amount of the judgment at that rate."
- (4) After rule 12.28 of the principal Rules insert —

"12.28A Arrestment for amount in foreign currency

- (1) An application for an arrestment order to enforce a judgment for an amount in a foreign currency must state —

- (a) whether the bank account or other money owed by the third party to the judgment debtor is in that currency; and
- (b) if so —
 - (i) the rate at which that currency was offered for sale by Isle of Man Bank Limited at the close of business on the last business day before the date of the application; and
 - (ii) the sterling equivalent of the amount of the judgment at that rate.

(2) The arrestment order shall be made —

- (a) for the amount of the judgment in the foreign currency, where the application states that the bank account or other money owed by the third party to the judgment debtor is in that currency;
- (b) otherwise, for the sterling equivalent of the amount as stated in accordance with paragraph (1)(b)."

6. Orders for costs in small claims

(1) In rule 11.21 of the principal Rules —

- (a) in paragraph (2)(g), for "(3)" substitute "(3A)";
- (b) for paragraphs (3) and (3A) substitute —

"(3) The sums referred to in paragraph (2)(b) and (c) shall be determined in accordance with the following formula —

$$H \times L$$

where —

H = such number of the hours actually spent in giving legal advice and assistance relating to the claim as the court may determine by summary assessment to be reasonable;

L = the appropriate hourly rate prescribed under section 19(3) of the Legal Aid Act 1986³ for work done at the time the legal advice and assistance were given.

(3A) The sum referred to in paragraph (2)(g) is —

- (a) that directed by the court to be paid in the special circumstances of the case, or

³ 1986 c.23

(b) if no such direction is given, the amount of the fee actually and necessarily incurred, not exceeding —

(i) £500, in the case of a medical expert; or

(ii) £300, in the case of any other expert.

(3B) A party's rejection of an offer in settlement does not of itself constitute unreasonable behaviour under paragraph (2)(h) but the court may take it into consideration when deciding whether he has behaved unreasonably."

(2) Rule 5(2) of the Rules of the High Court of Justice (Amendment) 2010⁴ is revoked.

MADE 11th November 2011


Her Majesty's First Deemster and Clerk of the Rolls


Second Deemster

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the High Court of Justice 2009. They —

- (a) make the summary procedure the normal procedure for claims for possession of land; and
- (b) embody in the 2009 Rules Practice Directions No.1 of 2010 (which makes provision for judgments in a foreign currency) and No.2 of 2010 (which deals with costs in small claims).

⁴ SD 222/10