

CAYMAN ISLANDS



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GRAND COURT LAW (2008 REVISION) **THE GRAND COURT (AMENDMENT NO. 1) RULES 2013**

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

1. Citation, Commencement and Interpretation.

- (1) These Rules shall be referred to as the Grand Court (Amendment No 1) Rules 2013.
- (2) These Rules shall come into operation on the 1st day of July 2013 referred to in these Rules as the "Commencement Date".
- (3) These Rules shall apply to every proceeding which is pending or commenced in the Court on or after the Commencement Date.
- (4) Words and expressions in these Rules which are also used in the Grand Court Rules 1995 (Revised Edition) shall have the same meaning in these Rules as they have in the Grand Court Rules 1995 (Revised Edition).

2. Revocation and Replacement of Orders 11, 72 and 73

- (1) GCR Orders 11, 72 and 73 are hereby revoked and replaced by the Orders 11, 72 and 73 and Forms contained in the Schedule hereto.

3. Revocation and Replacement of The Grand Court Law (1995 Revision) Table of Contents and Appendix I, Prescribed Forms Index

- (1) The Grand Court Law (1995 Revision) Table of Contents and Appendix I, Prescribed Forms Index be revoked and replaced by the Table of Contents and Prescribed Forms Index contained in the Schedule hereto.

Made by the Rules Committee on the 7th day of June 2012.

The Honourable Anthony Smellie QC, Chief Justice

The Honourable Sam Bulgin QC, Attorney General

Graham Ritchie QC, Legal Practitioner

Colin D. McKie, Legal Practitioner

ORDER 11**SERVICE OF PROCESS, ETC. OUT OF THE JURISDICTION****Principal cases in which service of writ out of jurisdiction is permissible (O.11, r.1)**

1. (1) Provided that the writ does not contain any claim mentioned in Order 75, rule 1(3) service of a writ out of the jurisdiction is permissible with the leave of the Court if in the action begun by the writ -
 - (a) relief is sought against a person who –
 - (i) has the right to reside permanently in the Islands; or
 - (ii) has a right to work in the Islands; or
 - (iii) resident in and the nature and circumstances of his residence indicate that he has a substantial connection with the Islands;
 - (b) an injunction is sought ordering the defendant to do or refrain from doing anything within the jurisdiction (whether or not damages are also claimed in respect of a failure to do or the doing of that thing) provided that a claim for an interlocutory injunction shall not of itself be a sufficient ground for service of a writ out of the jurisdiction;
 - (c) the claim is brought against a person who has been or will be duly served within or out of the jurisdiction and a person out of the jurisdiction is a necessary or proper party thereto;
 - (d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which -
 - (i) was made within the jurisdiction; or
 - (ii) was made by or through an agent trading or residing within the jurisdiction on behalf of a principal trading or residing out of the jurisdiction; or
 - (iii) is by its terms, or by implication, governed by the law of the Islands; or
 - (iv) contains a term to the effect that the Court shall have jurisdiction to hear and determine any action in respect of the contract;

- (e) the claim is brought in respect of a breach committed within the jurisdiction of a contract made within or out of the jurisdiction, and irrespective of the fact, if such be the case, that the breach was preceded or accompanied by a breach committed out of the jurisdiction that rendered impossible the performance of so much of the contract as ought to have been performed within the jurisdiction;
 - (f) the claim is founded on a tort, fraud or breach of duty whether statutory at law or in equity and the damage was sustained, or resulted from an act committed, within the jurisdiction;
 - (ff) the claim is brought against a person who is or was a director, officer or member of a company registered within the jurisdiction or who is or was a partner of a partnership, whether general or limited, which is governed by the laws of the Islands and the subject matter of the claim relates in any way to such company or partnership or to the status, rights or duties of such director, officer, member or partner in relation thereto;
 - (g) the whole subject-matter of the action is land situate within the jurisdiction (with or without rents or profits) or the perpetuation of testimony relating to land so situate;
 - (h) the claim is brought to construe, rectify, set aside or enforce an act, deed, will, contract, obligation or liability affecting land situate within the jurisdiction;
 - (i) the claim is made for a debt secured on immovable property or is made to assert, declare or determine proprietary or possessory rights, or rights of security, in or over movable property, or to obtain authority to dispose of movable property, situate within the jurisdiction;
 - (j) the claim is brought for any relief or remedy in respect of any trust, whether express, implied or constructive, that is governed by or ought to be executed according to the laws of the Islands or in respect of the status, rights or duties of any trustee thereof in relation thereto;
 - (k) the claim is made for the administration of the estate of a person who died domiciled within the jurisdiction or for any relief or remedy which might be obtained in any such action;
 - (l) the claim is brought in a probate action within the meaning of Order 76; or
 - (m) the claim is brought to enforce any judgment or arbitral award (within the meaning of section 2(1) of the Arbitration Law 2012) or interim measure (within the meaning of Part VIII of the Arbitration Law 2012).
- (2) Service of a writ out of the jurisdiction is permissible without the leave of the Court if every claim made in the action begun by the writ is one which by virtue of a Law or these Rules the Court has power to hear and determine notwithstanding that

the person against whom the claim is made is not within the jurisdiction of the Court or that the wrongful act, neglect or default giving rise to the claim did not take place within the jurisdiction, including, for the avoidance of doubt, applications made pursuant to section 48 of the Trusts Law (2011 Revision) or Order 85.

- (3) Where a writ is to be served out of the jurisdiction pursuant to an order under paragraph (1), the time to be inserted in the writ within which the defendant served therewith must acknowledge service shall be such time as may be fixed by the Court.
- (4) Where a writ is to be served out of the jurisdiction under paragraph (2), the time to be inserted in the writ within which the defendant served therewith must acknowledge service shall be 28 days.

