

**ST HELENA**

**REVISED EDITION OF THE LAWS, 2017**

**COURTS AND JUSTICE**

**COURTS (APPEALS AND RULES) ORDINANCE, 2017<sup>1</sup>**

*In force on the date of publication of the Revised Edition of the Laws of St Helena, 2017 (15 January 2018)*

*This Ordinance is a consolidation under section 6(b) of the Revised Edition of the Laws Ordinance, 1999. It incorporates:*

**COURT OF APPEAL ORDINANCE, 1960**

*Ordinance 6 of 1960*

*In force 28 September 1960*

*Amended by L.N. 4 /1965, Ordinance 2 of 2005*

**COURTS (RULES) ORDINANCE, 1968**

*Ordinance 3 of 1968*

*In force 24 January 1968*

*Amended by Ordinance 2 of 1989*

*Subsidiary legislation:*

**SUPREME COURT (FEES) RULES, 1984**

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*Legal Notice 10 of 1984*

*Amended by L.N. 3/1992, L.N. 5/1992, L.N. 21/2008, L.N. 7/2015, L.N. 6/2019, L.N. 25/2019*

**MAGISTRATES' COURT FEES RULES, 1984**

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*Legal Notice 11A of 1984*

*Amended by Rules made 22/11/ 2000*

*Amended by L.N. 3/2001, L.N. 21/2008, L.N. 7/2015, L.N. 25/2019*

**SOUND RECORDINGS RULES, 1989**

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*Legal Notice 13 of 1989*

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992** *Page 11*

*Legal Notice 3 of 1992*

*Amended by L.N. 29/2009*

**COURTS (RIGHTS OF AUDIENCE AND ENROLMENT) RULES, 1992** *Page 26*

*Legal Notice 4 of 1992*

*Amended by L.N. 14/1999, L.N. 21/2008, L.N. 7/2015, L.N. 28/2019, L.N.6/2025*

**COURTS (RIGHTS OF PRACTISING AND REPRESENTATION OF PERSONS IN PROCEEDINGS) RULES, 2025** *Page 40*

*Legal Notice 7 of 2025 – made under s89(3)(d) of the Constitution*

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<sup>1 1</sup> Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 April 2020.

**COURT OF APPEAL RULES, 1998**

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*Deemed to be made by the President of the St Helena Court of Appeal under section 89(1) of the Constitution and saved by Article 5(1) of S.I. 2009 No.1751  
Legal Notice 3 of 1998  
Amended by L.N. 26/2009*

*UK Orders made under the Royal Prerogative:*

**ST HELENA COURT OF APPEAL (APPEAL TO PRIVY COUNCIL) ORDER, 1964 (UK)**

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*Statutory Instrument 1964 No. 1846 (UK)  
Amended by S.I. 1990 No. 991, S.I. 2009 No. 3204*

**See also the following included under the respective Ordinance:**

**CIVIL PROCEDURE RULES, 1969**

*Legal Notice 5 of 1969  
Amended by L.N. 25/1973, L.N.2/2001, Rules made 22/11/2000, L.N. 2/2018  
Made under section 74 of the Civil Procedure Ordinance, 1968 and included under that Ordinance*

**MATRIMONIAL CAUSES RULES, 1973**

*Legal Notice 4 of 1973  
Amended by L.N. 6/1979 and L.N. 2/2018  
Made under section 24 of the Matrimonial Causes Ordinance, 1961 and included under that Ordinance*

**COURTS (WELFARE OF CHILDREN)(FORMS) RULES, 2010**

*Legal Notice 6 of 2010  
Amended by L.N. 4/2012  
Included under the Welfare of Children Ordinance, 2008*

**COURTS (CHARITIES) RULES, 2015**

*Legal Notice 1 of 2015  
Made under section 9(2) of the Charities Ordinance, 2005 and included under that Ordinance*

**COURTS (MENTAL CAPACITY AND APPOINTMENT OF DEPUTIES) RULES, 2016**

*Legal Notice 16 of 2016  
Made under section 130 of the Mental Health and Mental Capacity Ordinance, 2016 and included under that Ordinance*

**COURTS (PROTECTION ORDERS) RULES, 2018**

*Legal Notice 1 of 2018  
Made under section 19 of the Domestic Abuse Ordinance, 2018 and included under that Ordinance*

# COURTS (APPEALS AND RULES) ORDINANCE, 2017

## ARRANGEMENT OF SECTIONS

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1. Short title, commencement and application
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### *Appeals to the Court of Appeal*

3. Appeals from original judgments of Supreme Court in criminal cases
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AN ORDINANCE to provide for appeals from the Supreme Court of St Helena to the Court of Appeal of St Helena and for the making of rules of court by the Chief Justice.

### *Preliminary*

#### **Short title and commencement**

**1.** (1) This Ordinance may be cited as the Courts (Appeals and Rules) Ordinance, 2017.

(2) This Ordinance comes into force on the date when the Revised Edition of the Laws of St Helena, 2017 comes into force.

(3) This Ordinance applies to St Helena, Ascension and Tristan da Cunha.

#### **Savings**

**2.** (1) This Ordinance consolidates the provisions of the Court of Appeal Ordinance, 1960 and the Courts (Rules) Ordinance 1968 which cease to have effect after the commencement of this Ordinance, but it does not affect anything done under either of those Ordinances before that commencement.

(2) This Ordinance is in addition to Part 6 of the Constitution as regards the jurisdiction, practice and procedure of the Court of Appeal (sections 87 and 88) and the making of rules of court (section 89). If there is any inconsistency between this Ordinance and the Constitution in respect of any of those matters, the provisions of the Constitution prevail.

### *Appeals to the Court of Appeal*

#### **Appeals from original judgments of Supreme Court in criminal cases**

**3.** (1) Any person convicted by the Supreme Court and sentenced to a term of imprisonment exceeding 12 months or to a fine exceeding £100 may, subject to the provisions of this Ordinance, appeal to the Court of Appeal—

(a) as of right, against the conviction on a matter of law or of fact or of mixed law and

- fact;
- (b) with the leave of the Court of Appeal, against the sentence passed on conviction, unless the sentence is one fixed by law.

(2) Any person convicted by the Supreme Court and sentenced—

(a) to a term of imprisonment or to a fine exceeding £10; or

(b) to a fine not exceeding £10 if, in the opinion of the Supreme Court or the Court of Appeal, the case involves a question of law of great general or public importance;

may, subject to this Ordinance, with the leave of the Court of Appeal or upon the certificate of the Supreme Court that it is a fit case for appeal, appeal against the conviction on any ground which appears to the Court of Appeal or the Supreme Court, as the case may be, to be a sufficient ground of appeal, or against the sentence passed on conviction unless the sentence is one fixed by law.

(3) No appeal shall be allowed in the case of any person who has pleaded guilty and has been convicted on such plea by the Supreme Court, except as to the extent or legality of the sentence.

## **Second appeals**

4. Any party to criminal proceedings held before the Supreme Court in its appellate jurisdiction who is dissatisfied with any part of its judgement may appeal to the Court of Appeal on a matter of law (not including severity of sentence) but not on a matter of fact or of mixed law and fact.

## **Bail**

5. The Supreme Court may in its discretion in any case in which under this Ordinance an appeal to the Court of Appeal is filed, grant bail pending the hearing and determination of the appeal.

## **Power of Court of Appeal in determining an appeal under this Part**

6. (1) The Court of Appeal, in determining an appeal against conviction may—

(a) dismiss the appeal;

(b) allow the appeal and quash the conviction;

(c) set aside the conviction and convict the appellant of any offence of which the appellant might be convicted by the Supreme Court on the evidence which has been adduced and sentence the appellant accordingly;

(d) order a new trial before the court which passed sentence or before any court having jurisdiction in the matter;

(e) remit the case together with its judgment or order on it to the Supreme Court or to a court subordinate to the Supreme Court with such directions as the Court of Appeal considers necessary:

(1A) The Court of Appeal, even if of opinion that the point raised on the appeal might be decided in favour of the appellant, must dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

(2) In determining an appeal the Court of Appeal may increase, reduce or modify the sentence.

## **Appeals in civil cases**

7. (1) An appeal lies in civil cases from the Supreme Court to the Court of Appeal—

- (a) as of right, from any final judgment of the Supreme Court if the appeal involves directly or indirectly some claim or question respecting property of the value of £300 or more;
- (b) with the leave of the Supreme Court, from any other judgment of the Supreme Court, whether final or interlocutory, if in the opinion of the Supreme Court the question involved in the appeal is one of great general or public importance or involves some substantial civil right;
- (c) with the leave of the Court of Appeal, if the Court of Appeal considers that leave to appeal ought to be granted:

(2) No appeal lies from a judgment or order of the Supreme Court entered with the consent of the parties.

### *Rules of court*

#### **Power to make rules of court**

**8. (1)** The Chief Justice may make rules for the purpose of regulating the practice, procedure and administration of the Supreme Court and of all courts subordinate to it..

(2) In particular, and without limiting the power conferred by subsection (1), rules made under this Ordinance may provide for—

- (a) the powers and duties of officers of the courts;
- (b) the hours, dates and places of sittings of the courts;
- (c) the dates of vacations of the courts;
- (d) the forms to be used by and in courts, and the manner of keeping, and the custody and destruction of court records, archives and exhibits;
- (e) the issue, signature, service and enforcement of notices, summonses, warrants and other orders and documents of the courts;
- (f) the appointment and duties of court brokers and other agents of the courts, and their remuneration;
- (g) the scales of fees and charges payable to the courts in respect of proceedings;
- (h) the scales of fees or allowances payable to parties, witnesses, jurors, assessors, interpreters and other persons engaged in proceedings before the courts;
- (i) the payment, receipt, accounting and custody of fines, fees and deposits received by the courts.

(3) Rules made under subsection (1) may –

- (a) prescribe and regulate the rights of audience before the courts;
- (b) provide for licensing of advocates;
- (c) prescribe the forms to be used and the fees to be paid for such licences;
- (d) prescribe the evidence to be provided of professional qualifications; and
- (e) make different provisions for applicants with different qualifications.

#### **Related provisions**

**9. (1)** The power to make rules conferred by this Ordinance is in addition to and does not derogate from any power to make rules of court conferred by any other Ordinance or the Constitution.

(1A) Rules made under this Ordinance must not be inconsistent with the provisions of any other such Ordinance or the Constitution.

(2) If a power is conferred by this Ordinance and by some other Ordinance or the Constitution to make rules relating to the same matter –

- (a) rules relating to such matter may purport to be made under either or both of such Ordinances or the Constitution; and
- (b) any rules so made are deemed to be properly made and their validity must not be questioned in any court on the ground only that they were not made in exercise of a particular power or particular powers.

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## COURTS (APPEALS AND RULES) ORDINANCE, 2017

### SUPREME COURT (FEES) RULES (Section 8)

#### Citation

1. These rules may be cited as the Supreme Court (Fees) Rules, 1984.

#### Fees payable

2. The fees payable in respect of civil causes and matters in the Supreme Court must be those set out in the Schedules to these Rules.

#### Allowable costs

3. (1) In civil proceedings, the Registrar must, unless the court otherwise orders, and subject to sub-rule (1A), allow a party to include in the party's costs, in addition to reasonable travelling expenses, an allowance for each necessary witness and interpreter attending at the trial—

- |     |   |       |
|-----|---|-------|
| (a) | for each day or part of a day exceeding three hours | £7.00 |
| (b) | for a half day of three hours or less               | £3.50 |

- (1A) In the case of an expert witness, the allowance must be a sum that, in the opinion of the Registrar, is appropriate having regard to the qualifications and experience of the expert.

- (2) The expression “**necessary witness**” in sub-rule (1) –

- (a) may include a party to an action and a person who attended court as a witness but who was not called;
- (b) does not include any person whose attendance the Registrar considers to have been unnecessary.

## SCHEDULE 1<sup>2</sup> (Rule 2)

### GENERAL FEES

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<sup>2</sup> Schedule 1 substituted by L.N. 6 of 2019 and L.N. 25 of 2019

### Actions and Originating Summonses

For entering particulars of a plaint in the Action Book—

(a) if the claim is solely for a liquidated sum not exceeding £5,000	£27.10
(b) in any other case	£32.65
For issue of a writ of summons	£10.70
On entering defence	£10.70
On entering reply	£10.70
On application for execution	£21.65
On taking out an originating summons	£21.65

### Matrimonial Causes

On presenting a petition	£21.65
On filing an answer	£16.15
On applying for a decree absolute	£10.70

### Probate Matters

On application for a grant, where the value of the personal property is sworn to be—

(a) under £500	£10.50
(b) £500 or over but under £750	£15.65
(c) £750 " " " " £1,000	£20.90
(d) £1,000 " " " " £5,000	£31.30
(e) £5,000 or over:	£31.30
plus for every £1,000 or part thereof over £5,000 but under £10,000	£6.80
and for every £1,000 over £10,000	£7.30

### Service of Process

For serving a writ—

(a) within Jamestown	£5.20
(b) outside Jamestown	£7.80

For serving a summons on a witness—

(a) within Jamestown	£1.55
(b) outside Jamestown	£3.15

### Taxation of Costs

On taxing costs for every £1 or fraction of £1 allowed, subject to a minimum of 50p	£0.50
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### Appeals from the Magistrates' Court

On presenting a memorandum of appeal	£31.30
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### Copies

For making a copy of any document or part of a document—

(a) if xerographic, for each sheet	£0.30
(b) if typewritten, for each page or part of a page as typed	£5.20

For certifying a copy to be a true copy of the original—

(a) if the copy is xerographic	£6.65
(b) if the copy is typewritten for each page or part of a page as typed	£6.65

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## **SCHEDULE 2<sup>3</sup>**

(Rule 2)

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<sup>3</sup> Schedule 2 substituted by L.N. 6 of 2019 and L.N. 25 of 2019

## **FEES FOR FILING AN APPLICATION**

<u>On filing an application—</u>		
-	for leave to apply	£21.65
-	for an Order for the release of a person under restraint	£10.70
-	for an Order to bring up a prisoner to give evidence	Nil
-	for an Order for judicial review	£21.65
-	for an Order for an injunction under rule 25	£21.65
-	for an Order for the detention, custody, preservation or inspection of any property	£21.65
-	for committal	£21.65

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## **COURTS (APPEALS AND RULES) ORDINANCE, 2017**

### **MAGISTRATES' COURT (FEES) RULES, 1984** (Section 8)

#### **Citation**

1. These Rules may be cited as the Magistrates' Court (Fees) Rules, 1984.

#### **Fees payable in civil proceedings**

2. The fees payable in respect of actions and other matters within the civil jurisdiction of the Magistrates' Court are as in items 1 and 2 of the Schedule to these Rules.

