

## **PART 15 : SUPPLEMENTAL**

### **CHAPTER 1: TRANSITIONAL ARRANGEMENTS**

#### **15.1 Introductory (PD51.1-2)**

(1) This Chapter deals with the application of these Rules to proceedings issued before commencement ('existing proceedings').

(2) In this Chapter 'the previous rules' means the Rules of the High Court of Justice 1952 in force immediately before commencement.

(3) The general scheme of this Chapter is —

(a) to apply the previous rules to undefended cases, allowing them to progress to their disposal, but

(b) to apply these Rules to defended cases so far as is practicable.

#### **15.2 Where previous rules will normally apply (PD51.3)**

Where an initiating step has been taken in a case before commencement, in particular one that uses forms or other documentation required by the previous rules, the case shall proceed in the first instance under the previous rules. Any step which a party must take in response to something done by another party in accordance with the previous rules must also be in accordance with those rules.

#### **15.3 Responding to old process (PD51.4)**

A party who is served with an old type of originating process (summons, petition etc.) on or after commencement is required to respond in accordance with the previous rules and the instructions on any forms received with the originating process.

#### **15.4 Filing and service of pleadings where old process served (PD51.5)**

Where a case has been begun by an old type of originating process (whether served before or after commencement), filing and service of pleadings will continue according to the previous rules.

#### **15.5 Default judgment (PD51.7)**

(1) If a party wishes default judgment to be entered in existing proceedings, he must do so in accordance with the previous rules.

(2) Where default judgment has been entered and there are outstanding issues to be resolved (e.g. damages to be assessed), the court officer may refer the proceedings to a judge, so that case management decisions about the proceedings and the conduct of the hearing can be made in accordance with the practice set out in rule 15.12.

(3) If a party needs to apply for permission to enter default judgment, he must make that application under Chapter 2 of Part 7.

(4) An application to set aside judgment entered in default must be made under Chapter 2 of Part 7, and Chapter 2 of Part 10 (setting aside or varying default judgment) applies to the proceedings as it would apply to default judgment entered under these Rules.

(5) Rule 6.29 (claim stayed if it is not defended or admitted) applies to these proceedings.

#### **15.6 Order inconsistent with these Rules (PD51.9)**

Where a court order has been made before commencement, that order must still be complied with on or after commencement.

#### **15.7 Steps taken before commencement (PD51.10)**

(1) Where a party has taken any step in the proceedings in accordance with the previous rules that step will remain valid on or after commencement.

(2) A party will not normally be required to take any action that would amount to taking that step again under these Rules. For example if discovery has been given, a party will not normally be required to provide disclosure under Chapter 5 of Part 7.

#### **15.8 Where these Rules will normally apply (PD51.11)**

Where a new step is to be taken in any existing proceedings on or after commencement, it is to be taken under these Rules.

#### **15.9 Overriding objective to apply (PD51.12)**

Rule 1.2 (overriding objective) applies to all existing proceedings from commencement onwards.

#### **15.10 Originating process (PD51.13)**

(1) Only claim forms under these Rules shall be issued by the court on or after commencement.

(2) If a request to issue an old type of originating process (summons, petition etc.) is received at the court office on or after commencement it shall be returned unissued.

(3) An application made on or after commencement to extend the validity of originating process issued before commencement must be made in accordance with Chapter 2 of Part 7, but the court shall decide whether to allow the application in accordance with the previous law.

[subs (3) updated by SD222/10]

#### **15.11 Application to the court (PD51.14)**

(1) Any application to the court made on or after commencement must be made in accordance with Chapter 2 of Part 7.

[subs (1) updated by SD222/10]

(2) Any other relevant provision of these Rules shall apply to the substance of the application, unless this Chapter provides otherwise.

For example, a party wishing to apply for summary judgment must do so having regard to the test in Chapter 6 of Part 10. A party wishing to apply for an interim remedy must do so under Chapter 3 of Part 7.

(3) Any other provision of these Rules shall apply as necessary.

(4) If the pleadings have not been filed at court, the applicant must file all pleadings served when he files his application notice.

#### **15.12 First time before a judge on or after commencement (PD51.15)**

(1) When proceedings come before a judge (whether at a hearing or otherwise) for the first time on or after commencement, he may direct how these Rules are to apply to the proceedings and may disapply certain provisions of these Rules. He may also give directions (which may include allocating the proceedings to a procedure).

(2) The general presumption shall be that these Rules will apply to the proceedings from then on unless the judge directs or this Chapter provides otherwise.