No rules (O.11, rr.2-3)

Application for, and grant of, leave to serve writ out of jurisdiction (O.11, r.4)

- 4. (1) An application for the grant of leave under rule 1(1) must be supported by an affidavit stating -
 - (a) the grounds on which the application is made;
 - (b) that in the deponent's belief the plaintiff has a good cause of action;
 - (c) in what place or country the defendant is, or probably may be found;
 - (d) where the application is made under rule 1(1)(c), the grounds for the deponent's belief that there is between the plaintiff and the person on whom a writ has been served a real issue which the plaintiff may reasonably ask the Court to try; and
 - (e) if service is not to be effected personally the method or methods of service which are in accordance with the law of the country in which service is to be effected.
- (2) No such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this Order.
- (3) An order granting leave to serve a writ out of the jurisdiction under rule 1 must limit a time within which the defendant to be served must acknowledge service.

Service of writ abroad; general (O.11, r.5)

- 5. (1) Subject to the following provisions of this rule, Order 10, rule 1(1), (2), (3) and (4) and Order 65, rule 4, shall apply in relation to the service of a writ, notwithstanding that the writ is to be served out of the jurisdiction, save that the

accompanying form of acknowledgment of service shall be modified in such manner as may be appropriate.

- (2) Nothing in this rule or in any order or direction of the Court made by virtue of it shall authorise or require the doing of anything in a country in which service is to be effected which is contrary to the law of that country.
- (3) A writ which is to be served out of the jurisdiction -
 - (a) need not be served personally on the person required to be served so long as it is served on him in accordance with the law of the country in which service is effected; and
 - (b) need not be served by the plaintiff or his agent if it is served by a method provided for by rule 6 or rule 7.
- (4) An official certificate stating that a writ as regards which rule 6 has been complied with has been served on a person personally, or in accordance with the law of the country in which service was effected, on a specified date, being a certificate -
 - (a) by a British consular authority in that country; or
 - (b) the government or judicial authorities of that country; or
 - (c) by any other authority designated in respect of that country under the Hague Convention,

shall be evidence of the facts so stated.
- (5) An official certificate by the Secretary of State stating that a writ has been duly served on a specified date in accordance with a request made under rule 7 shall be evidence of that fact.
- (6) A document purporting to be such a certificate as is mentioned in paragraphs (4) and (5) shall, until the contrary is proved, be deemed to be such a certificate.
- (7) In this rule and rule 6 "the Hague Convention" means the convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters signed at the Hague on November 15, 1965.

Service of writ abroad through foreign governments, judicial authorities and British consuls (O.11, r.6)

- 6. (1) Save where a writ is to be served pursuant to paragraph (3), this rule does not apply to service in -
 - (a) the United Kingdom, including the Isle of Man and the Channel Islands;

- (b) any independent Commonwealth country;
 - (c) any associated state;
 - (d) any dependent territory of the United Kingdom; or
 - (e) the Republic of Ireland.
- (2) Where in accordance with these Rules a writ is to be served on a defendant in any country with respect to which there subsists a Civil Procedure Convention (other than the Hague Convention) providing for service in that country of process of the Court, the writ may be served -
- (a) through the judicial authorities of that country; or
 - (b) through a British consular authority in that country (subject to any provision of the convention as to the nationality of persons who may be so served).
- (3) Where in accordance with these Rules a writ is to be served on a defendant in any country which is party to the Hague Convention, the writ may be served -
- (a) through the authority designated under the Convention in respect of that country; or
 - (b) if the law of that country permits -
 - (i) through the judicial authorities of that country; or
 - (ii) through a British consular authority in that country.
- (4) Where in accordance with these Rules a writ is to be served on a defendant in any country with respect to which there does not subsist a Civil Procedure Convention providing for service in that country of process of the Court, the writ may be served -
- (a) through the government of that country, where the government is willing to effect service; or
 - (b) through a British consular authority in that country, except where service through such an authority is contrary to the law of that country.
- (5) A person who wishes to serve a writ by a method specified in paragraph (2), (3) or (4) must deliver to the Clerk of the Court a request for service of the writ by that method, together with a copy of the writ and an additional copy thereof for each person to be served.

- (6) Every copy of a writ delivered under paragraph (5) must be accompanied by a translation of the writ in the official language of the country in which service is to be effected or, if there is more than one official language of that country, in any one of those languages which is appropriate to the place in that country where service is to be effected:

Provided that this paragraph shall not apply in relation to a copy of a writ which is to be served in a country the official language of which is, or the official languages of which include, English, or is to be served in any country by a British consular authority on a British subject, unless the service is to be effected under paragraph (2) and the Civil Procedure Convention with respect to that country expressly requires the copy to be accompanied by a translation.

- (7) Every translation delivered under paragraph (6) must be certified by the person making it to be a correct translation; and the certificate must contain a statement of that person's full name, of his address and of his qualifications for making the translation.
- (8) Documents duly delivered under paragraph (5) shall be sent by the Clerk of the Court to the Governor with a request that he forward them to the Secretary of State asking the Secretary of State to arrange for the writ to be served by the method indicated in the request delivered under paragraph (5) or, where alternative methods are so indicated, by such one of those methods as is most convenient.

Service of process on a foreign state (O.11, r.7)

7. (1) Subject to paragraph (4) where a person to whom leave has been granted under rule 1 1 to serve a writ on a State, as defined in Section 14 of the State Immunity Act 1978, wishes to have the writ served on that State, he must deliver with the Clerk of the Court -
- (a) a request for service to be arranged by the Secretary of State;
 - (b) a copy of the writ; and
 - (c) except where the official language of the State is, or the official languages of that State include, English, a translation of the writ in the official language or one of the official languages of the State.
- (2) Rule 6(7) shall apply in relation to a translation delivered under paragraph (1) of this rule as it applies in relation to a translation delivered under paragraph (6) of that rule.
- (3) Documents duly delivered under this rule shall be sent by the Clerk of the Court to the Governor with a request that the Secretary of State be asked to arrange for the writ to be served on the State or the government in question, as the case may be.