#### **Fees for copies, etc**

3. (1) Subject to sub-rule (2), the fees payable for copies and the certification of copies of the proceedings, or any part of the proceedings, in civil and criminal matters or of other documents in the custody of the Magistrates' Court are as in items 3 and 4 of the Schedule:

- (2) No fees are payable for copies of proceedings provided under section 249(1) of the Criminal Procedure Ordinance, 1975 to appellants and respondents.

### **SCHEDULE<sup>4</sup>** (Rules 2 and 3)

1.	On instituting an action—	£
(a)	claim for small debt up to £200	5.20
(b)	claim up to £1,000	10.95
(c)	claim over £1,000	21.90
2.	On applying for execution	16.20
3.	For making copies (per page)	1.00
4.	For providing certified copies (per page)	5.20

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<sup>4</sup> Schedule substituted by L.N. 6 of 2019 and L.N. 25 of 2019



# **COURTS (APPEALS AND RULES) ORDINANCE, 2017**

## **SOUND RECORDINGS RULES, 1989**

(Section 8)

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1. Citation
2. Summary to be kept
3. Procedure in case of power failure, etc.
4. Transcripts for the purpose of appeal
5. Other transcripts
6. Audition of sound recordings

#### **Citation**

1. These Rules may be cited as the Sound Recordings Rules, 1989.

#### **Summary to be kept**

2. When in a criminal trial or inquiry in the Magistrates' Court a sound recording is being made of the oral evidence, in accordance with section 140(4)(b) of the Criminal Procedure Ordinance, 1975 (in these Rules referred to as "the Ordinance"), the presiding magistrate must ensure that, in addition, there is kept a record of the names of the witnesses, with a summary, in narrative form, of the evidence given by each.

#### **Procedure in case of power failure, etc.**

3. (1) If, during any such trial or inquiry, the sound recording is interrupted by a power failure, mechanical breakdown or other cause, the person making the summary referred to in rule 2 must desist from making such summary and must instead begin recording the evidence in accordance with section 140(4)(a) of the Ordinance.

(2) If it appears that some part of the evidence has not been recorded because such failure, breakdown or other cause was not immediately detected, the witness or witnesses whose evidence has been lost must be recalled.

#### **Transcripts for the purpose of appeal**

4. (1) If, following a trial at which sound recording was used, a petition of appeal is filed with the Registrar under section 245(1) of the Ordinance, the Registrar must cause a transcript to be made of the recording and if satisfied that it is correct, must certify it.

(2) A transcript so made and certified is deemed to be a copy of the proceedings for the purposes of section 249(1) of the Ordinance.

#### **Other transcripts**

5. Any person may require a transcript of any proceedings held in open court on payment of the prescribed charges.

#### **Audition of sound recordings**

6. (1) Any person who has the right to appeal against the decision of the Magistrates' Court in any criminal trial or inquiry, or the person's advocate or lay advocate, may

require the sound recording of the evidence given in such proceeding, or any part of it, to be played over in the person's hearing.

(2) Any person on whom a transcript of the sound recording made during a trial or inquiry has been served under section 249(1) of the Ordinance, or who has required such transcript under rule 5, may require the recording to be played over in the person's hearing.

(3) An application for a sound recording to be played over must be in writing, addressed to the Clerk to the Court, and the applicant must deposit a sum towards the prescribed fee as the clerk decides.

(4) The balance of the fee becomes payable when the playing of the recording has been completed:

Provided that if, on the playing over of a recording in response to a requirement made under subsection (2), it appears that the transcript was incorrect in some material particular, no fee is payable and any deposit made must be refunded.

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## **COURTS (APPEALS AND RULES) ORDINANCE, 2017**

### **SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

(Section 8, section 268 of the Criminal Procedure Ordinance, 1975 and section 74 of the Civil Procedure Ordinance, 1968)

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**PART I**  
**GENERAL**

**Citation**

1. These Rules may be cited as the Supreme Court (Miscellaneous Applications) Rules, 1992.

**Requirement of leave to apply**

2. No application may be brought for—  
(a) an order for the release of a person under restraint;  
(b) an order of judicial review; or  
(c) an order of committal,  
unless the leave of the Chief Justice has first been obtained.

**Filing and service of applications**

3. (1) An application under these Rules must be filed with the Registrar, accompanied by the supporting affidavit or affidavits and the prescribed fee.

(2) Except in the case of an application made *ex parte* under rule 8, a copy of an application filed under sub-rule (1) and of the affidavit or affidavits accompanying it must, within 48 hours after it has been filed, be served on every person directly concerned.

**Facsimile transmission**

4. An application under these Rules may in appropriate circumstances be filed and a copy of an application or of an affidavit be served by facsimile transmission.

**Place of hearing**

5. *Omitted*

## **Forms**

6. The forms set out in Schedule 1 must be used for the purposes to which they are expressed to relate, with any modifications the circumstances require.

## **Fees**

7. The fees set out in Schedule 2 to the Supreme Court (Fees) Rules, 1984 are payable in respect of the matters to which they are expressed to relate.

## **PART II APPLICATIONS FOR ORDERS FOR THE RELEASE OF PERSONS UNDER RESTRAINT**

### **Mode of application for leave**

8. (1) An application for leave to apply for an order for the release of a person under restraint must be in the prescribed form and may be made to the Chief Justice in court or in chambers, except that if an application is made on behalf of a minor, it must be made otherwise than in court.

(2) An application for leave may be made *ex parte* and, subject to sub-rule (3), must be supported by an affidavit by the person restrained showing that it is made at his or her instance and setting out the nature of the restraint.

(3) If the person restrained is unable for any reason to make the affidavit required by sub-rule (2), the affidavit may be made by some other person on his or her behalf and that affidavit must state that the person restrained is unable to make the affidavit himself or herself and for what reason.

### **Powers where application *ex parte***

9. (1) If an application under rule 8 is made *ex parte*, the Chief Justice may grant leave immediately, or may direct that notice of the application be given and adjourn the proceedings so that such notice may be given.

(2) If proceedings have been so adjourned, a copy of the application must be served on the person against whom the order is sought and on any other persons the Chief Justice directs and, unless the Chief Justice otherwise directs, there must be at least 8 clear days between the service of the copy and the date named in it for the hearing of the application.

### **Copies of affidavits to be supplied**

10. Every person who is a party to an application under rule 8 must supply to every other party, on demand and on payment of the proper charges, copies of the affidavits which the person proposes to use at the hearing of the application.

### **Power to order release**

**11.** Without affecting rule 9(1), the Chief Justice hearing an application for leave to apply may in his or her discretion order that the person restrained be released, and such order is sufficient warrant to the person in charge of the prison or any other person for the release of the person under restraint.

#### **Service of order granting leave**

**12. (1)** Subject to sub-rules (2) and (3), an order granting leave to apply must be served personally on the person against whom an order of release is sought.

**(2)** If it is not possible to serve the order personally, or if it is directed to the superintendent of the prison or other public official, it may be served by leaving it with a servant or agent of the person to whom it is directed at the place where the person restrained is confined or restrained.

**(3)** If the order is directed to more than one person, it must be served in the manner provided in this rule on the person first named in the order, and copies must be served on each of the other persons in the same manner.

**(4)** There must be served with the order a notice stating the date when the person restrained is to be brought before the Chief Justice and that in default of obedience, proceedings for committal of the party disobeying will be taken.

#### **Acknowledgment of service**

**13. (1)** The person on whom an order granting leave to apply is served must endorse on it or attach to it an acknowledgment of service, stating all the causes of the detention of the person restrained.

**(2)** The acknowledgment may be amended, or another acknowledgment substituted for it, by leave of the Chief Justice.

#### **Procedure at hearing**

**14. (1)** An application for an order for the release of a person must be heard in open court, unless the Chief Justice otherwise directs.

**(2)** When the application is heard, the representative of that person must be heard first, then the Attorney General or his or her representative, and then the representative of the person restrained in reply.

#### **Bringing up prisoner to give evidence, etc.**

**15.** An application for an order to bring up a prisoner to give evidence in any cause or matter, civil or criminal, before any court or to answer a charge must be made on affidavit to the Chief Justice, or other person by and before whom the Supreme Court is held, in chambers.

### **PART III APPLICATIONS FOR JUDICIAL REVIEW**

## Cases appropriate for judicial review

**16. (1)** An application for—

- (a) an order of *mandamus*, prohibition or *certiorari*; or
- (b) an injunction restraining a person from acting in any office in which the person is not entitled to act,

must be made by way of an application for judicial review in accordance with the provisions of this Part.

**(2)** An application for a declaration or an injunction (not being an injunction mentioned in sub-rule (1)(b)) may be made by way of an application for judicial review, and on such an application the Chief Justice may grant the declaration or injunction claimed if he or she considers that, having regard to—

- (a) the nature of the matters in respect of which relief may be granted by way of an order of *mandamus*, prohibition or *certiorari*;
- (b) the nature of the persons and bodies against whom relief may be granted by way of such an order; and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration or injunction to be granted on an application for judicial review.

## Mode of application for leave

**17. (1)** An application for leave to apply for an order of judicial review must be in the prescribed form, must be made *ex parte* to the Chief Justice, and must be supported by—

- (a) a statement, setting out the name and description of the applicant, the relief sought and the grounds on which it is sought; and
- (b) an affidavit, to be filed with the application, verifying the facts relied on.

**(2)** The applicant must give notice of the application to the Attorney General not later than the day before the application is made and must at the same time file with the Attorney General copies of the statement and of every affidavit in support.

**(3)** The Chief Justice may allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as he or she may think fit.

**(4)** The Chief Justice must not grant leave unless he or she considers that the applicant has a sufficient interest in the matter to which the application relates.

**(5)** If leave is sought to apply for an order of *certiorari* to remove, for the purpose of its being quashed, any judgment, order, conviction or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Chief Justice may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

**(6)** If the Chief Justice grants leave, he or she may impose such terms as to costs and as to giving security as he or she thinks fit.

**(7)** If leave to apply for judicial review is granted, then—

- (a) if the relief sought is an order of prohibition or *certiorari* and the Chief Justice so directs, the grant operates as a stay of the proceedings to which the application relates until the determination of the application or until the Chief Justice otherwise orders;
- (b) if any other relief is sought, the Chief Justice may at any time grant in the proceedings such interim relief as could be granted in an action begun by plaintiff.

### **Mode of and time for applying**

**18.** (1) Subject to sub-rule (2), when leave has been granted to make application for judicial review, an application in the prescribed form must be filed with the Registrar.

(2) Copies of the application must be served on all persons directly affected and if it relates to any proceedings in or before a court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made in them, the notice must also be served on the clerk or registrar of the court.

(3) An application must be heard in open court, unless the Chief Justice otherwise directs.

(4) Unless the Chief Justice when granting leave has otherwise directed, there must be at least 10 days between the service of the copies of the application and the day named in it for the hearing.

(5) An application must normally be entered for hearing within 14 days after the grant of leave; but if the Chief Justice has given leave while sitting in the United Kingdom, the period of 14 days runs, not from the date when the leave was granted, but from the first arrival after that date of the Chief Justice in St Helena.

(6) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with copies of the application must be filed before the application is entered for hearing and, if any person who ought to be served under this rule has not been served, the affidavit must state that fact and the reason for it; and the affidavit must be before the Chief Justice on the hearing of the application.

(7) If on the hearing of the application the Chief Justice is of opinion that any person who has not been served ought, whether under this rule or otherwise, to have been served, the Chief Justice may adjourn the hearing on any terms he or she directs in order that the notice can be served on that person.

### **Effect of delay in applying for relief**

**19.** (1) Subject to this rule, if in any case the Chief Justice considers that there has been undue delay in making an application for judicial review or, in a case to which sub-rule (2) applies, the application for leave under rule 17 is made after the relevant period has expired, and if the condition in sub-rule (1A) is met, the Chief Justice may refuse to grant—

- (a) leave for the making of the application; or
- (b) any relief sought on the application.