(3) If an application has been issued before commencement and the hearing of the application has been set for a date on or after commencement, the general presumption is that the application will be decided having regard to these Rules.

(4) When the first occasion on which existing proceedings are before a judge on or after commencement is a trial or hearing of a substantive issue, the general presumption is that the trial or hearing will be conducted having regard to these Rules.

### **15.13 Allocation of proceedings to procedure**

(1) Subject to paragraph (2), existing proceedings shall in the first instance be allocated to whichever would be the normal procedure for the claim if it were started after commencement.

(2) Proceedings which were not, or would not have been, referred to arbitration under rule 2(3) of Order 26A of the previous rules, but for which the small claims procedure would be the normal procedure under these Rules, shall in the first instance be allocated to the summary procedure.

(3) Any party may apply for an order that existing proceedings be transferred to another procedure.

(4) Where no application is made under paragraph (3), the court shall nevertheless consider whether to make such an order on the first occasion after commencement on which the court gives directions.

### **15.14 Agreement to apply these Rules (PD51.17)**

(1) The parties may agree in writing that these Rules shall apply to any proceedings from the date of the agreement.

(2) An agreement under paragraph (1) shall not have effect unless —

- (a) all those who are parties at that time agree;
- (b) it provides that these Rules apply in their entirety; and
- (c) a copy of the agreement is filed.

(3) An agreement under paragraph (1) is irrevocable.

### **15.15 Costs (PD51.18)**

(1) Any assessment of costs that takes place on or after commencement shall be in accordance with Part 11.

(2) However, the general presumption is that no costs for work undertaken before commencement shall be disallowed if those costs would have been allowed in a taxation before commencement.

(3) The decision as to whether to allow costs for work undertaken on or after commencement shall generally be taken in accordance with Part 11.

### **15.16 Existing proceedings after one year (PD51.19)**

(1) If any existing proceedings have not come before a judge, at a hearing or otherwise, between commencement and the first anniversary of commencement, those proceedings shall be stayed.

(2) Any party to those proceedings may apply for the stay to be lifted.

(3) Proceedings of the following types shall not be stayed as a result of this rule —

- (a) where the case has been given a fixed trial date which is after commencement,
- (b) claims for personal injuries where there is no issue on liability but the proceedings have been adjourned by court order to determine the prognosis,
- (c) where the court is dealing with the continuing administration of an estate or a trust or a receivership,
- (d) applications relating to funds in court.

(4) For the purposes of this rule proceedings cease to be ‘existing proceedings’ once final judgment has been given.

### **15.17 Hearsay evidence: transitional provision (PD33)**

(1) Except as provided for by paragraph (2), Part 2 (hearsay evidence) of the Administration of Justice Act 2008 applies to claims started before commencement.

(2) The said Part 2 does not apply to claims started before commencement if, before then, —

- (a) directions were given, or orders were made, as to the evidence to be given at the trial or hearing; or
- (b) the trial or hearing had begun.

### **15.18 Supply of documents from court records (HCD X(19))**

(1) This rule applies to documents filed before commencement, and any reference in this rule to a claim form, defence or other statement of case is to the corresponding document under the previous rules.

(2) A party to proceedings may obtain from the records of the court —

- (a) a copy of a claim form,
- (b) any document filed with or attached to or intended by the claimant to be served with that claim form,
- (c) any defence or other statement of case; and
- (d) if the court gives permission, any other document filed by a party or communication between the court and a party or another person.

(3) A person who is not a party to proceedings may, if the court gives permission, obtain from the records of the court a copy of any document filed by a party or communication between the court and a party or another person.

(4) A person wishing to obtain a copy of a document under paragraph (2) or (3) must pay any prescribed fee and —

- (a) if the court's permission is required, file an application notice; or
- (b) if permission is not required, file a written request for the document.

(5) An application for permission under this rule may be made without notice, but the court may direct notice to be given to any person who would be affected by its decision.

(6) On an application under paragraph (2(d) or (3), the application notice must identify the document or class of document in respect of which permission is sought and the grounds relied upon.

(7) The powers of the court under this rule may be exercised by the Chief Registrar, subject to —

- (a) any general directions given by the First Deemster, or
  - (b) any directions given by the court in the particular case.
- (8) This rule has effect subject to —
- (a) section 14 (secrecy) of the Legal Aid Act 1986, and
  - (b) section 4 (access to public records) of the Public Records Act 1999.

## ***CHAPTER 2: CONSEQUENTIAL AMENDMENTS AND REPEALS***

### **15.19 Saving**

This Chapter has effect subject to the transitional provisions in Chapter 1.