- (4) Where Section 12(6) of the State Immunity Act 1978 applies and the State has agreed to a method of service other than that provided by the preceding paragraph, the writ may be served either by the method agreed or in accordance with the preceding paragraphs of this rule.

Undertaking to pay expenses of Governor (O.11, r.8)

- 8. Every request delivered under rule 6(5) or rule 7 must contain an undertaking by the person making the request to be responsible personally for all expenses incurred by the Governor in respect of the service requested including the expenses incurred by him in making any request of the Secretary of State and, on receiving due notification of the amount of those expenses, to pay that amount to the Financial Secretary and to produce a receipt for such payment to the Clerk of the Court.

Service of originating summons, petition, notice of motion, etc. (O.11, r.9)

- 9.
 - (1) Subject to Order 73, rule 5, and Order 102, rule 16, rule 1 of this Order shall apply to the service out of the jurisdiction of an originating summons, notice of motion or petition as it applies to the service of a writ.
 - (2) Service out of the jurisdiction of any summons, notice or order issued, given or made in any proceedings is permissible with the leave of the Court, but leave shall not be required for such service in any proceedings in which the writ, originating summons, motion or petition may by these Rules or under any Law be served without leave.
 - (3) Rule 4(1) and (2) shall, so far as applicable, apply in relation to an application for the grant of leave under this rule as they apply in relation to an application for the grant of leave under rule 1.
 - (4) An order under this rule granting leave to serve an originating summons out of the jurisdiction must limit a time within which the defendant to be served with the summons must acknowledge service.
 - (5) Rules 5, 6 and 8 shall apply in relation to any document in respect of which leave to serve out of the jurisdiction has been granted under this rule as they apply in relation to a writ.

ORDER 72
FINANCIAL SERVICES PROCEEDINGS

Application and Interpretation (O.72, r.1)

1. (1) This Order applies to financial services proceedings and the other provisions of these Rules apply to those proceedings subject to the provisions of this Order.
- (2) In these Rules "financial services proceeding" means –
 - (a) any proceeding relating to a mutual fund, including an action by or against its directors (in the case of a corporate fund), its trustee (in the case of a unit trust), its general partner (in the case of a limited partnership), its investment manager or adviser, its administrator, its prime broker or its auditor;
 - (b) any proceeding relating to an exempted insurer, including an action by or against its directors, insurance manager or auditor;
 - (c) any action for breach of a contract of insurance (including an application for a declaration) where the amount claimed exceeds \$1 million;
 - (d) any application (including an appeal by a licensee) made to the Court under any of the regulatory laws;
 - (e) any administration action or application under the Trusts Law (to which Order 85 applies) except those relating to the estates of deceased persons who died domiciled in the Islands and the net asset value of the estate is less than \$1 million;
 - (f) any action against a trustee or protector of a trust or the executor or administrator of an estate for breach of trust or breach of fiduciary duty, except those actions relating to a trust or estate whose net asset value is less than \$1 million;
 - (g) any application made to the Court under the Companies Law (to which Order 102 applies), including any application made in a winding up proceeding (to which the Companies Winding Up Rules 2009 apply);
 - (h) any application for an order for the dissolution of a partnership which carries on business as a mutual fund, including any application made in the dissolution proceeding;
 - (i) any action for breach of contract or breach of duty by or against a professional service provider, except for actions relating to the non-payment or over-payment of fees where the amount claimed is less than \$250,000;

- (j) any application for an order for evidence pursuant to a letter of request to which Order 70 applies, including any related application for directions to which Order 103 applies;
 - (k) any application to which the Grand Court (Bankruptcy) Rules, 1977 or the Foreign Bankruptcy Proceedings (International Co-Operation) Rules 2008 apply;
 - (l) any action for the enforcement of a foreign judgment, whether at common law or pursuant to the Foreign Judgments Reciprocal Enforcement Law;
 - (m) any action for the enforcement of a foreign arbitral award pursuant to the Foreign Arbitral Awards Enforcement Law;
 - (n) any application made to the Court pursuant to the Arbitration Law 2012.
- (2) In this Order –
- (a) "the Registrar" means the Registrar of the Financial Services Division of the Court;
 - (b) "mutual fund" has the meaning ascribed to it in Section 2 of the Mutual Funds Law (2007 Revision);
 - (c) "exempted insurer" has the meaning ascribed to it in Section 2 of the Insurance Law (2008 Revision);
 - (d) "the regulatory laws" has the meaning ascribed to it in Section 2 of the Monetary Authority Law (2008 Revision); and
 - (e) "professional services provider" has the meaning ascribed to it in Section 89(1) of the Companies Law (2009 Revision).