(1A) The condition is that in the opinion of the Chief Justice, the grant of the relief sought would be likely to cause substantial hardship to, or substantially to prejudice the rights of



any person, or would be detrimental to good administration.

(2) In the case of an application for an order of *certiorari* to remove any judgment, order, conviction or other proceeding for the purpose of quashing it, the relevant period for the purpose of sub-rule (1) is 3 months after the date of the proceeding.

(3) Sub-rule (1) does not affect any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.

### **Joinder of claims for relief**

20. On an application for judicial review any relief mentioned in rule 16(1) or (2) may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of or relates to or is connected with the same matter.

### **Statements and affidavits**

21. (1) Copies of the statement in support of the application for leave under rule 17 must be served with the copies of the application and, subject to sub-rule (2), no grounds may be relied upon or any relief sought at the hearing except the grounds and relief set out in the statement.

(2) The Chief Justice may on the hearing of the application –

- (a) allow the applicant to amend the applicant's statement, whether by specifying different or additional grounds or relief or otherwise, upon any terms the Chief Justice thinks fit; and
- (b) allow further affidavits to be used if they deal with new matters arising out of an affidavit of any other party to the application.

(3) An applicant who intends to ask to be allowed to amend the applicant's statement or to use further affidavits must give notice of his intention and of any proposed amendment to every other party.

(4) Each party to the application must supply to every other party on demand and on payment of the proper charges, copies of every affidavit which the party proposes to use at the hearing, including, in the case of the applicant, the affidavit in support of the application for leave.

### **Discovery, interrogatories, etc.**

22. (1) Unless the Chief Justice otherwise directs, any interlocutory application in proceedings on an application for judicial review may be heard by any person by and before whom the Supreme Court may be held, notwithstanding that the application for judicial review is to be heard by the Chief Justice.

(2) This rule does not affect any statutory provision or rule of law restricting the making of an order against the Crown.

### **Hearing of application**

**23. (1)** On the hearing of any application under rule 18, any person who desires to be heard in opposition to the application and appears to the Chief Justice to be a proper person to be heard, must be heard, whether or not the person has ~~not~~ been served with a copy of the application.

**(2)** If the relief sought is or includes an order of *certiorari* to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion the applicant –

- (a)** files with the Attorney General a copy of the order or other matter questioned, verified by affidavit; or
- (b)** accounts for the failure to do so to the satisfaction of the Chief Justice.

**(3)** If an order of *certiorari* is made in any such case as is referred to in sub-rule (2), the order must, subject to sub-rule (4), direct that the proceedings be quashed immediately on their removal into the Supreme Court.

**(4)** If the relief sought is an order of *certiorari* and the Chief Justice is satisfied that there are grounds for quashing the decision to which the application relates, the Chief Justice may, in addition to quashing it, remit the matter to the court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Chief Justice.

### **Claims for damages**

**24.** On the application for judicial review the Chief Justice may award damages to the applicant if—

- (a)** the applicant has included in the statement in support of the application for leave under rule 17 a claim for damages arising from any matter to which the application relates; and
- (b)** the Chief Justice is satisfied that if the claim had been made in any action begun by the applicant at the time of making his application, the applicant could have been awarded damages.

## **PART IV APPLICATIONS FOR INJUNCTIONS**

### **Applications for injunctions**

**25. (1)** An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause of the matter, whether or not a claim for an injunction was included in that party's plaint, originating summons, counterclaim or third party notice, as the case may be.

**(2)** If the applicant is the plaintiff and the case is one of urgency, the application may be made *ex parte* on affidavit but otherwise the application must be made in the prescribed form.

**(3)** The plaintiff may not make such an application before the issue of the plaint or originating summons by which the cause or matter is to be begun except where the case is one of urgency, and in that case the injunction applied for may be granted on terms providing for the

issue of the plaint or summons and such other terms, if any, as the Court thinks fit.

## **PART V**

### **APPLICATIONS ABOUT THE SUBJECT-MATTER OF A CAUSE OR MATTER**

#### **Detention, custody, preservation or inspection of subject-matter**

**26.** (1) On the application of any party to a cause or matter, the Court may make an order for the detention, custody or preservation of any property which is the subject-matter of the cause or matter, or as to which any question may arise in the matter, or for the inspection of any such property in the possession of a party to the cause or matter.

(2) An application under sub-rule (1) may be made in the prescribed form or may be made informally during the course of the hearing of the cause or matter.

(3) For the purpose of enabling any order made under sub-rule (1) to be carried out, the Court may by the order authorise any person to enter upon any land or building in the possession of any party to the cause or matter.

(4) If the right of any party to a specific fund is in dispute in a cause or matter, the Court may, on the application of a party to the cause or matter, order the fund to be paid into court or otherwise secured.

(5) Any order under this rule may be made on any terms the Court thinks just.

(6) Unless the Court otherwise directs, an application by a defendant for such an order may not be made before the defendant acknowledges service of the plaint or originating summons by which the cause or matter was begun.

## **PART VI**

### **APPLICATIONS FOR COMMITTAL**

#### **Exercise of power to punish for contempt**

**27.** The power of the Supreme Court to punish for contempt of court may be exercised by an order of committal made by the Chief Justice.

#### **Mode of application for leave**

**28.** (1) An application for leave to apply for an order of committal must be in the prescribed form and must be made *ex parte* to the Chief Justice and must be supported by –

- (a) a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his or her committal is sought; and
- (b) an affidavit, to be filed before the application is made, verifying the facts relied on.

(2) If the application is made by a person other than the Attorney General, the applicant must give notice of the application not later than the preceding day to the Attorney General and must at the same time serve on the Attorney General copies of the statement and affidavit.

## **Application**

**29. (1)** When leave has been granted to make application for an order of committal, an application in the prescribed form must be filed with the Registrar and a copy of it must be served on the person sought to be committed.

**(2)** Unless within 14 days after such leave was granted the application is entered for hearing, or subsection (2A) applies, the leave lapses.

**(2A)** If the Chief Justice has given leave while sitting in the United Kingdom, the period of 14 days runs, not from the date when the leave was granted, but from the date of the first arrival after that date of the Chief Justice in St Helena.

**(3)** Unless the Chief Justice has otherwise directed, there must be at least 8 clear days between the service of the copy of the application and the day named in it for the hearing.

## **Provisions as to hearing**

**30. (1)** Subject to sub-rule (2), the Chief Justice hearing an application for an order of committal may sit in private if—

- (a)* the application arises out of proceedings relating to the wardship or adoption of a minor or wholly or mainly to the guardianship, custody, maintenance or upbringing of a minor, or rights of access to a minor;
- (b)* the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder within the meaning of the Mental Health and Mental Capacity Ordinance, 2015;
- (c)* the application arises out of proceedings in which a secret process, discovery or invention was in issue; or
- (d)* it appears to the Chief Justice that in the interests of the administration of justice or for reasons of national security, the application should be heard in private,

but otherwise the application must be heard in open court.

**(2)** If the Chief Justice hearing an application in private by virtue of sub-rule (1) decides to make an order of committal against the person sought to be committed, the Chief Justice must in open court state:

- (a)* the name of that person;
- (b)* in general terms the nature of the contempt of court in respect of which the order of committal is being made; and
- (c)* the period for which that person is being committed.

**(3)** Except with the leave of the Chief Justice, no grounds may be relied upon at the hearing except the grounds set out in the statement under rule 28, but the Chief Justice may at any stage and, either on his or her own initiative or on the application of any party, order that the statement be amended on any terms as to costs or otherwise that are just and in any manner the Chief Justice directs.

**(4)** If, on the hearing of the application, the person sought to be committed expresses a wish to give oral evidence on his or her own behalf, the person must be entitled to do so.

### **Power to suspend execution**

**31.** (1) The Chief Justice, when making an order of committal, may by order direct that the execution of the order of committal is to be suspended for a period and on terms or conditions the Chief Justice specifies.

(2) If execution of an order of committal is suspended by an order under sub-rule (1), the applicant for the order of committal must, unless the Chief Justice otherwise directs, serve on the person against whom it was made a notice informing the person of the making and terms of the order under that sub-rule.

### **Discharge of person committed**

**32.** The Chief Justice may, on the application of any person committed to prison for any contempt of court, discharge the person.

### **Saving**

**33.** Nothing in the foregoing provisions of these Rules affects the power of the Chief Justice or of the Supreme Court—

- (a) to make, on the initiative of the Chief Justice or of the Supreme Court, an order of committal against a person guilty of contempt of court;
- (b) to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment as if the person had been guilty of contempt of the Supreme Court, to pay a fine or to give security for good behaviour, and those provisions, so far as applicable and with the necessary modifications, apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

## **SCHEDULE 1**

(Rule 6)

### **FORMS**

#### **FORM MA/1**

### **SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

#### **APPLICATION FOR LEAVE TO APPLY**

(Rules 8(1), 17(1), and 28(1))

In the St Helena Supreme Court  
To the Honourable the Chief Justice

In the matter of an intended application by (Name) ..... of  
(Address) .....

LEAVE is hereby sought to bring an application for

\* .....

ATTACHED are—

- (a) the intended application in respect of which leave is sought;  
(b) the affidavit of .....

Dated this ..... day of ....., 20.....

.....

(Signature of Applicant)

\* *Insert whichever of the following is appropriate—*

- “an order for the release of..... at present under restraint in the Prison at Jamestown (or as the case may be)”
- “an order of judicial review”
- “an order of committal”

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**FORM MA/2**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR AN ORDER FOR THE RELEASE  
OF A PERSON UNDER RESTRAINT  
(Rule 8)**

In the St Helena Supreme Court  
To the Honourable the Chief Justice

I (Name) ..... of (Address).....

APPLY for an order for the release of..... at present  
detained in the Prison at Jamestown on the grounds set out in the accompanying affidavit(s).  
A copy of the application is being served on the Superintendent of Prisons.

Dated this ....., 20.....

(Signature)

Applicant

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**FORM MA/3**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR AN ORDER TO BRING UP  
A PRISONER TO GIVE EVIDENCE  
(Rule 15)**

In the St Helena Supreme Court  
To the Honourable the Chief Justice

I (Name) ..... of (Address).....

APPLY for an order directed to the Superintendent of the Common Gaol at Jamestown to bring  
up (Name)..... a prisoner detained therein to

give evidence before the (Specify court)..... Court on the..... day  
of ....., 20..... in the matter of .....

Dated this ....., 20.....  
(Signature)  
Applicant

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**FORM MA/4**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR JUDICIAL REVIEW**

(Rule 16)

In the St Helena Supreme Court  
To the Honourable the Chief Justice

I (Name) .....  
of (Address).....  
APPLY for an order

\* .....

directed to ..... of..... (the  
Respondent). on the grounds set out in the accompanying affidavit(s) made  
by ..... and .....

Dated this ..... 20.....  
(Signature)  
Applicant.

*\*Insert whichever of the following is or are appropriate, or as the case may be—*

- of mandamus
- of prohibition
- of certiorari
  - restraining the Respondent from acting in the office  
of..... in which he or she is not entitled to act.

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**FORM MA/5**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR AN INJUNCTION**

(Rule 25)

In the St Helena Supreme Court  
To the Honourable the Chief Justice

I (Name) ..... of (Address).....  
APPLY for the issue of an INJUNCTION to restrain  
(Name)..... of  
(Address).....from (Specify conduct complained  
of).....  
..... on the grounds set out in the accompanying affidavit(s) made  
by ..... of .....  
and .....

Dated this ....., 20.....  
(Signature)  
Applicant.

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**FORM MA/6**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR THE DETENTION, CUSTODY,  
PRESERVATION OR INSPECTION OF PROPERTY**  
(Rule 26)

In the St Helena Supreme Court  
To the Honourable the Chief Justice

I (Name) ..... of (Address).....  
APPLY for an Order for the detention/custody/preservation/inspection of the property  
specified in the Schedule on the grounds set out in the \*affidavit(s)  
of ..... and .....

**SCHEDULE**

(Description of property)

Dated this ..... day of ....., 20.....  
(Signature)  
Applicant.  
\* Delete as appropriate

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**FORM MA/7**

**SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES, 1992**

**APPLICATION FOR COMMITTAL**  
(Rule 28)

In the St Helena Supreme Court  
To the Honourable the Chief Justice



I (Name) ..... of (Address).....  
APPLY for an order for the committal of (Name)..... to the  
Common Gaol for contempt of court.

The conduct complained of consists of (Give  
details) .....  
..... Attached is an affidavit made by  
me/ ..... of .....  
verifying the facts alleged.

Dated this ..... day of ....., 20..... .  
(Signature)  
Applicant.

\_\_\_\_\_

## **COURTS (APPEALS AND RULES) ORDINANCE, 2017**

### **COURTS (RIGHTS OF AUDIENCE AND ENROLMENT) RULES, 1992** (Section 8)

#### **Citation**

1. These Rules may be cited as the Courts (Rights of Audience and Enrolment) Rules, 1992.

#### **Rights of Audience<sup>5</sup>**

2. The following persons are entitled to appear and be heard as advocates (“a right of audience”) before the Supreme Court, wherever it is sitting, and the Magistrates’ Court—

- (a) members of the Bar of England, Scotland or Northern Ireland who are enrolled as an advocate of the St Helena Supreme Court,
- (b) solicitors of the Supreme Court in England or Northern Ireland and law agents admitted to practise in Scotland who are enrolled as an advocate of the St Helena Supreme Court,
- (c) lawyers qualified to practise in any jurisdiction who enjoy the right to appear before the High Court in England or the Court of Session in Scotland or to practise as solicitors in England or Scotland who are enrolled as an advocate of the St Helena Supreme Court, and
- (d) any other persons entitled to appear and be heard as advocates before any court of unlimited jurisdiction or to carry on practise as solicitors (by whatever name called), if licensed in that behalf by the Chief Justice.