## **15.20 Amendments**

The amendments of statutory provisions specified in Schedule 15.1 (which include amendments to merge the Civil Divisions of the court existing immediately before commencement) shall have effect.

## **15.21 Repeals and revocations**

(1) The statutory provisions specified in Schedule 15.2 are repealed or, as the case may be, revoked to the extent specified in column 3 of that Schedule.

(2) Any general order or rule relating to proceedings in the Court of Chancery which was made before the passing of the Isle of Man Judicature Act 1883 and is in force immediately before commencement shall cease to have effect.

(3) With the exception of the Directives listed in Schedule 15.3, any High Court Directive which is in force immediately before commencement shall cease to have effect.

## SCHEDULE 15.1 — AMENDMENTS

### Rule 15.20

#### *General*

1. Except as provided by paragraphs 6 and 7, in any statutory provision for ‘Civil Divisions’, ‘Chancery Division’, ‘Common Law Division’ or ‘Family Division’ substitute ‘Civil Division’.
2. In any statutory provision a reference (however expressed) to —
  - (a) the superior jurisdiction or summary jurisdiction of the court or of the Common Law Division, or
  - (b) the court or the Common Law Division exercising superior jurisdiction or summary jurisdiction,

shall be construed as a reference to the Civil Division.

3. In any statutory provision a reference to a petition of doleance shall be construed as an application to the court in accordance with —
  - (a) Chapter 9 of Part 13 (review of detention),
  - (b) rule 14.16 (appeal by way of case stated), or
  - (c) Chapter 2 of Part 14 (review of lawfulness of decision etc.),

as the case may require.

4. Where any rules of court provide that the Rules of the High Court of Justice 1952 shall apply (with or without modifications) to the commencement of, or to the practice or procedure in, any proceedings to which the rules apply, the reference to the said Rules of 1952 shall be construed as a reference to these Rules.

#### *Action of Arrest Act 1953 (XVIII p.160)*

5. In section 1 —
  - (a) for subsection (4) substitute —

"(4) The defendant shall be released from arrest on filing in the General Registry in accordance with rules of court an acknowledgment of service and an undertaking in writing to submit himself irrevocably to the jurisdiction of the court.";
  - (b) omit subsection (5).

#### *Interpretation Act 1976 (c.20)*

6. In section 3 —
  - (a) for the definition of ‘the Civil Divisions’ substitute —

‘‘the Civil Division’ means the Civil Division of the High Court;’;
  - (b) omit the definitions of ‘Chancery Division’, ‘Common Law Division’ and ‘Family Division’.

#### *High Court Act 1991 (c.12)*

7. (1) In section 2, for subsection (1) substitute —

‘(1) The High Court shall have the following divisions —

  - (a) the Civil Division (in this Act referred to as ‘the Civil Division’); and
  - (b) the Staff of Government Division (in this Act referred to as ‘the Appeal Division’).’

(2) In sections 19(1), 20(2) and 21(1), for ‘any of the Civil Divisions’ substitute ‘the Civil Division’.

(3) In section 58(1), for the definition of ‘Civil Divisions’ substitute —

‘‘the Civil Division’ means the Civil Division of the High Court;’.

SCHEDULE 15.2 — REPEALS AND REVOCATIONS

Rule 15.21

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal or revocation</i>
—	Rules of the High Court of Justice 1952	The whole Rules except Orders 44, 44A, 51D, 51E, 51F and 55
—	Action of Arrest Rules 1953	The whole Rules
—	Supplemental Rules of the High Court of Justice 1953	The whole Rules
—	Rules of the High Court of Justice 1962	The whole Rules
—	Rules of the High Court of Justice 1963	The whole Rules
—	Rules of the High Court of Justice 1968	The whole Rules
—	Rules of the High Court of Justice 1974	The whole Rules
—	Rules of the High Court of Justice 1977	The whole Rules
—	Rules of the High Court of Justice 1982	The whole Rules
GC 17/82	Enforcement Rules 1982	Rules 8 to 10 Rules 18 to 24 In the Appendix, Forms 4, 5, 7 and 8
GC 40/83	Rules of the High Court of Justice 1983	The whole Rules
GC 277/83	Rules of the High Court of Justice (No. 3) 1983	The whole Rules
GC 4/84	Rules of the High Court of Justice 1984	The whole Rules
GC 17/84	Rules of the High Court of Justice (No. 4) 1983	The whole Rules
GC 43/84	Enforcement (Amendment) Rules 1984	Rule 2. Schedules 1 and 2.
GC 74/84	Rules of the High Court of Justice (Small Claims Arbitration) 1984	The whole Rules
GC 128/85	Rules of the High Court of Justice (Acknowledgement of Service etc.) 1985	The whole Rules
GC 198/86	Rules of the High Court of Justice (Instalment Orders etc.) 1986	The whole Rules
GC 176/88	Rules of the High Court of Justice (Amendment) 1988	The whole Rules
GC 327/89	Rules of the High Court of Justice (Convention Awards) 1989	The whole Rules
GC 56/91	Rules of the High Court of Justice (Amendment) 1991	The whole Rules
GC 4/92	Rules of the High Court of Justice (Amendment) 1992	Rules 2, 3, 6 and 7 and Schedule 3