Commencement of Financial Services Proceedings (O.72, r.2)

2. (1) Every financial services proceeding shall be commenced in the Financial Services Division.
- (2) Every financial services proceeding shall be commenced by writ, originating summons, originating motion or petition in accordance with Order 5 and entered into the Register of Writs and other Originating Process in accordance with Order 63, rule 8.
- (3) The title of every proceeding commenced in or transferred to the Financial Services Division shall include the words *In the Grand Court of the Cayman Islands, Financial Services Division*.
- (4) In addition to establishing and maintaining a Court file in accordance with Order 63, rule 2, the Registrar shall create and maintain a computerized record for each financial services proceeding which shall comprise the following documents and/or produce reports comprising the following information :-

- (a) a chronological index of all the pleadings, affidavits and orders;
- (b) a copy of each pleading, affidavit (without its exhibits) and order;
- (c) a copy of each skeleton argument (without copy authorities); and
- (d) a schedule containing details of –
 - (i) the fixed court fee paid;
 - (ii) the date and length of each hearing;
 - (iii) the court hearing fees paid (if any); and
 - (iv) the identity of the party or parties by whom the fixed fee and any court hearing fees have been paid.
- (5) The computerised record (created and maintained in accordance with paragraph (4) above) shall enable the Registrar to produce reports in respect of each proceeding which is commenced in or transferred to the Financial Services Division containing the following information –
 - (a) the date on which the proceeding was commenced or transferred to the Financial Services Division;
 - (b) the title of the proceeding;
 - (c) the name of the Commercial Judge to which it has been assigned;
 - (d) particulars of the parties' attorneys and any foreign lawyers;
 - (e) the date and a brief description of each hearing;
 - (f) the date and estimated length of future hearings;
 - (g) particulars of the date and manner in which the proceeding was concluded.
- (6) The Registrar, acting in consultation with the Chief Justice, shall assign every financial services proceeding to one of the Commercial Judges and the cause number assigned to it in accordance with Order 5, rule 1(4)(a) shall include the judge's initials.
- (7) The trial of every financial services proceeding shall be heard by the Commercial Judge assigned to it.
- (8) Every interlocutory application made in a financial services proceeding (including every application made in a winding up proceeding) shall be heard or determined by the Commercial Judge assigned to it, except that another Commercial Judge may hear or determine an urgent application if the Judge assigned to the proceeding is not available.

Transfer of Proceedings (O.72, r.3)

3. (1) Any cause or matter pending in the Court, including matters commenced prior to the Commencement Date, may be transferred to the Financial Services Division on the ground that –
 - (a) it is a financial services proceedings which ought properly to have been commenced in the Financial Services Division; or
 - (b) the Court is satisfied upon the application of any party that it would be appropriate in all the circumstances for the cause or matter to be tried by a Commercial Judge.

Case management and summonses for directions (O.72, r.4)

4. (1) Order 25 shall apply to proceedings pending in the Financial Services Division subject to the following modifications.
- (2) The Registrar shall issue an initial summons for directions in Form No.71 in every financial services proceeding within 3 months of the date on which it was commenced or transferred to the Financial Services Division unless in the meantime:-
 - (a) the cause or matter has been finally determined;
 - (b) the Registrar has received notice that the cause or matter has been discontinued or settled;
 - (c) the Court has already made an order for directions; or
 - (d) one or other of the parties has taken out a summons for directions.
- (3) In order that the Court may be informed of the general nature of the case and the issues which are expected to arise, the attorneys for each party shall prepare and file an agreed case memorandum (within such period as the Registrar shall direct) which should contain –
 - (a) a short and uncontroversial description of what the case is about;
 - (b) a list of issues, including both issues of fact and law, to the extent that it is practical to do so having regard to the state of the pleadings; and
 - (c) a procedural history
- (4) The attorneys for the plaintiff shall be responsible for filing the agreed case memorandum.
- (5) The Registrar may at any time issue a notice in Form No.72 requiring that the parties' attorneys and their foreign lawyers (if any) attend before the Judge for the purposes of a case management conference.

- (6) If a party has instructed or intends to instruct a foreign lawyer to appear at the trial or any interlocutory hearing the Registrar shall be so informed and such foreign lawyer may be required to appear on any summons for directions or case management conference.
- (7) If one or more of the parties have instructed a foreign lawyer, the Registrar may require that the hearing of any summons for directions or any case management conference be conducted via a video link, in which case the parties shall provide suitable conference room facilities for the use of the Judge.

Listing interlocutory hearings and trials (O.72, r.5)

- 5. (1) The Registrar shall be responsible for listing the hearing of all case management conferences, interlocutory applications and trials.
- (2) Order 34 shall not apply to proceedings pending in the Financial Services Division.
- (3) The Registrar shall maintain –
 - (a) a composite court diary for the Financial Services Division; and
 - (b) an individual court diary for each Commercial Judge.

Transitional Provisions (O.72, r.6)

- 6. (1) The Financial Services Division Court shall be established with effect from the first day of November 2009 (referred to in this Rule as "the Commencement Date") and this Rule shall apply to every financial services proceeding commenced prior to the Commencement Date.
- (2) Any party or parties to a cause or matter commenced prior to the Commencement Date may apply to the Registrar in Form No.73 for an order that it be transferred to the Financial Services Division and the Registrar shall make a transfer order if he is satisfied that the cause or matter is a financial services proceeding within the meaning of Rule 1(2).
- (3) Whenever a party seeks to issue an interlocutory summons or an application is made to fix a hearing date for a trial and it appears to the Registrar that the cause or matter is a financial services proceeding, he shall –
 - (a) invite the parties to apply in Form No.73 for a transfer order; or
 - (b) if the parties or any of them fail to apply in Form No.73 within 14 days, the Registrar shall make a transfer order on his own motion.
- (4) Every transfer order made by the Registrar under this rule shall be in Form No.74 and shall specify –
 - (a) the Commercial Judge to whom the proceeding has been assigned;