#### **Other licensed persons**

3. (1) A person who is undertaking or who has completed a course of legal study who is being supervised by the Attorney General or the Public Solicitor as a component of the course of legal study or following the completion of the course of legal study may, subject to paragraphs (2), (3) and (5), apply, while under the supervision of the Attorney General or the Public Solicitor, to be licensed by the Chief Justice to appear and be heard as an advocate before the Supreme Court, wherever it is sitting, and the Magistrates’ Court.

(2) A person submitting an application under paragraph (1) must deliver to the Registrar an application addressed to the Chief Justice in form RA2 in Schedule 1 and the application must be accompanied by such written certification of the Attorney General or the Public Solicitor that the Attorney General or the Public Solicitor considers appropriate in the circumstances that the person making the application is competent to be heard as an advocate before the Supreme Court, wherever it is sitting, and the Magistrates’ Court.

(3) The Chief Justice may upon receipt of an application made under paragraph (1) request such further proof of competence that the Chief Justice considers necessary in respect of the application.

(4) The Chief Justice may grant the person a licence and may attach any conditions that the Chief Justice considers appropriate to the licence granted in respect of that application, including compliance with some or all of the Basic Principles and Code of

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<sup>5</sup> Rules 2-12 substituted by L.N. 6/2025

Practice contained in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025.

(5) Nothing in this rule applies to, affects, or in any way substitutes a requirement under these Rules for an application to be made under rule 2, and a licence granted pursuant to an application made under this rule is not a substitute for a licence granted pursuant to an application made under rule 2.

### **Applications for licences**

4. (1) A person seeking to be licensed under rule 2(d) must deliver to the Registrar an application addressed to the Chief Justice, in whichever of the forms numbered RA1 and RA2 in Schedule 1 is appropriate.

(2) An application in the form RA1 must be filed not less than 14 days before the day set down for the hearing at which the applicant wishes to be heard, or any shorter period as the Chief Justice allows.

(3) An application under paragraph (1) must be accompanied by any prescribed fee.

(4) The Chief Justice may, upon receipt of an application made under rule 2(d), request such further information from the applicant that they consider necessary in respect of the application including, but not limited to, proof of the person having professional insurance, competence and good standing.

(5) The Chief Justice may grant the person a licence and may attach any conditions that they consider appropriate to the licence granted in respect of that application, including compliance with some or all of the Basic Principles and Code of Practice contained in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025.

### **Form and duration of licences**

5. (1) A licence issued pursuant to rule 2(d) must be in form RA3 or form RA4 set out in Schedule 1, whichever is appropriate.

(2) A licence issued pursuant to rule 3 must be in form RA4 set out in Schedule 1.

(3) A licence in the form RA3 is valid only for the proceeding to which it is expressed to relate, any application or counterclaim relating to it, any proceeding consolidated with it and any appeal arising from it.

(4) A licence in the form RA4 is valid—

(a) until revoked, or

(b) until such time or on the occurrence of such event as may be specified in the licence.

(5) A person's licence shall automatically expire if the licensed person fails to pay the annual fee referred to in rule 11 and provided in Schedule 2.

(6) Any licence issued under this rule must contain such conditions that have been attached.

(7) The condition that the person licensed shall comply with the Basic Principles

and Code of Conduct in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 shall apply to such persons who are licensed immediately before the coming into force of this paragraph.

(8) The Chief Justice may vary any conditions attached to a licence upon the application of the person so licensed.

(9) The Chief Justice may at the time a licence is issued, and from time to time thereafter, require those licensed to certify that they are in compliance with the conditions of the licence and may make such enquiry or require such evidence of compliance as the Chief Justice shall from time to time require.

(10) A person who is so licensed who ceases to be in compliance with the conditions attached to the licence shall immediately notify the Chief Justice.

(11) The Chief Justice may direct the licence of any person be revoked or suspended who has—

- (a) ceased to be entitled to appear and be heard before the Supreme Court or who has been suspended from practice in any country or territory,
- (b) been guilty of professional misconduct,
- (c) failed to comply with any requirement made by the Chief Justice pursuant to paragraph (9),
- (d) failed to comply with any condition attached to the licence,
- (e) failed to comply with any rule issued under section 89(3)(d) of the Constitution of St Helena, Ascension and Tristan da Cunha,
- (f) not practised as a lawyer in St Helena for more than three years, or
- (g) applied to have their licence revoked.

## **Enrolment**

**6.** (1) This rule applies to those persons who have a right of audience under rules 2(a)-2(c) so long as they are enrolled.

(2) The Registrar of the Supreme Court shall maintain a roll of advocates of the St Helena Supreme Court.

(3) A person who applies to be enrolled as an advocate of the St Helena Supreme Court in order to be granted a right of audience must provide to the Registrar—

- (a) a copy of the certificate evidencing their call to the Bar/admission as a solicitor or equivalent in the relevant jurisdiction;
- (b) a copy of their current practising certificate or equivalent from the relevant jurisdiction;
- (c) a certificate of good standing or equivalent from their professional body in the relevant jurisdiction without endorsement;
- (d) written evidence that they hold professional indemnity insurance which extends to practice before the courts in St Helena to the minimum value as provided for in the Code of Conduct in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025.

(4) A person who applies to be enrolled as an advocate of the St Helena Supreme Court in order to be granted a right of audience under rules 2(a)-2(c) may, in the discretion of the Chief Justice, be enrolled as an advocate of the St Helena Supreme Court.

(5) The Chief Justice may make such enquiries as they consider appropriate as to

the good standing of any person seeking to be admitted to the roll.

(6) The Chief Justice shall make it a condition of enrolment that the person enrolled shall comply with the Basic Principles and Code of Conduct contained within the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 subject to any exemptions made under paragraph (8).

(7) The condition that the person enrolled shall comply with the Basic Principles and Code of Conduct in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 shall apply to such persons who are on the roll immediately before the coming into force of this paragraph.

(8) The Chief Justice may grant exemptions to any of the Basic Principles and Code of Conduct in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 at the time of enrolment or at any time thereafter.

(9) The Chief Justice may at enrolment, and from time to time thereafter, require those on the roll to certify that they are in compliance with the conditions of enrolment and may make such enquiry or require such evidence of compliance as the Chief Justice shall from time to time require.

(10) A person on the roll who ceases to be in compliance with any conditions of their enrolment shall immediately notify the Chief Justice.

(11) The Chief Justice may direct the removal from the roll, whether indefinitely or for a specified period, of the name of any person who has—

- (a) ceased to be entitled to appear and be heard before the Supreme Court or who has been suspended from practice in any country or territory,
- (b) been guilty of professional misconduct,
- (c) failed to comply with any requirement made by the Chief Justice pursuant to paragraph (9),
- (d) failed to comply with any condition attached to enrolment,
- (e) failed to comply with any rule issued under section 89(3)(d) of the Constitution of St Helena, Ascension and Tristan da Cunha,
- (f) not practised as a lawyer in St Helena for more than three years, or
- (g) applied to be removed from the roll.

(12) An application for enrolment as an advocate of the St Helena Supreme Court must be in the form RA5 in Schedule 1 and accompanied by any prescribed fee.

(13) A certificate of enrolment must be in the form RA6 in Schedule 1.

(14) A certificate of enrolment must contain such conditions and exemptions that the Chief Justice imposes or allows.

(15) For the purposes of this rule, “the roll” means the Roll of Advocates containing the names of those persons who are for the time being enrolled as such pursuant to these Rules, compiled and maintained by the Registrar of the Supreme Court.

(16) A person’s enrolment shall automatically expire if the enrolled person fails to pay the annual fee referred to in Rule 11 and provided for in Schedule 2.

## **Enrolment of Licensed Persons**

7. (1) This rule applies to those persons who have a right of audience under rules 2(d) or 3 so long as they are licensed.

(2) A person who has a right of audience under rule 2(d) or rule 3 because they are licensed may also, in the discretion of the Chief Justice, be enrolled as an advocate of the St Helena Supreme Court.

(3) The Chief Justice may direct the removal from the roll of the name of any licensed person who has—

- (a) ceased to be entitled to appear and be heard before the Supreme Court or who has been suspended from practice in any country or territory,
- (b) been guilty of professional misconduct,
- (c) failed to comply with any rule issued under section 89(3)(d) of the Constitution of St Helena, Ascension and Tristan da Cunha,
- (d) not practised as a lawyer in St Helena for more than three years, or
- (e) applied to be removed from the roll.

(4) An application for enrolment as an advocate of the St Helena Supreme Court must be in the form RA5 in Schedule 1.

(5) For the purposes of this rule, “the roll” means the Roll of Advocates containing the names of those persons who are for the time being enrolled as such pursuant to these Rules, compiled and maintained by the Registrar of the Supreme Court.

#### **Attorney General**

8. (1) The Attorney General is entitled ex officio to appear and be heard before the Supreme Court, wherever it is sitting, and before the Magistrates’ Court.

(2) The Attorney General may be enrolled or licensed in accordance with these rules.

#### **Additional rights of audience - Public Officers employed and indemnified by St Helena Government and subject to alternative disciplinary procedures**

9. (1) The Crown Prosecutor, any person appointed to be a public prosecutor pursuant to section 52 of the Criminal Procedure Ordinance, 1975 and the Public Prosecutor are entitled to appear and be heard as advocates in the same courts and in like manner as those persons, or classes of persons, who have such entitlement under either rule 2 or 8 of these Rules.

(2) For the purposes of paragraph (1), the right of audience of a person appointed to be a public prosecutor is subject to sections 52 to 55 of the Criminal Procedure Ordinance, 1975.

(3) In this rule, “Crown Prosecutor” and “public prosecutor” have the same meanings as in the Criminal Procedure Ordinance, 1975.

(4) Crown Counsel are entitled to appear and be heard as advocates in the same courts and in like manner as those persons, or classes of persons, who have such entitlement under either rule 2 or 8 of these Rules.

(5) In this rule, “Crown Counsel” are solicitors or barristers employed by or on behalf of the Attorney General and includes the Solicitor General.

(6) The Public Solicitor and solicitors or barristers employed by the Public Solicitors Office are entitled to appear and be heard as advocates in the same courts and in like manner as those persons, or classes of persons, who have such entitlement under rule 2 or 8 of these Rules.

(7) In this rule, “Public Solicitor” has the same meaning as in the Legal Aid, Assistance and Services Ordinance, 2017 and “Public Solicitors Office” means the office maintained under the direct supervision of the Public Solicitor.

(8) For the avoidance of doubt “employed by” does not have the same meaning as “instructed by”.

(9) Any person who holds a right of audience before the Supreme Court may apply to the Judicial Service Commission to be appointed as King’s Counsel (St Helena). The Judicial Service Commission may recommend to the Governor that the person be appointed as King’s Counsel (St Helena) on the basis they have demonstrated consistent excellence in advocacy before the Supreme Court.

(10) Any person may nominate a person to the Judicial Service Commission to be appointed as King’s Counsel (Honorary) on the basis they have made a major contribution to the law of St Helena in service to the Supreme Court. The Judicial Service Commission may recommend to the Governor that the nominated person be appointed King’s Counsel (Honorary). If so appointed, the person shall have a right of audience before the Supreme Court if they confirm in writing to the Registrar of the Supreme Court that they wish to hold one.

(11) Any person to whom this rule applies may be enrolled or licensed in accordance with these rules.

### **Removal from the Roll or Revocation of Licence**

**10.** (1) The procedures for investigating complaints and removal from the roll or revocation of a licence are set out in Schedule 3 to these rules.

(2) Any decision by the tribunal referred to in Schedule 3 to these rules that a person be removed or suspended from the roll or their licence be revoked or suspended or has effect as if it were a direction by the Chief Justice under rule 5(11) or 6(11) or 7(3) of these Rules.

### **Fees**

**11.** (1) The fees set out in Schedule 2 are payable in respect of the matters to which they are expressed to relate.

(2) If the enrolled or licensed person fails to pay the annual fee when due then their enrolment or licence shall automatically expire.

### **Savings**

**12.** (1) Nothing in these Rules applies to or in any way affects any person holding the office of Lay Advocate under the Legal Aid, Assistance and Services Ordinance, 2017.

(2) Nothing in these Rules affects the right of any party to appear in person and be heard in any proceedings in the Supreme Court, wherever it is sitting, and before the

Magistrates' Court, or, with the leave of the court, to be represented by any other person not being an advocate or a Lay Advocate.

(3) The Supreme Court or Magistrates' Court may grant leave for any advocate to appear before the court when not enrolled or licensed for good reason and on such conditions as it directs. Any advocate to whom leave is granted under this subsection shall be deemed to be bound by the Basic Principles and Code of Conduct in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025

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**SCHEDULE 1<sup>6</sup>**  
**FORM RA1**

**APPLICATION FOR A LICENCE**  
**(Rule 4)**

I, Name:

.....