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal or revocation</i>
GC 153/92	Rules of the High Court of Justice (Amendment) (No. 2) 1992	The whole Rules
GC 263/92	Rules of the High Court of Justice (Amendment) (No. 3) 1992	The whole Rules
GC 483/92	Rules of the High Court of Justice (Amendment) (No. 4) 1992	The whole Rules
SD 255/93	Rules of the High Court of Justice (Amendment) 1993	The whole Rules
SD 367/93	Rules of the High Court of Justice (Amendment) (No. 2) 1993	The whole Rules
SD 16/94	Rules of the High Court of Justice (Amendment) 1994	The whole Rules
SD 510/97	Rules of the High Court of Justice (Amendment) 1997	The whole Rules
SD 89/98	High Court of Justice (Audio Recording) Rules 1998	The whole Rules.
SD 164/98	Rules of the High Court of Justice (Small Claims Limit) (Amendment) 1998	The whole Rules
SD 145/00	Rules of the High Court (Amendment) Rules 2000	The whole Rules
SD 324/01	Rules of the High Court of Justice (Amendment) 2001	The whole Rules
SD 599/06	Small Claims Arbitration (Personal Representation) Rules 2006	The whole Rules
SD 95/07	Rules of the High Court of Justice (Amendment) 2007	The whole Rules

SCHEDULE 15.3 — DIRECTIVES REMAINING IN FORCE

Rule 15.21

<i>Number</i>	<i>Subject matter</i>
I(1)	Appeals against sentence
II(4)	General Gaol — legal aid
III(16)	Advertisement of winding-up petition
III(20)	Nomination of provisional liquidator
III(23)	Mental health — appointment of receiver
III(24)	Mental health — registration of enduring power of attorney
V(3)	Divorce — residence orders
V(5)	Divorce — personal service of application
V(13)	Divorce — transfer of property order
VIII(1)	Bankruptcy — sale of land
VIII(2)	Bankruptcy — deeds of arrangement
VIII(3)	Bankruptcy — application for distribution
VIII(4)	Bankruptcy — release of trustee
VIII(6)	Bankruptcy — forms
VIII(7)	Bankruptcy — remuneration of trustee
XI(2)	Registration of deeds
X(24)	Issue of temporary advocate's licence

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MADE

2009

Her Majesty's First Deemster and Clerk of the Rolls

Second Deemster

## EXPLANATORY NOTE

*(This note is not part of the Rules.)*

These Rules regulate the practice and procedure of the High Court, and replace the Rules of the High Court of Justice 1952.

Part 1 is introductory. Part 2 deals with the administration of the Court; it merges the Chancery, Common Law and Family Divisions into a single Civil Division, and makes provision for forms and documents, including the service of documents, and for the making of civil restraint orders against vexatious litigants. Part 3 deals with parties to proceedings, with special provisions for group litigation and parties under disability.

Part 4 provides for the start of proceedings by a single originating process, the 'claim form', and for acknowledgment of service of a claim form. Part 5 provides for four types of procedure: the small claims, summary, chancery and ordinary procedures, to one of which every claim must be allocated. Part 6 deals with the filing and service of 'statements of case' identifying the questions at issue in proceedings. Part 7 provides for the management of cases by the court and the steps to be taken in proceedings. Part 8 deals with evidence, including the filing of witness statements. Part 9 provides for trials and hearings.

Part 10 deals with judgments and orders of the court, and Part 11 with costs, including fixed costs, and summary and detailed assessment of costs. Part 12 provides for execution and other methods of enforcement of judgments and orders. Part 13 makes special provision for certain types of claim, relating to eg. land, interpleader, probate and trusts, admiralty, arbitration, companies and intellectual property. Part 14 deals with appeals, applications under the doleance procedure (formerly 'petitions of doleance') and references to the European Court. Part 15 makes transitional provisions and revokes the rules of court and directives which are superseded by the Rules.