- (b) the amount of the transfer fee payable in accordance with Rule 3(5) of the Court Fees Rules 2009; and
 - (c) the party or parties liable to pay the transfer fee.
- (5) The liability for payment of the transfer fee shall be determined as follows –
 - (a) the parties may agree that any one of them shall be liable or that liability be divided amongst them in agreed proportions;
and, in default of agreement –
 - (b) the party by whom a transfer application is made under paragraph (2) of this Rule shall be liable to pay the transfer fee; or
 - (c) in the case of a transfer order made under paragraph (3)(b) of this Rule, the party seeking to issue the summons or fix the hearing date shall be liable to pay the transfer fee; or
 - (d) in the case of an application made in a winding up proceeding (to which the Companies Winding Up Rules 2009 apply), the official liquidator shall be liable to pay the transfer fee as an expense of the liquidation.
- (6) Every transfer order made by the Registrar shall be served by him upon the attorneys for all the parties by facsimile or e-mail and by placing an office copy in the attorneys' Court office post box .
- (7) Any party who is dissatisfied with the decision to make a transfer order may apply within 7 days to the Chief Justice who shall review the matter de novo and may substitute his own decision for that of the Registrar.
- (8) Any party who is dissatisfied with the terms of a transfer order may apply within 7 days to the Chief Justice who shall review the matter de novo and may vary the transfer order by assigning the matter to a different Commercial Judge and/or reducing the amount of the transfer fee and/or varying the paying party or parties.
- (9) An application under paragraphs (7) or (8) of this Rule shall be made in writing in Form No.75 upon notice to the other parties who may submit their own reply or submission in writing within 3 days after receiving notice of the application.
- (10) No step may be taken in any proceeding which has been transferred to the Financial Services Division under this Rule, except for any application under paragraphs (7) or (8) for a review of the transfer order, unless and until the transfer fee has been paid in full.

ORDER 73**ARBITRATION PROCEEDINGS****PART I****The overriding objective (O. 73, r.1)**

1. This Order is founded on the general principles in section 3(3) of the 2012 Law and shall be construed accordingly.

Meaning of arbitration application (O. 73, r. 2)

2. (1) Subject to paragraph (2), “arbitration application” means the following –
 - (a) an application to the Court under the 2012 Law;
 - (b) proceedings to determine –
 - (i) whether there is a valid arbitration agreement;
 - (ii) whether an arbitration tribunal is properly constituted;
 - (iii) what matters have been submitted to arbitration in accordance with an arbitration agreement;
 - (c) proceedings to declare that an award by an arbitral tribunal is not binding on a party;
 - (d) any other application –
 - (i) affecting arbitration proceedings (whether instituted or anticipated); or
 - (ii) to construe or affecting an arbitration agreement,and includes the originating process by which an arbitration application is begun.
- (2) In this Part of this Order, an arbitration application does not include proceedings to enforce an award to which Part II of this Order applies.

Interpretation (O. 73, r. 3)

3. In this Order –
 - (1) “the 1974 Law” means the Arbitration Law 1974;
 - (2) “the 1975 Law” means the Foreign Arbitral Awards Enforcement Law 1975;
 - (3) “the 2012 Law” means the Arbitration Law 2012;

- (4) References to the 1974 Law, the 1975 Law or the 2012 Law include references to any current Revisions to those Laws as may be in force from time to time;
- (5) “the 1967 Order” means the Arbitration (International Investment Disputes) Act 1966 (Application to Colonies etc.) Order 1967 (SI 1967/159) (as amended);
- (6) “the 1988 Order” means the Multilateral Investment Guarantee Agency (Overseas Territories) Order 1998 (SI 1998/791);
- (7) “the MIGA Convention” means the Convention establishing the Multilateral Investment Guarantee Agency signed in Seoul on 11 October 1985;
- (8) “the Washington Convention” means the Convention on the Settlement of Investment Disputes between States and Nationals of other States done at Washington, 18 March 1965;

Form and content of arbitration application (O. 73, r. 4)

- 4. (1) Except where paragraph (5) applies, every arbitration application must be in Form No. 6A of Appendix I.
- (2) Every arbitration application must -
 - (a) include a concise statement of
 - (i) the remedy or relief claimed, and
 - (ii) (where appropriate) the questions on which the applicant seeks the determination or direction of the Court;
 - (b) give details of any arbitration award that is challenged by the applicant, showing the grounds for any such challenge;
 - (c) where the applicant claims an order for costs, identify the respondent against whom the claim is made;
 - (d) (where appropriate) specify the section of the 2012 Law under which the application is brought; and
 - (e) show that any statutory requirements have been satisfied.
- (3) The arbitration application must also state –
 - (a) whether it is made ex parte or on notice and, if made on notice, must give the names and addresses of the persons to whom notice is to be given, stating their role in the arbitration and whether they are made respondents to the application;

- (b) whether (having regard to section 83 of the 2012 Law) the applicant intends to apply for the proceedings to be heard in open court; and
 - (c) the date and time when the application will be heard or that such date has not yet been fixed.
- (4) Every arbitration application which is used as an originating process shall be indorsed with the applicant's address for service in accordance with Order 6, rule 5.
- (5) An application to stay proceedings under section 9 of the 2012 Law must be made by summons in those proceedings.

Issue of application (O. 73, r. 5)

- 5. (1) Every arbitration application shall be commenced in the Financial Services Division, pursuant to Order 72 rule 1(2)(m) or (n) as applicable.

6. Stay of legal proceedings (O. 73, r. 6)

- (1) An application under section 9 of the 2012 Law to stay legal proceedings shall be served –
 - (a) in accordance with Order 65, rule 5, on the party bringing the relevant legal proceedings and on any other party to those proceedings who has given an address for service; and
 - (b) on any party to those legal proceedings who has not given an address for service, by sending to him (whether or not he is within the jurisdiction) at his last known address or at a place where it is likely to come to his attention, a copy of the application for his information.
- (2) Where a question arises as to whether an arbitration agreement has been concluded or as to whether the dispute which is the subject-matter of the proceedings falls within the terms of such an agreement, the Court may determine that question or give directions for its determination, in which case it may order the proceedings to be stayed pending the determination of that question.