Address:.....

Professional qualification:

.....

Apply for a licence to appear on behalf of.....

before the St Helena Supreme Court/Magistrates' Court in the case of

.....

Attached is:

- |   |                          |
|---|--------------------------|
| (1) A copy of the certificate evidencing my call/admission                                      | <input type="checkbox"/> |
| (2) A copy of my current practising certificate or equivalent                                   | <input type="checkbox"/> |
| (3) A certificate of good standing or equivalent from my professional body                      | <input type="checkbox"/> |
| (4) A copy of my insurance certificate with confirmation that my insurance extends to St Helena | <input type="checkbox"/> |

I confirm that I am compliant with the requirements for continuing professional development in the jurisdiction in which I practise.

I confirm that I have read the Basic Principles and Code of Conduct that applies to lawyers on St Helena found in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025. (If you seek any exemptions please attach a separate document outlining the reasons why).

I confirm that I have read the Courts (Rights of Audience and Enrolment) Rules, 1992.

I confirm that I have paid the appropriate fee.

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Signed

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Dated

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<sup>6</sup> Schedules 1 and 2 substituted by L.N. 6/2025



FORM RA2

APPLICATION FOR A LICENCE TO APPEAR AND BE HEARD GENERALLY  
(Rule 4)

I, Name:

.....

Address:.....  
.....

(1) Professional qualification (rule 2(d)).

(2) Being a person being supervised by the Attorney General/Public Solicitor (rule 3).

*(delete as appropriate)*

Apply for a licence to appear generally before the St Helena Supreme Court and Magistrates' Court.

Attached is *(delete where not applicable)*:

(Rule 2(d))

- |   |                          |
|---|--------------------------|
| (1) A copy of the certificate evidencing my call/admission                                      | <input type="checkbox"/> |
| (2) A copy of my current practising certificate or equivalent                                   | <input type="checkbox"/> |
| (3) A certificate of good standing or equivalent from my professional body                      | <input type="checkbox"/> |
| (4) A copy of my insurance certificate with confirmation that my insurance extends to St Helena | <input type="checkbox"/> |

(Rule 3)

- |   |                          |
|---|--------------------------|
| (5) Certification of my supervision from the Attorney General/Public Solicitor. | <input type="checkbox"/> |
|---|--------------------------|

I confirm that I am compliant with the requirements for continuing professional development in the jurisdiction in which I practise (not applicable to those supervised by the Attorney General/Public Solicitor who fall within rule 3).

I confirm that I have read the Basic Principles and Code of Conduct that applies to lawyers on St Helena found in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025. (If you seek any exemptions please attach a separate document outlining the reasons why).

I confirm that I have read the Courts (Rights of Audience and Enrolment) Rules, 1992.

I confirm that I have paid the appropriate fee.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

FORM RA3

LICENCE  
(Rule 5)

Name: .....

Address:.....

Being a: .....

is licensed to appear on behalf of..... before the St  
Helena Supreme Court/Magistrates' Court in the case of .....

.....

and any application or counterclaim relating to it and any proceedings consolidated with it or  
any appeal arising from it.

This licence is subject to the conditions and exemptions in the Schedule below.

\_\_\_\_\_  
Chief Justice

\_\_\_\_\_  
Dated

FORM RA4

LICENCE TO APPEAR AND BE HEARD GENERALLY  
(Rule 5)

Name: .....

Address:.....

Being a: .....

is licensed to appear and be heard as an advocate before the St Helena Supreme Court and  
Magistrates' Court.

This licence will continue until revocation, or expiry on.....

This licence is subject to the conditions and exemptions in the Schedule below.

\_\_\_\_\_  
Chief Justice

\_\_\_\_\_  
Dated

FORM RA5

APPLICATION FOR ENROLMENT  
(Rule 6)

I, Name: .....

Address:.....

Professional qualification:.....

Apply to be enrolled as an advocate of the St Helena Supreme Court.

Attached is:

- |   |                          |
|---|--------------------------|
| (1) A copy of the certificate evidencing my call/admission                                      | <input type="checkbox"/> |
| (2) A copy of my current practising certificate   | <input type="checkbox"/> |
| (3) A certificate of good standing or equivalent from my professional body                      | <input type="checkbox"/> |
| (4) A copy of my insurance certificate with confirmation that my insurance extends to St Helena | <input type="checkbox"/> |

I confirm that I am compliant with the requirements for continuing professional development in the jurisdiction in which I practise.

I confirm that I have read the Basic Principles and Code of Conduct that applies to lawyers on St Helena found in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025. (If you seek any exemptions please attach a separate document outlining the reasons why).

I confirm that I have read the Courts (Rights of Audience and Enrolment) Rules, 1992.

I confirm that I have paid the appropriate fee.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

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**FORM RA6**  
**CERTIFICATE OF ENROLMENT**  
**(Rule 6)**

Name: .....

Address:.....

Being a: .....

is enrolled as an advocate of the St Helena Supreme Court.

Enrolment is subject to the conditions and exemptions in the Schedule below.

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Chief Justice

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Dated

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**SCHEDULE 2**

**FEES**  
**(Rule 11)**

1. On filing an application for a licence under rule 4 (rule 3 applicants): £20.00
2. On filing an application for enrolment under rule 6 or a licence under rule 4 (rule 2(d) applicants): £200.00
3. Half the level of the relevant application fee is payable on the 1<sup>st</sup> of December of each year as an annual fee.
4. The Registrar of the Supreme Court may reduce or waive fees in their discretion on application by the enrolled or licensed person.

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**SCHEDULE 3<sup>7</sup>**

**COMPLAINTS, INVESTIGATIONS AND REMOVAL FROM THE ROLL OR**  
**REVOCATION OF LICENCE**  
**(Rule 10)**

1. Any person ('a complainant') may make a written complaint to the Registrar of the Supreme Court that a person enrolled or licensed under these rules has been guilty of

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<sup>7</sup> Schedule 3 inserted by L.N. 6/2025

professional misconduct by failing to comply with a condition of their enrolment or licence including that they have breached any of the Basic Principles and Code of Practice contained in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025.

2. The Registrar of the Supreme Court shall refer the complaint for investigation. Before making such a referral the Registrar of the Supreme Court must, unless there is good reason, require the complainant to utilise any complaints procedure the lawyer complained of is subject to. The Registrar may also seek further particulars or further evidence from the complainant regarding the nature and circumstances of the complaint before making any referral.
3. The Registrar of the Supreme Court may, without receipt of a complaint and on their own initiative, refer any matter for investigation.
4. Referrals for investigation are made in the first instance to the Chief Magistrate, or if that person is unable to hear the complaint, then to some such other suitably qualified person as the Chief Justice may direct. Any reference in this schedule to the 'Chief Magistrate' includes any such person appointed pursuant to this paragraph.
5. Upon receipt of the referral the Chief Magistrate may dismiss the complaint without investigation if they consider the complaint is without merit or refer the matter to an independent person (the 'investigator'), who should be a lawyer who is enrolled as an advocate of the St Helena Supreme Court or barrister or solicitor in England and Wales, for investigation.
6. If a complaint is dismissed without investigation, the Chief Magistrate must give reasons for their decision and provide these to the Chief Justice and any other person the Chief Magistrate considers has an interest in the outcome of the complaint. The Chief Justice may, upon receipt of the reasons from the Chief Magistrate, make such enquiries as they see fit and may direct that the matter be referred for investigation.
7. The investigator shall, within 30 days or such longer time as may be allowed by the Chief Magistrate, obtain such evidence as the investigator considers to be relevant to the complaint from the complainant, the person complained of and any relevant witnesses. The investigator may recommend that the complaint be dismissed without a hearing.
8. Upon completion of the investigation the evidence shall be presented to the Chief Magistrate who may dismiss the complaint whether such a recommendation has been made or not. If the complaint has not been dismissed, then the matter shall be referred for a full hearing before the Chief Magistrate sitting with two Justices of the Peace, at least one of whom who has been in office for at least 5 years (the "tribunal").
9. If a complaint is dismissed following the investigation without the matter being referred to a tribunal, the Chief Magistrate must give reasons for their decision and provide these to the Chief Justice and any other person the Chief Magistrate considers has an interest in the outcome of the complaint. The Chief Justice may, upon receipt of the reasons from the Chief Magistrate, make such enquiries as they see fit and may direct that the matter be referred to the tribunal.
10. Hearings before the tribunal shall take the form of and follow the procedures for adversarial civil proceedings held before the courts of St Helena. All matters are to be decided on the civil standard of proof. Parties to the proceedings may be

represented by a person who has a right of audience in St Helena or, with the leave of the tribunal, may be assisted by any person.

11. The complaint shall be presented to the tribunal by a lawyer appointed by the investigator who should be enrolled as an advocate of the St Helena Supreme Court or is a barrister or solicitor in England and Wales. The person presenting the complaint to the tribunal shall act independently of the investigator. The tribunal may regulate its own proceedings, including whether to hear the matter wholly or partly in private, and make such decisions as to admissibility of evidence that it considers just and fair.
12. The Clerk of the Peace, or such other suitably qualified person as may be directed by the Chief Magistrate, shall be the clerk to the tribunal.
13. Upon hearing the evidence and any submissions made, the tribunal may dismiss the complaint or uphold it in full or in part. If the tribunal upholds the complaint in full or in part it must go on to find whether the person enrolled or licensed has been guilty of professional misconduct, i.e. breached any of the Basic Principles and Code of Practice contained in the Schedule to the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025.
14. The tribunal shall give written reasons for making any findings and its decision.
15. If the tribunal has found that the person has been guilty of professional misconduct, after hearing such other submissions and evidence that it considers necessary, it may make one or more of the following decisions in respect of the person enrolled or licensed:
  - a. to take no further action,
  - b. to issue a formal reprimand,
  - c. to impose a financial penalty not in excess of £5000 to be paid to the Legal Assistance Fund. If such penalty shall remain unpaid after 42 days the person enrolled or licensed shall be suspended from the roll, or have their licence suspended, until such time as the monies are paid in full,
  - d. be suspended from the roll, or have their licence suspended, for a defined period or until that person has complied with any conditions that may be set for readmission to the roll or for their licence to be granted again, or
  - e. be removed from the roll or have their licence revoked.
16. In addition to making any of the above orders the tribunal may direct that the person enrolled or licensed shall pay such compensation to their client as may be reasonable and pay the costs of any investigation or the costs of any party or witness to the tribunal proceedings. If such costs or compensation shall remain unpaid after 42 days the person enrolled or licensed shall be suspended from the roll, or have their licence suspended, until such time as the monies are paid in full. Costs or compensation may be enforced as if they are civil debt under the Civil Procedure Ordinance, 1968.
17. The tribunal must give its findings, decision and reasons in writing within 21 days of the conclusion of the hearing.
18. Upon completion of the proceedings, including the making of the tribunal's decision, the clerk to the tribunal shall, within 21 days thereafter, cause a record of the proceedings with copies of all evidence received and decision made by the tribunal to be sent to the Chief Justice.

19. The Registrar of the Supreme Court shall communicate the decision of the tribunal to such persons as the Registrar considers are interested parties, including and not limited to any complainant.
20. Where there is no appeal of the tribunal's decision within 28 days, the findings, decisions and sanctions of the tribunal, except dismissal of a complaint, are to be recorded on the roll or on the person's licence. If after 28 days there is no appeal from the tribunal's findings, decisions and sanctions, then the Chief Justice has the power of their own initiative to vary or revise any decision to suspend, revoke or remove a person's enrolment or licence.
21. An interested party, the complainant or the person in respect of whom the tribunal has made any findings or decisions may appeal any findings, decisions and sanctions by notice in writing to the Chief Justice within 28 days of being sent the written decision. The Chief Justice may extend the time to appeal in his discretion, whether the time limit for appeal has passed or not, and in such circumstances may direct that the decisions and sanctions of the tribunal shall cease to have effect until the conclusion of the appeal.
22. On appeal the Chief Justice shall hear the matter afresh and may make any of the findings and decisions or impose any of the sanctions that the tribunal may have made or imposed. The Chief Justice may regulate the proceedings before them in any manner that they consider just and fair and may decide the matter on the papers should the evidence be agreed and the parties consent.
23. The Chief Justice shall issue reasons for the findings, decisions and sanctions made and must do so within 21 days of any hearing. The Chief Justice may, on application, suspend any decision to remove or suspend from the roll or revoke or suspend a licence pending a further appeal.
24. A further appeal on a point of law from any finding, decision or sanction made by the Chief Justice may be made by any party to the Court of Appeal within 28 days of the reasons for the decision of the Chief Justice being issued. If no appeal is made in that time, the findings, decisions and sanctions made by the Chief Justice shall be entered in the roll or endorsed on the relevant licence.
25. Should the appeal to the Court of Appeal be dismissed, then the findings, decisions and sanctions made by the Chief Justice shall have effect and be entered in the roll or endorsed on the relevant licence.

## **COURTS (RIGHTS OF PRACTISING AND REPRESENTATION OF PERSONS IN PROCEEDINGS) RULES, 2025**

In exercise of the powers conferred by Section 89(3)(d) of the Constitution the Chief Justice makes the following rules.

### **Citation and commencement**

1. These rules may be cited as the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 and come into force on 1 July 2025.