7. Service of arbitration application (O. 73, r. 7)

- (1) Subject to paragraphs (2) and (4) below and to rules 6(1) and 8 of this Order, an arbitration application shall be served in accordance with Order 10.
- (2) Where the Court is satisfied on an ex parte application that –
 - (a) arbitral proceedings are taking place, or an arbitration award has been made, within the jurisdiction; and

- (b) an arbitration application is being made in connection with those arbitral proceedings or being brought to challenge the award or to appeal on a question of law arising out of the award; and
- (c) the respondent to the arbitration application (not being an individual residing or carrying on business within the jurisdiction or a body corporate having a registered office or a place of business within the jurisdiction)
 - (i) is or was represented in the arbitral proceedings by an attorney or other agent within the jurisdiction who was authorised to receive service of any notice or other document served for the purposes of those proceedings; and
 - (ii) has not (at the time when the arbitration application is made) determined the authority of that attorney or agent,

the Court may authorise service of the arbitration application to be effected on the attorney or agent instead of the respondent.

- (3) An order made under paragraph (2) must limit a time within which the respondent must acknowledge service and a copy of the order and of the arbitration application must be sent by post, by courier or electronically to the respondent at his address or electronic address out of the jurisdiction.
- (4) Where an arbitration application has been issued, any subsequent arbitration application made by the respondent and arising out of the same arbitration or arbitration agreement may be served on the applicant in accordance with Order 65, rule 5 (ordinary service: how effected) and similarly any subsequent arbitration application by any party may be served at the address for service given in the first arbitration application or in the acknowledgment of service.
- (5) For the purposes of service, an arbitration application is valid in the first instance-
 - (a) where service is to be effected out of the jurisdiction, for such period as the Court may fix;
 - (b) in any other case, for one month,

beginning with the date of its issue and Order 6 rule 8 shall apply with the substitution, in paragraphs (2) and (3), of "2 months" for "4 months" and "6 months" for "12 months".

Service out of the jurisdiction (O. 73, r. 8)

- 8. (1) Service out of the jurisdiction of an arbitration application is permissible with the leave of the Court if -

- (a) the applicant seeks to challenge, or to appeal to the Court on a question of law arising out of, an arbitration award made within the jurisdiction (the place where an award is treated as made being determined by section 63(4) of the 2012 Law);
 - (b) the application is for an order under section 43 of the 2012 Law (Court's powers exercisable in support of arbitral proceedings). Where the application is for interim relief in support of arbitral proceedings which are taking (or will take) place outside the jurisdiction, the Court may give leave for service out of the jurisdiction notwithstanding that no other relief is sought; or
 - (c) the applicant -
 - (i) seeks some other remedy or relief, or requires a question to be decided by the Court, affecting an arbitration (whether pending or anticipated), an arbitration agreement or an arbitration award; and
 - (ii) the seat of the arbitration is or will be within the jurisdiction.
- (2) An application for the grant of leave under this rule must be supported by an affidavit –
- (a) stating the grounds on which the application is made; and
 - (b) showing in what place or country the person to be served is, or probably may be found,
- and no such leave shall be granted unless it shall be made sufficiently to appear to the Court that the case is a proper one for service out of the jurisdiction under this rule.
- (3) Order 11, rules 5 to 8 shall apply to the service of an arbitration application under this rule as they apply to the service of a writ.
 - (4) Service out of the jurisdiction of any order made on an arbitration application is permissible with the leave of the Court.

Affidavit in support of arbitration application (O. 73, r. 9)

- 9. (1) The applicant shall file an affidavit in support of the arbitration application which sets out the evidence on which he intends to rely and a copy of every affidavit so filed must be served with the arbitration application.
- (2) Where an arbitration application is made with the written agreement of all the other parties to the arbitral proceedings or with the permission of the arbitral tribunal, the affidavit in support must –

- (a) give details of the agreement or, as the case may be, permission; and
- (b) exhibit copies of any document which evidences that agreement or permission.

Requirements as to notice (O. 73, r.10)

10. (1) Where the 2012 Law requires that an application to the Court is to be made upon notice to other parties notice shall be given by making those parties respondents to the application and serving on them the arbitration application and any affidavit in support.
- (2) Where an arbitration application is made under section 20, 65 or 67 of the 2012 Law, the arbitrators or, in the case of an application under section 20, the arbitrator concerned shall be made respondents to the application and notice shall be given by serving on them the arbitration application and any affidavit in support.
- (3) In cases where paragraph (2) does not apply, an applicant shall be taken as having complied with any requirement to give notice to the arbitrator if he sends a copy of the arbitration application to the arbitrator for his information at his last known address or electronic address with a copy of any affidavit in support.
- (4) This rule does not apply to applications under section 9 of the 2012 Law to stay legal proceedings.

Acknowledgment of service by respondent (O. 73, r. 11)

11. (1) Service of an arbitration application may be acknowledged by completing an acknowledgment of service in Form No. 9A in Appendix I in accordance with Order 12 (as that Order applies by virtue of rule 9 of that Order).
- (2) A respondent who -
- (a) fails to acknowledge service within the time limited for so doing; or
 - (b) having indicated on his acknowledgment of service that he does not intend to contest the arbitration application, then wishes to do so,
- shall not be entitled to contest the application without the leave of the Court.
- (3) The Court will not give notice of the date on which an arbitration application will be heard to a respondent who has failed to acknowledge service.
- (4) The failure of a respondent to give notice of intention to contest the arbitration application or to acknowledge service shall not affect the applicant's duty to satisfy the Court that the order applied for should be made.

- (5) This rule does not apply to –
 - (a) applications under section 9 of the 2012 Law to stay legal proceedings; or
 - (b) subsequent arbitration applications.

Acknowledgment of service, etc., by arbitrator (O. 73, r. 12)

12. (1) An arbitrator who is sent a copy of an arbitration application for his information may make –
- (a) a request ex parte in writing to be made a respondent; or
 - (b) representations to the Court under this rule,
- and, where an arbitrator is ordered to be made a respondent, he shall acknowledge service within 14 days of the making of that order.
- (2) An arbitrator who wishes to make representations to the Court under this rule may file an affidavit or make representations in writing to the Court.
 - (3) The arbitrator shall as soon as is practicable send a copy of any document filed or made under paragraph (2) to all the parties to the arbitration application.
 - (4) Nothing in this rule shall require the Court to admit a document filed or made under paragraph (2) and the weight to be given to any such document shall be a matter for the Court.

Automatic directions (O. 73, r. 13)

13. (1) Unless the Court otherwise directs, the following directions shall take effect automatically and to this extent Order 72, rule 4 shall not apply to arbitration applications.
- (2) A respondent who wishes to put evidence before the Court in response to any affidavit filed in support of an arbitration application shall serve his affidavit on the applicant before the expiration of 21 days after the time limited for acknowledging service or, in a case where a respondent is not required to file an acknowledgment of service, within 21 days after service of the arbitration application.
 - (3) An applicant who wishes to put evidence before the Court in response to an affidavit lodged under paragraph (2) shall serve his affidavit on the respondent within 7 days after service of the respondent's affidavit.
 - (4) Where a date has not been fixed for the hearing of the arbitration application, the applicant shall, and the respondent may, not later than 14 days after the expiration

of the time limit specified in paragraph (2), apply to the Court for such a date to be fixed.

- (5) Agreed indexed and paginated bundles of all the evidence and other documents to be used at the hearing shall be prepared by the applicant (with the co-operation of the respondent).
- (6) Not later than 5 clear days before the hearing date estimates for the length of the hearing shall be lodged with the Court together with a complete set of the documents to be used.
- (7) Not later than 2 days before the hearing date the applicant shall lodge with the Court –
 - (a) a chronology of the relevant events cross-referenced to the bundle of documents;
 - (b) (where necessary) a list of the persons involved;
 - (c) a skeleton argument which lists succinctly –
 - (i) the issues which arise for decision,
 - (ii) the grounds of relief (or opposing relief) to be relied upon,
 - (iii) the submissions of fact to be made with the references to the evidence, and
 - (iv) the submissions of law with references to the relevant authorities,and shall send a copy to the respondent.
- (8) Not later than the day before the hearing date the respondent shall lodge with the Court a skeleton argument which lists succinctly –
 - (a) the issues which arise for decision,
 - (b) the grounds of relief (or opposing relief) to be relied upon,
 - (c) the submissions of fact to be made with the references to the evidence, and
 - (d) the submissions of law with references to the relevant authorities,and shall send a copy to the applicant.

Directions by the Court (O. 73, r. 14)

- 14.** (1) The Court may give such directions as to the conduct of the arbitration application as it thinks best adapted to secure the just, expeditious and economical disposal thereof.
- (2) Where the Court considers that there is or may be a dispute as to fact and that the just, expeditious and economical disposal of the application can best be secured by hearing the application on oral evidence or mainly on oral evidence, it may, if it thinks fit, order that no further evidence shall be filed and that the application shall be heard on oral evidence or partly on oral evidence and partly on affidavit evidence, with or without cross-examination of any of the deponents, as it may direct.
- (3) The Court may give directions as to the filing of evidence and as to the attendance of deponents for cross-examination and any directions which it could give in proceedings begun by writ.
- (4) If the applicant makes default in complying with these rules or with any order or direction of the Court as to the conduct of the application, or if the Court is satisfied that the applicant is not prosecuting the application with due dispatch, the Court may order the application to be dismissed or may make such other order as may be just.
- (5) If the respondent fails to comply with these rules or with any order or direction given by the Court in relation to the evidence to be relied on, or the submission to be made by that respondent, the Court may, if it thinks fit, hear and determine the application without having regard to that evidence or those submissions.

No rule (O. 73, r. 15)**Securing the attendance of witnesses (O. 73, r. 16)**

- 16.** A party to arbitral proceedings being conducted in the jurisdiction who wishes to secure the attendance of a witness may apply to the Court pursuant to section 40 of the 2012 Law for a writ of subpoena ad testificandum or of subpoena duces tecum. A writ of subpoena shall not be issued until the applicant lodges an affidavit which shows that the application is made with the permission of the tribunal or the agreement of the other parties.

Securing for costs (O. 73, r. 17)

- 17.** Subject to section 77(6) of the 2012 Law, the Court may order any applicant (including an applicant who has been granted leave to appeal) to provide security for costs of any arbitration application.

Powers exercisable in support of arbitral proceedings (O. 73, r. 18)

- 18.** (1) Where the case is one of urgency, an application for an order under section 43 of the 2012 Law (Court's powers exercisable in support of arbitral proceedings) may be made ex parte on affidavit (before the issue of an arbitration application) and the affidavit shall (in addition to dealing with the matters required to be dealt with by rule 9) state the reasons –
- (a) why the application is made ex parte; and
 - (b) (where the application is made without the permission of the arbitral tribunal or the agreement of the other parties to the arbitral proceedings) why it was not practicable to obtain that permission or agreement, and
 - (c) why the deponent believes that the condition in section 43(5) is satisfied.
- (2) Where the case is not one of urgency, an application for an order under section 43 of the 2012 Law shall be made on notice and the affidavit in support shall (in addition to dealing with the matters required to be dealt with by rule 9 and paragraph (1) (c) above) state that the application is made with the permission of the tribunal or the written agreement of the other parties to the arbitral proceedings.
- (3) Where an application for an order under section 43 of the 2012 Law is made before the issue of an arbitration application, any order made by the Court may be granted on terms providing for the issue of an application and such other terms, if any, as the Court thinks fit.