### **Application**

2. These rules regulate the right of practising before the Supreme Court and Magistrates' Court of St Helena and the representation of persons concerned in any proceedings in those courts.

### **Interpretation**

3. In these rules—  
    **“advocacy”** means the exercise of a right of audience before a court, tribunal or other person;  
    **“legal services”** means—
  - (a) giving legal advice to any person;
  - (b) appearing on behalf of any person in any court, tribunal or inquiry having jurisdiction in St Helena;
  - (c) directly or indirectly drawing or preparing any instrument relating to any property or any legal proceedings;  
    **“practising”** includes advocacy or providing legal services on behalf of a person who is a party to proceedings before the Supreme Court or a court subordinate to it and  
    **“practise”** is to be construed accordingly;  
    **“representation”** includes advocacy or the provision of legal services to a person concerned in any proceedings before the Supreme Court or a court subordinate to it and  
    **“represent”** is to be construed accordingly.

### **Enrolment, Basic Principles and Code of Practice**

4. (1) All those who practise before the courts to which these rules apply, or represent persons concerned in proceedings before those courts, must be enrolled or licensed in accordance with the Courts (Rights of Audience and Enrolment) Rules, 1992 unless exempt.  
  
(2) All those who practise before the courts to which these rules apply, or represent persons concerned in proceedings before those courts, must comply with the Basic Principles and Code of Practice as set out in the Schedule to these rules.  
  
(3) Upon application by a person to whom these rules apply the Chief Justice may, in his discretion, vary the terms of the Code of Conduct as they apply to the applicant whereupon the applicant must comply with the varied Code of Conduct.



- (4) The Chief Justice may, from time to time, issue guidance as to the circumstances in which the grant of an exemption under paragraph (3) may be appropriate and how such an exemption may be applied for<sup>8</sup>.

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## **SCHEDULE**

### **(Rule 4)**

#### **Basic Principles**

A person to whom these rules apply must:

- (1) Act in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice.
- (2) Act in a way that upholds public trust and confidence in the legal profession and in legal services provided by the legal profession.
- (3) Act with independence.
- (4) Act with honesty.
- (5) Act with integrity.
- (6) Act in a way that encourages equality, diversity and inclusion.
- (7) Act in the best interests of each client.
- (8) Comply with the Code of Conduct in this Schedule.

#### **Code of Conduct**

##### **1. Maintaining trust and acting fairly**

- 1.1.** You must maintain trust in yourself and your profession and act fairly at all times. This includes, but is not limited to, the following:

- (a) You must not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.
- (b) You must not abuse your position by taking unfair advantage of clients or others.
- (c) You must perform all undertakings given by you, and do so within an agreed timescale or if no timescale has been agreed then within a reasonable amount of time.
- (d) You must not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).

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<sup>8</sup> Guidance from the Chief Justice on Applying for Variations or Exemptions to the Code of Practice issued on 5 May 2025 in Gazette No.51 of 2025.

- (e) You must treat colleagues fairly and with respect. You must not bully or harass them or discriminate unfairly against them. If you are a manager, you must challenge behaviour that does not meet this standard.

## **2. Conduct to others and before the courts**

**2.1.** In dispute resolution and proceedings before courts, tribunals and inquiries:

- (a) You must not misuse or tamper with evidence or attempt to do so.
- (b) You must not seek to influence the substance of evidence, including generating false evidence or persuading witnesses to change their evidence.
- (c) You must not provide or offer to provide any benefit to witnesses dependent upon the nature of their evidence or the outcome of the case.
- (d) You must only make assertions or put forward statements, representations or submissions to the court or others which are properly arguable.
- (e) You must not place yourself in contempt of court, and you must comply with court orders which place obligations on you.
- (f) You must not waste the court's time nor act frivolously nor vexatiously.
- (g) You must draw the court's attention to relevant cases and statutory provisions, or procedural irregularities of which you are aware, and which are likely to have a material effect on the outcome of the proceedings.

## **3. Service and competence**

**3.1.** You must provide a good service to your clients and act competently. This includes, but is not limited to, the following:

- (a) You must only act for clients on instructions from the client, or from someone properly authorised to provide instructions on their behalf. If you have reason to suspect that the instructions do not represent your client's wishes, you must not act unless you have satisfied yourself that they do. However, in circumstances where you have legal authority to act notwithstanding that it is not possible to obtain or ascertain the instructions of your client, then you are subject to the overriding obligation to protect your client's best interests.
- (b) You must ensure that the service you provide to clients is competent and delivered in a timely manner.
- (c) You must maintain your competence to carry out your role and keep your professional knowledge and skills up to date.
- (d) You must consider and take account of your client's attributes, needs and circumstances.

- (e) Where you supervise or manage others practising or providing representation—
  - (i) you must remain accountable for the work carried out through them, and
  - (ii) you must effectively supervise work being done for clients.
- (f) You must ensure that the individuals you manage are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.

#### **4. Client money and assets**

- 4.1.** You must properly account to clients for any financial benefit you receive as a result of their instructions.
- 4.2.** You must safeguard money and assets entrusted to you by clients and others.
- 4.3.** All monies belonging to your client must be held in a separate client account and retained in a bank with a presence on St Helena or held in an overseas account specifically created for the purpose of holding client money.
- 4.4.** You must pay in full to your client any interest earned on their money.

#### **5. Business requirements**

##### **Referrals and introductions**

- 5.1.** You must not accept a referral to you of a client in circumstances where you share your fees with that person or any other person or you pay a fee for the referral.
- 5.2.** You must not refer your client to another person in circumstances where you receive any referral fee or share fees.

##### **Other business requirements**

- 5.3.** If you are a lawyer practising or providing representation for the public or a section of the public:
  - (a) You must maintain indemnity insurance and—
    - (i) this insurance must provide adequate and appropriate cover in respect of the services that you provide, or have provided, to a minimum value of £2 million per claim; and the insurance must be valid for practising and providing representation before the courts in St Helena, and
    - (ii) you must submit proof of the insurance and its validity in St Helena to the Registrar of the Supreme Court on the 1<sup>st</sup> day of December each year of enrolment and when applying for enrolment.

- (b) If you provide litigation services you must ensure that your client can contact you via a St Helena telephone number or by internet and provide you with instructions during St Helena business hours.
- (c) If you provide litigation services you shall maintain an address on island for correspondence and service.
- (d) You must ensure that you, and any firm you are responsible for, are in compliance with all local legislation including the Immigration Ordinance, 2011, the Companies Ordinance, 2004 and the Income Tax Ordinance, 2012.

## **6. Conflict, confidentiality and disclosure**

### **Conflict of interests**

- 6.1.** You must not act if there is a conflict with your own interest or that of another client or a significant risk of such a conflict.
- 6.2.** When acting for more than one client you do not act in relation to a matter or particular aspect of it if you have a conflict of interest or a significant risk of such a conflict in relation to that matter or aspect of it, unless—
  - (a) the clients have a substantially common interest in relation to the matter or the aspect of it, as appropriate, or
  - (b) the clients are competing for the same objective, and the conditions below are met, namely that—
    - (i) all the clients have given informed consent, given or evidenced in writing, to you acting,
    - (ii) where appropriate, you put in place effective safeguards to protect your clients' confidential information, and
    - (iii) you are satisfied it is reasonable for you to act for all the clients.

### **Confidentiality and disclosure**

- 6.3.** You must keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents.
- 6.4.** Where you are acting for a client on a matter, you must make the client aware of all information material to the matter of which you have knowledge, except when—
  - (a) the disclosure of the information is prohibited by legal restrictions imposed in the interests of national security or the prevention of crime,
  - (b) your client gives informed consent, given or evidenced in writing, to the information not being disclosed to them,
  - (c) you have reason to believe that serious physical or mental injury will be caused to your client or another if the information is disclosed, or

- (d) the information is contained in a privileged document that you have knowledge of only because it has been mistakenly disclosed.
- 6.5.** You must not act for a client in a matter where that client has an interest adverse to the interest of another current or former client of you or your business or employer, for whom you or your business or employer holds confidential information which is material to that matter, unless—
- (a) effective measures have been taken which result in there being no real risk of disclosure of the confidential information, or
  - (b) the current or former client whose information you or your business or employer holds has given informed consent, given or evidenced in writing, to you acting, including to any measures taken to protect their information.

## **7. Cooperation and accountability**

- 7.1.** You must keep up to date with and follow the law applying to St Helena and regulations governing the way you work.
- 7.2.** You must be able to justify your decisions and actions in order to demonstrate compliance with your obligations under the Basic Principles and Code of Conduct.
- 7.3.** You must co-operate with those who have a role overseeing and supervising the delivery of, or investigating concerns in relation to, practising and the provision of representation.
- 7.4.** You must respond promptly to any enquiries made of you by the Chief Justice or Registrar of the Supreme Court and—
- (a) provide full and accurate explanations, information and documents in response to any request or requirement, and
  - (b) ensure that relevant information which is held by you, or by third parties carrying out functions on your behalf which are critical to the delivery of your legal services, is available for inspection by any person acting on the authority of the Chief Justice.
- 7.5.** You must not attempt to prevent anyone from providing information to the Chief Justice.
- 7.6.** You must notify the Chief Justice promptly if—
- (a) you are subject, in any jurisdiction, to any criminal charge, conviction or caution, in relation to an offence which would be subject to the Rehabilitation of Offenders Act 1974 if committed in England and Wales,

- (b) you are subject, in any jurisdiction, to any civil proceedings valued in excess of £5,000 or equivalent, or
  - (c) if you become aware—
    - (i) of any material changes to information previously provided to the Chief Justice, by you or on your behalf, and
    - (ii) that information provided to the Chief Justice, by you or on your behalf, about you or your practice is or may be false, misleading, incomplete or inaccurate.
- 7.7.** You must report promptly to the Chief Justice any facts or matters that you reasonably believe are capable of amounting to a breach of the Basic Principles or this Code of Conduct by any person to whom they apply (including you).
- 7.8.** You must inform the Chief Justice promptly of any facts or matters that you reasonably believe should be brought to his or her attention in order that he or she or any other appointed investigator may investigate whether a breach of the Basic Principles or this Code of Conduct has occurred.
- 7.9.** You must be honest and open with clients if things go wrong, and if a client suffers loss or harm as a result you must put matters right (if possible) and explain fully and promptly what has happened and the likely impact.

#### **Client identification**

- 7.10.** You must identify who you are acting for in relation to any matter.

#### **Complaints handling**

- 7.11.** You must ensure that, as appropriate in the circumstances, you either establish and maintain, or participate in, a procedure for handling complaints in relation to the legal services you provide.
- 7.12.** You must ensure that clients are informed in writing at the time of engagement about—
- (a) their right to complain to you about your services and your charges,
  - (b) how a complaint can be made and to whom, and
  - (c) how you ensure that complaints are dealt with promptly, fairly, and free of charge.

#### **Client information and publicity**

- 7.13.** If you provide litigation services before the courts:

- (a) You must give clients information in a way they can understand. You must ensure they are in a position to make informed decisions about the services they need, how their matter will be handled and the options available to them.
- (b) You must ensure that clients receive the best possible information about how their matter will be priced and, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of the matter and any costs incurred.
- (c) You must ensure that any publicity in relation to your practice is accurate and not misleading, including that relating to your charges and the circumstances in which interest is payable by or to clients.
- (d) You must not make unsolicited approaches to members of the public, with the exception of current or former clients, in order to advertise legal services provided by you, or your business or employer.
- (e) You must not permit any person to make unsolicited approaches to members of the public, whether individuals or a group of persons, on your behalf and if you become aware of any such approaches you must report these immediately to the Chief Justice.
- (f) You must ensure that clients understand whether and how the services you provide are regulated.
- (g) You must ensure that clients understand the regulatory protections available to them and that they can complain about you to the Chief Justice.

## **8. Practising Certificates and Continuing Professional Development**

### **Practising Certificate**

- 8.1.** If you practise primarily in another jurisdiction then you must maintain at all times a practising certificate (or equivalent) entitling you to practise in that jurisdiction.
- 8.2.** If there are any restrictions attached to your practising certificate (or equivalent) you must notify the Chief Justice.

### **Continuing Professional Development**

- 8.3.** If you practise primarily in another jurisdiction then you must comply with any requirements imposed upon you in that jurisdiction as regards continuing professional development.

## COURTS (APPEALS AND RULES) ORDINANCE, 2017

### COURT OF APPEAL RULES, 1998

(Deemed to have been made by the President of the Court of Appeal under section 89(1) of the Constitution)

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##### *General*

#### **Citation**

1. These Rules may be cited as the Court of Appeal Rules, 1998.

#### **Application**

2. (1) Subject to sub-rule (2), these Rules apply to all proceedings before the St Helena Court of Appeal.

(2) Where there is no provision in these Rules, the rules of procedure for the time being in force in England and Wales relating to appeals to the Court of Appeal apply.



## **Interpretation**

- 3.** In these Rules—  
“**Court**” means the Court of Appeal;  
“**judge**” means the President or a Justice of Appeal appointed pursuant to section 86 of the Constitution;  
“**President**” means the President of the Court;  
“**Registrar**” means the Registrar of the Court;  
“**service officer**” means any police officer or an officer of the Supreme Court authorised to effect service of documents;

## **Extension or abridgement of time**

**4.** (1) The Court or a single judge may, on such terms as it or he thinks just, order that the time within which a person is required or authorised to do any act be extended or abridged.

(2) Unless otherwise ordered by the Court, when the time for doing any act expires on a day when the Registrar’s office is closed, the act is deemed to have been done in time if done on the next day when that office is open.

## **Application for leave to appeal**

**5.** (1) If leave to appeal is required, application for such leave must be made within 42 days after the date of the decision appealed.

(2) Application for leave to appeal, or for leave to appeal out of time, must be made *ex parte* supported by an affidavit.

(3) Immediately upon receipt of such an application the Registrar must refer it to a single judge who may determine the matter without a hearing.

(4) If leave to appeal is refused by a single judge without a hearing, the application may be renewed with leave of the Court at its next sitting.

(5) If leave to appeal is granted, Notice of Appeal must be filed within 14 days after the date when leave was granted.

## *Civil and family jurisdiction*

## **Notice of Appeal**

**6.** (1) Subject to rule 5(5), any appeal to the Court in its civil or family jurisdiction must be made within 42 days after the date of the judgment or order appealed by filing with the Registrar a Notice of Appeal.

(2) A Notice of Appeal may be given in respect of the whole or any part of the judgment or order appealed.

- (3) A Notice of Appeal must be substantially in Form 1 in the Schedule, and must—
- (a) identify the judgment or order appealed against, stating whether appeal is made against the whole or in part, and if in part specifying which part;
  - (b) state the form of the order which the appellant seeks; and
  - (c) state separately and concisely each ground of appeal, with particulars where appropriate.

(4) Except with the leave of the Court (which may be given by a single judge) an appellant is not entitled on the hearing of an appeal to rely on any ground of appeal or to apply for any relief not specified in the Notice of Appeal.

### **Respondent's Notice**

7. (1) A respondent who is served with a Notice of Appeal and who wishes to contend—
- (a) that the decision of the Supreme Court should be varied, whether in any event or in the event of the appeal being allowed in whole or in part;
  - (b) that the decision of the Supreme Court should be affirmed on grounds other than those relied upon by that court; or
  - (c) by way of cross-appeal that the decision of the Supreme Court was wrong in whole or in part,

must within 42 days after service on the respondent of a Notice of Appeal file with the Registrar a Respondent's Notice.

- (2) A Respondent's Notice must—
- (a) if rule 7(1)(a) or 7(1)(c) applies, state the form of the order sought; and
  - (b) state concisely the grounds of the respondent's contention.

(3) Except with the leave of the Court (which may be given by a single judge) a Respondent may not on the hearing of an appeal ~~to~~ rely on any ground of appeal or to apply for any relief not specified in the Respondent's Notice.

### **Amendment of Notices**

8. (1) A Notice of Appeal or a Respondent's Notice may be amended without leave, by filing with the Registrar a Notice incorporating the amendments desired.

- (2) An amended Notice may be filed—
- (a) if the appeal is to be determined on written submissions under rule 18 - not later than the date upon which the documents are to be sent to the members of the Court; and
  - (b) in any other case - not later than 28 days before the Court is due to commence sitting.

### **Documents to be served personally**

9. (1) Subject to rules 11 and 12, every document required to be served must be served personally by delivering a sealed copy to the party required to be served.

(2) If a party acts in person, service of any document on or by the party must be effected by a service officer.

## **Who must be served**

**10.** The party filing any document with the Registrar (unless in connection with an *ex parte* application) must within 14 days after it was filed serve—

- (a) every other party who is directly affected by the appeal; and
- (b) any other persons the Court or a single judge directs.

## **Service by or on advocate**

**11.** If an advocate has notified the Court in writing that he or she represents any party—

- (a) service of any document required to be served must be effected by that advocate; and
- (b) service of any document on that party must be effected by delivering a sealed copy to that advocate.

## **Substituted service or dispensing with service**

**12.** (1) If it appears to the Registrar that it is impracticable for any reason to serve any document in accordance with rules 9 to 11, the Registrar may grant leave to substitute some other form of service which appears to the Registrar to be likely to bring that document to the notice of the person required to be served.

(2) If it appears to a judge that it is impracticable to serve a party in accordance with rules 9 to 12(1), or that it is otherwise necessary or expedient to dispense with service of any document on any party, the judge may make an order dispensing with such service.

(3) Application for an order under rule 12(1) or (2) must be made *ex parte* on affidavit showing what steps have already been taken to effect service and stating the grounds of the application.

## **Proof of service**

**13.** (1) A person serving any document under these Rules must promptly endorse the original with details of the time, date and mode of service, and the server's means of knowledge of the identity of the person served.

(2) The endorsement must be filed promptly with the Registrar and is *prima facie* evidence that the document was duly served as stated on it.

## **Mode of application**

**14.** (1) Any application relating to an appeal (other than an application for leave to appeal or to appeal out of time) must be made on notice substantially in Form 2 in the Schedule, supported by an affidavit.

(2) Any party served with notice of application may file an affidavit in reply within 14 days after service of the notice on the party.

(3) If the Court is then sitting, the Registrar must notify the parties of the time and

date when the application will be heard.

- (4)** If the Court is not then sitting—
  - (a)** after 14 days from the date of service of the notice of application the Registrar must send to a single judge—
    - (i)** the notice of application;
    - (ii)** the affidavit(s) filed in support; and
    - (iii)** any affidavit(s) filed in reply;
  - (b)** the judge may determine the matter without a hearing and must notify the Registrar in writing of his or her order;
  - (c)** upon receipt of the judge's order the Registrar must give notice to the parties in Form 3 in the Schedule.

### **Renewal of application**

**15.** If an application is refused by a single judge without a hearing it may be renewed with the leave of the Court at its next sitting.

### **Powers of the court in civil matters**

**16.** **(1)** Subject to rule 16(3), an appeal is to be by way of consideration of the documents.

**(2)** On determining an appeal the Court has all the powers of the Supreme Court.

**(3)** The Court may receive further evidence on questions of fact—

- (a)** without leave as to matters which have occurred since the trial in the Supreme Court; and
- (b)** otherwise only with leave.

**(4)** The Court may draw inferences of fact and may give any judgment or make any order which in its opinion ought to have been given or made, and may make any further order that the justice of the case requires.

**(5)** The Court may –

- (a)** exercise the powers under the foregoing paragraphs in respect of any part of the decision of the Supreme Court even though that matter has not been raised in the Notice of Appeal or Respondent's Notice; and
- (b)** make any order, on terms it thinks just, to ensure the determination on the merits of the real question in issue between the parties.

**(6)** On the hearing of an appeal the Court may make any order which could be made on application for a new trial or to set aside a verdict, finding or judgment of the Supreme Court.

**(6A)** The Court does not need to order a new trial on the ground of misdirection or improper admission or rejection of evidence, unless in the opinion of the Court the misdirection, admission or rejection has caused some substantial wrong or miscarriage of justice.

**(7)** If damages awarded by a judge are found to be excessive or inadequate, the Court

may substitute a sum that appears to it to be proper.

### **Transcripts**

**17. (1)** A transcript of the proceedings in the Supreme Court will not be prepared unless requested by a party when filing the Notice of Appeal or Respondent's Notice, as the case may be.

**(2)** A party may request a transcript of a specified part of the proceedings in the Supreme Court.

**(3)** The party requesting a transcript must pay the prescribed fee.

### **Determination of appeals on written submissions**

**18. (1)** An appeal must be determined on written submissions without a hearing if—

- (a)* it is an appeal from an interlocutory order, judgment or decision; or
- (b)* (i) the appellant includes in the Notice of Appeal a statement consenting to the appeal being determined in this manner; and  
(ii) the respondent within 14 days after service of the Notice of Appeal files with the Registrar a written consent in Form 4 in the Schedule; or
- (c)* at any time before the appeal is set down for an oral hearing all parties file with the Registrar their written consent in Form 4,

and in all such cases the procedure set out in the following sub-rules applies.

**(2)** The appellant must, within 28 days after service on the appellant of the Respondent's consent, file with the Registrar written arguments in support of the appeal.

**(3)** The respondent must, within 28 days after being served with the appellant's written arguments, file with the Registrar written arguments in opposition to the appeal.

**(4)** The appellant may, within 14 days after such service as is referred to above, file with the Registrar further written arguments in reply.

**(5)** Except for interlocutory appeals, any party may at any time before expiry of the time for filing written arguments in reply under rule 18(4), withdraw consent to the appeal being dealt with on written submissions; and the appeal must thereupon proceed in accordance with rule 19.

**(6)** On expiry of the time for filing written arguments in reply under rule 18(4), the Registrar must send to each member of the Court a copy of—

- (a)* the judgment appealed;
- (b)* the Notice of Appeal and any Respondent's Notice and amended notice;
- (c)* every written submission;
- (d)* the pleadings and orders in the action;
- (e)* if requested, a transcript of the proceedings in the lower court;
- (f)* all documentary exhibits relevant to the stated grounds of appeal;
- (g)* a list of all other exhibits relevant to the stated grounds of appeal,

and must notify all parties when this has been done.

- (7) Each member of the Court must –
- (a) consider the documents and give his or her determination of the appeal, either in the form of a judgment or by concurring with one or both of the judgments of the other members of the Court; and
  - (b) sign the determination.

(8) The judgment of the majority of the members of the Court is the judgment of the Court on that appeal.

(9) The President must send the judgments of the Court to the Registrar, who upon receipt must supply a copy to each party.

(10) The judgment is effective on the date on which it is served upon the parties.

### **Determination of appeals at oral hearing**

19. (1) This rule applies to all appeals except those dealt with in accordance with rule 18.

(2) After expiry of the time for filing a Respondent's Notice the Registrar must, after conferring with the President, fix a date for hearing and notify the parties of the date.

(3) The Registrar must prepare a bundle of documents comprising those documents listed in rule 18(6) and supply a copy to each member of the Court and to each party.

(4) Each party or their advocates must, not later than 14 days before the date of hearing, file with the Registrar—

- (a) skeleton arguments;
- (b) if appropriate, a chronology of events; and
- (c) a list of authorities upon which the party intends to rely and copies of them.

(5) The Court may give directions as to the order in which the parties are to be heard; but if no such directions are given—

- (a) the appellant presents the appellant's case;
- (b) each respondent in turn presents each respondent's case; and
- (c) the appellant may reply.

- (6) (a) The judgment is the opinion of the whole or of a majority of the members of the Court.
- (b) Only one judgment is to be given, but a member of the Court who dissents may briefly state his or her reasons for so doing.

(7) Unless otherwise ordered by the Court or by the Supreme Court, an appeal does not stay execution or proceedings of the Supreme Court.

### *Criminal jurisdiction*

### **Notice of Appeal**

**20. (1)** An appeal to the Court in its criminal jurisdiction must be commenced by filing with the Registrar a Notice of Appeal.

**(2)** A Notice of Appeal must be filed—

- (a)** if leave to appeal is required - within 14 days after leave is granted;
- (b)** if no leave is required - within 42 days after the date of the decision appealed.

**(3)** A Notice of Appeal may be given in respect of conviction or sentence, or both conviction and sentence.

**(4)** A Notice of Appeal must be substantially in Form 5 in the Schedule and must state separately and concisely each ground of appeal, with particulars.

#### **Action by Registrar**

**21.** On receipt of a Notice of Appeal the Registrar must—

- (a)** cause a copy to be served on the respondent;
- (b)** prepare a transcript of any part of the proceedings in the court below relevant to the stated grounds of appeal;
- (c)** prepare a bundle of documents comprising copies of—
  - (2)** the indictment;
  - (3)** the transcript;
  - (4)** all documentary exhibits relevant to the stated grounds of appeal;
  - (5)** a list of other exhibits relevant to the stated grounds of appeal; and
  - (6)** if the appeal is against sentence, details of previous convictions cited to the lower court, and of any social enquiry report.

#### **Powers of the court in criminal matters**

**22.** The provisions of rules 16(1) to 16(6) apply to appeals in criminal matters.

#### **Determination of appeals without a hearing**

**23. (1)** An appeal may be determined without a hearing—

- (a)** if the President so directs; or
- (b)** if the appellant so requests in writing.

**(2)** If the President so directs that an appeal be determined without a hearing—

- (a)** the Registrar must immediately notify all parties in Form 6 in the Schedule; and
- (b)** the appellant must within 28 days after service of that notice file written arguments in support of the appeal.

**(3)** If the appellant requests that an appeal be determined without a hearing, the appellant must —

- (a)** include the request in the Notice of Appeal; and
- (b)** within 28 days after filing the Notice of Appeal file written arguments in support of the appeal.

**(4)** The respondent may, within 28 days after receiving the appellant's written arguments, file with the Registrar written arguments in opposition to the appeal.

**(4A)** If the respondent files written arguments in opposition to the appeal, the appellant may, within 14 days after receiving them, file with the Registrar further written arguments in reply.

**(5)** On expiry of the time for filing written arguments in reply the Registrar must send to each member of the Court—

*(a)* the documents listed in rule 21(c); and

*(b)* all written submissions,

and must notify the parties when this has been done.

**(6)** Thereafter the provisions of rules 18(7) to 18(10) apply.

### **Determination of appeals on oral hearing**

**24.** On an oral hearing of an appeal, the provisions of rule 19 apply, except that the documents must be those listed in rule 21(c).

## **SCHEDULE**

### **FORMS**

### **COURT OF APPEAL RULES, 1998**

#### **FORM 1**

(Rule 6(3))

#### **NOTICE OF APPEAL – CIVIL**

IN THE ST HELENA COURT OF APPEAL

Appeal No....

(on appeal from the Supreme Court)

BETWEEN

A. B. Appellant

and

B. C. Respondent

#### **NOTICE OF APPEAL**

TAKE NOTICE that I intend to apply to the Court of Appeal against the judgment/order of Mr Justice ..... given/made in this action on ..... whereby it was adjudged/ordered that .....  
(set out the terms of the judgment or order)

FOR AN ORDER that  
(set out the terms of the order sought)

ON THE GROUNDS that  
(set out the grounds of appeal)

\*AND FURTHER TAKE NOTICE that the Appellant consents to the appeal being determined



on written submissions without a hearing

Dated

(Signed)

(Advocate for) the above Appellant  
of (address)  
To: The Respondent  
of (address)

(\* delete if inappropriate)  
FILED ON (date)  
Registrar

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**COURT OF APPEAL RULES, 1998**

**FORM 2**  
(Rule 14(1))

**NOTICE OF APPLICATION**

IN THE ST HELENA COURT OF APPEAL  
Appeal No....  
(on appeal from the Supreme Court)

BETWEEN  
A. B. Appellant  
and  
B. C. Respondent

To: (name)  
of: (address)

TAKE NOTICE THAT

1. The..... (party) has applied to a single judge for an order that (set out the terms of the order sought) in support of which .....(party) has filed an affidavit a copy of which is annexed.
2. If you object to the order sought you must file an affidavit in reply within 14 days from the date of service of this notice on you.
3. After 14 days has elapsed the application will be determined by a judge without a hearing.

Dated

Registrar

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**COURT OF APPEAL RULES, 1998**

**FORM 3**  
(Rule 14(4))

**NOTICE OF ORDER OF SINGLE JUDGE**

IN THE ST HELENA COURT OF APPEAL  
Appeal No....  
(on appeal from the Supreme Court)

BETWEEN  
A. B. Appellant  
and  
B. C. Respondent

To: \_\_\_\_\_ and \_\_\_\_\_ (the parties)  
TAKE NOTICE THAT the application of the \_\_\_\_\_ (party applying)  
made on \_\_\_\_\_ (date) has been determined by a single judge who has ordered that:  
(set out terms of order made)

Dated \_\_\_\_\_

Registrar \_\_\_\_\_

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**COURT OF APPEAL RULES, 1998**

**FORM 4**  
(Rule 18(1))

**CONSENT TO DETERMINATION OF APPEAL ON WRITTEN SUBMISSIONS**

IN THE ST HELENA COURT OF APPEAL  
Appeal No....  
(on appeal from the Supreme Court)

BETWEEN  
A. B. Appellant  
and  
B. C. Respondent

TAKE NOTICE THAT the \_\_\_\_\_ (party) consents to this appeal being determined on  
written submissions in accordance with rule 18 of the Court of Appeal Rules, 1998.

Dated \_\_\_\_\_

(Advocate for) the (party) \_\_\_\_\_

Filed on (date) \_\_\_\_\_

Registrar \_\_\_\_\_

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**COURT OF APPEAL RULES, 1998**

**FORM 5**  
(Rule 20(4))

**NOTICE OF APPEAL – CRIMINAL**

IN THE ST HELENA COURT OF APPEAL

Appeal No. ....

(on appeal from the Supreme Court)

BETWEEN

A. B. Appellant

and

The Crown Respondent

TAKE NOTICE THAT I wish to appeal to the Court of Appeal against my conviction/sentence/conviction and sentence before the Supreme Court on (date)  
for the offence(s) of  
(set out relevant offences)  
for which I was sentenced to  
(set out relevant sentences)

ON THE GROUNDS THAT  
(set out concise grounds of appeal)

(If appropriate)

AND FURTHER TAKE NOTICE that I request that this appeal be determined without a hearing in accordance with rule 18 of the Court of Appeal Rules, 1998.

(Advocate for) Appellant

Filed on (date)

Registrar

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**COURT OF APPEAL RULES, 1998**

**FORM 6**  
(Rule 23(2))

**NOTICE OF PRESIDENT'S DIRECTION**

**IN THE ST HELENA COURT OF APPEAL**

Appeal No....  
(on appeal from the Supreme Court)

**BETWEEN**

A. B. Appellant  
and  
B. C. Respondent

To: (the parties)

TAKE NOTICE THAT the President of the St Helena Court of Appeal has directed that this appeal be determined without an oral hearing in accordance with rule 23 of the Court of Appeal Rules, 1998.

Dated

Registrar

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**ST HELENA COURT OF APPEAL  
(APPEAL TO PRIVY COUNCIL) ORDER, 1964**

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Her Majesty, by virtue and in the exercise of the powers in that behalf by section 1 of the Judicial Committee Act 1844 or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows—

**Short title**

**1. (1)** This Order may be cited as the St Helena Court of Appeal (Appeal to Privy Council) Order 1964.

**(2)** This Order shall come into operation on the date on which the St Helena Court of Appeal Order 1964 comes into operation.<sup>8</sup>

**Interpretation**

**2. (1)** In this Order, unless the context otherwise requires—  
“**appeal**” means appeal from a judgment of the Court to Her Majesty in Council;

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<sup>88</sup> The St Helena Court of Appeal Order 1964 is not published on the [www.legislation.gov.uk](http://www.legislation.gov.uk); but see 1964 III p 4014.

**“Court”** means the St Helena Court of Appeal established by section 86 of the Constitution set out in the Schedule to the St Helena, Ascension and Tristan da Cunha Constitution Order 2009;

**“judgment”** means a judgment of the Court given in the exercise of any jurisdiction conferred upon it by any law for the time being in force in St Helena and includes a decree, order, ruling, sentence or decision of the Court;

**“record”** means the aggregate of papers relating to an appeal (including pleadings, proceedings, evidence and judgments) proper to be laid before Her Majesty in Council on the hearing of an appeal;

**“St Helena”** means the territory of St Helena, Ascension and Tristan da Cunha.

(2) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

### **Right of appeal**

3. Subject to the provisions of this Order, an appeal shall lie—

- (a) as of right from any final judgment, where the matter in dispute on the appeal amounts to or is of the value of five thousand pounds sterling or upwards, or where the appeal involves directly or indirectly some claim or question to or respecting property or some civil right amounting to or of the said value or upwards; and
- (b) at the discretion of the Court, from any other judgment, whether final or interlocutory, if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its great or general importance or otherwise, ought to be submitted to Her Majesty in Council for decision.

### **Application for leave to appeal**

4. Applications to the Court for leave to appeal shall be made by motion or petition within twenty-one days of the date of the judgment to be appealed from, and the applicant shall give all other parties concerned notice of his intended application.

### **Conditional leave to appeal**

5. Leave to appeal under section 3 of this Order shall, in the first instance, be granted by the Court only—

- (a) upon condition of the appellant, within a period to be fixed by the Court but not exceeding ninety days from the date of the hearing of the application for leave to appeal, entering into good and sufficient security to the satisfaction of the Court in a sum not exceeding 500 pounds sterling for the due prosecution of the appeal and the payment of all such costs as may become payable by the applicant in the event of his not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of the Judicial Committee ordering the appellant to pay costs of the appeal (as the case may be); and
- (b) upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purposes of procuring the preparation of the record and the despatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.

## **Powers of a single judge**

**6.** All or any of the powers and functions of the Court under this Order, except the exercise of the discretion conferred by section 3(b) of this Order; may be exercised by any judge of the Court:

Provided that any order, directions or decision made or given in pursuance of this section may be varied, discharged or reversed by the Court when consisting of three judges which may include the judge who made or gave the order, directions or decision.

## **Stay of execution**

**7.** Where the judgment appealed from requires the appellant to pay money or do any act, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court, for the due performance of such Order as Her Majesty in Council shall think fit to make thereon.

## **Manner of providing security**

**8.** For the purposes of sections 5 and 7 of this Order, a person may provide security in any manner that the Court may approve in his case, and for the avoidance of doubts it is declared that such security may with the approval of the Court consist in whole or in part of a deposit of money.

## **Preparation of record**

**9.** (1) The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

(2) The Registrar, as well as the parties and their legal agents, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal and, generally, to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the record.

(3) Where in the course of the preparation of a record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the record, as finally printed shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

(4) The reasons given by Judges of the Court for or against any judgment pronounced

in the course of the proceedings out of which the appeal arises shall be communicated by them in writing to the Registrar, and shall be included in the record.

### **Printing of record**

**10.** (1) The record may be printed in St Helena or may be printed in England if the parties agree to its being printed but in the absence of such agreement shall be duplicated by process approved by the Registrar of the Privy Council. If the record is to be printed it shall be printed in accordance with the Rules set forth in the Schedule to this Order.

(2) If the record is printed in St Helena the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council forty copies of such record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court.

(3) Where the record is to be printed or duplicated in England, the Registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of such record, together with an index of all the papers and exhibits in the case. No other certified copies of the record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

(4) Where part of the record is printed in St Helena and part is to be printed or duplicated in England, subsections (2) and (3) of this section shall, as far as possible, apply to such parts as are printed in St Helena and such as are to be printed or duplicated in England respectively.

### **Consolidation of appeals**

**11.** Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

### **Failure to prosecute appeal**

**12.** Where an appellant, having obtained an order granting him conditional leave to appeal, and having complied with the conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent, rescind the order granting conditional leave to appeal, notwithstanding the appellant's compliance with the conditions imposed by such an order, and may give such directions as to the costs of the appeal and security entered into by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

### **Notice to other parties**

**13.** (1) On an application for final leave to appeal, the Court may enquire whether notice or sufficient notice of the application has been given by the appellant to parties concerned and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court, the justice of the case



requires.

(2) The Registrar shall, with all convenient speed, transmit to the Registrar of the Privy Council a certificate to the effect that the respondent has received notice, or is otherwise aware, of the order of the Court granting final leave to appeal and of the transmission of the record to England.

### **Prosecution of appeal**

14. An appellant who has obtained final leave to appeal shall prosecute his appeal in accordance with the Rules for the time being regulating the general practice and procedure in appeals to Her Majesty in Council.

### **Withdrawal of appeal**

15. (1) An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as the Court may direct.

(2) Where an appellant, having obtained final leave to appeal, desires to withdraw his appeal, the Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

### **Dismissal for non-prosecution**

16. Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the dispatch of the record to England, any respondent may after giving the appellant due notice of his intended application, apply to the Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

### **Substitute parties**

17. (1) Where at any time between the order granting final leave to appeal and the dispatch of the record to England, the record becomes defective by reason of the death or change of status of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of or in addition to the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express Order of Her Majesty in Council.

(2) Where the record subsequently to its despatch to England becomes defective by reason of the death or change of status of a party to the appeal, the Court shall, upon an

application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted, or entered on the record, in place of, or in addition to, the party who has died or undergone a change of status.

### **Printing case**

**18.** The case of each party to the appeal may be printed in St Helena or printed or duplicated in England and shall, in any event, be printed in accordance with the Rules set forth in the Schedule to this Order, and shall be signed by at least one of the counsel who attends at the hearing of the appeal, or by the party himself if he conducts his appeal in person.

### **Form of case**

**19.** The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party filing the case, and the reasons of appeal. Reference by page and line to the relevant portions of the record as printed shall, as far as practicable, be printed in the margin, and care should be taken to avoid, as far as possible, the reprinting in the case of long extracts from the record. The taxing officer in taxing the costs of the appeal shall, either of his own motion or at the instance of any party, inquire into any unnecessary prolixity in the case, and shall disallow the costs occasioned thereby.

### **Costs in St Helena**

**20.** Where the Judicial Committee directs a party to bear the costs of an appeal incurred in St Helena, such costs shall be taxed by the proper officer of the Court in accordance with the rules for the time being regulating taxation in the Court.

### **Enforcing judgment**

**21.** Any Order which Her Majesty in Council may think fit to make on an appeal from a judgment of the Court may be enforced in like manner as any judgment of the Court should or might have been executed.

### **Pending proceedings**

**22. (1)** In respect of any judgment of the St Helena Court of Appeal established by the St Helena Court of Appeal Order 1964, or of the Court, given before the commencement of this Order, an appeal may be commenced, continued and concluded or continued and concluded, as the case may be, in accordance with the provisions of this Order as nearly as may be as if it were an appeal from a judgment of the Court given after the commencement of this Order.

**(2)** Any Order that Her Majesty in Council may see fit to make on any such appeal or any Order on an appeal from the St Helena Court of Appeal established by the St Helena Court of Appeal Order 1964 or from the Court made by Her Majesty before the commencement of this Order, but not enforced before such commencement, may be enforced as if it were an Order made on an appeal from a judgment of the Court given after the commencement of this Order.

### **Special leave to appeal**

**23.** Nothing in this Order contained shall be deemed to interfere with the right of Her Majesty upon the humble petition of any person aggrieved by any judgment of the Court, to admit his appeal therefrom upon such conditions as Her Majesty in Council shall think fit to impose.

### **SCHEDULE** (Articles 10(1) and 18)

**I.** Records and cases in appeals to Her Majesty in Council shall be printed in the form known as demy quarto.

**II.** The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and 8½ inches in width.

**III.** The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter and notes.

**IV.** The number of lines in each page of pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

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