Applications under sections 27(9) and 71 of the 2012 Law (O. 73, r. 19)

- 19.** (1) This rule applies to the following arbitration applications:
- (a) applications for the determination of a question as to the jurisdiction of the arbitral tribunal under section 27(9) of the 2012 Law; and
 - (b) applications for the determination of a preliminary point of law under section 71 of the 2012 Law.
- (2) Where an application is made without the agreement in writing of all the other parties to the arbitral proceedings but with the permission of the arbitral tribunal, the affidavits filed by the parties shall set out any evidence relied on by the parties in support of their contention that the Court should, or should not, consider the application.
- (3) As soon as practicable after the affidavits are lodged, the Court shall decide whether or not it should consider the application and, unless the Court otherwise directs, may so decide without a hearing.

Applications for leave to appeal (O. 73, r. 20)

20. (1) Where the applicant seeks leave to appeal to the Court on a question of law arising out of an arbitration award, the arbitration application shall identify the question of law and state the grounds on which the applicant alleges that leave should be granted.
- (2) The affidavit in support of the application shall set out any evidence relied on by the applicant for the purpose of satisfying the Court of the matters mentioned in section 76(4) of the 2012 Law and for satisfying the Court that leave should be granted.
- (3) The affidavit lodged by the respondent to the application shall –
- (a) state the grounds on which the respondent opposes the grant of leave;
 - (b) set out any evidence relied on by him relating to the matters mentioned in section 76(4) of the 2012 Law; and
 - (c) specify whether the respondent wishes to contend that the award should be upheld for reasons not expressed (or not fully expressed) in the award and, if so, state those reasons.
- (4) As soon as practicable after the lodging of the affidavits, the Court shall determine the application for leave to appeal.
- (5) Where leave is granted, a date shall be fixed for the hearing of the appeal.

Extension of time: applications under section 13 (O. 73, r. 21)

21. An application for an order under section 13 of the 2012 Law may include as an alternative an application for a declaration that such an order is not needed.

Time limit for challenges to or appeals from awards (O. 73, r. 22)

22. (1) An applicant shall not be taken as having complied with the time limit of one month referred to in section 77(3) of the 2012 Law unless the arbitration application has been issued, and all the affidavits in support have been sworn and filed, by the expiry of that time limit.
- (2) An applicant who wishes –
- (a) to challenge an award under section 75 of the 2012 Law; or
 - (b) to appeal under section 76 on a question of law arising out of an award, may, where the time limit of 30 days or one month, as the case may be, has not yet expired, apply ex parte on affidavit for an order extending that time limit.

(3) In any case where an applicant seeks to challenge an award under section 75 of the 2012 Law or to appeal under section 76 after the time limit of 30 days or one month, as the case may be, has already expired, the following provisions shall apply:-

- (a) the applicant must state in his arbitration application the grounds why an order extending time should be made and his affidavit in support shall set out the evidence on which he relies;
- (b) a respondent who wishes to oppose the making of an order extending time shall file an affidavit within 7 days after service of the applicant's affidavit, and
- (c) the Court shall decide whether or not to extend time without a hearing unless it appears to the Court that a hearing is required,

and, where the Court makes an order extending the time limit, the respondent shall file his affidavit in response to the arbitration application 21 days after the making of the order.

No rules (O. 73, rr 23 – 30)

PART II

Enforcement of awards (O. 73, r. 31)

- 31.**
- (1) An application for leave under Section 52 or 72 of the 2012 Law or under Section 5 of the 1975 Law to enforce an arbitral award, shall be made by ex-parte originating summons.
 - (2) The Court hearing an application under paragraph (1) may direct that the application is to be served on such parties to the arbitration as it may specify and service of the application out of the jurisdiction is permissible with the leave of the Court irrespective of where the award is, or is treated as, made.
 - (3) Where a direction is given under paragraph (2), rules 11 and 13 to 17 shall apply with the necessary modifications as they apply to applications under Part I of this Order.
 - (4) Where the applicant applies to enforce an agreed award within the meaning of section 62 of the 2012 Law, the application must state that the award is an agreed award and any order made by the Court shall also contain such a statement.
 - (5) An application for leave must be supported by an affidavit –
 - (a) Exhibiting

- (i) where the application is under Section 52 or 72 of the Law, the arbitration agreement and the original award or, in either case, a copy thereof;
 - (ii) where the application is made under Section 5 of the 1975 Law, exhibiting the documents specified in Section 6 of the 1975 Law.
- (b) stating the name and usual or last known place of residence or business of the applicant and of the person against whom it is sought to enforce the award respectively;
- (c) stating as the case may require, either that the award has not been complied with or the extent to which it has not been complied with at the date of the application.
- (6) An order giving leave must be drawn up by or on behalf of the applicant and must be served on the respondent by delivering a copy to him personally or by sending a copy to him at his usual or last known place of residence or business or in such other manner as the Court may direct, including electronically.
- (7) Service of the order out of the jurisdiction is permissible without leave, and Order 11, rules 5 to 8, shall apply in relation to such an order as they apply in relation to a writ.
- (8) Within 14 days after service of the order or, if the order is to be served out of the jurisdiction, within such other period as the Court may fix, the respondent may apply to set aside the order and the award shall not be enforced until after the expiration of that period or, if the respondent applies within that period to set aside the order, until after the application is finally disposed of.
- (9) The copy of the order served on the respondent shall state the effect of paragraph (8).
- (10) In relation to a body corporate this rule shall have effect as if for any reference to the place of residence or business of the applicant or the respondent there were substituted a reference to the registered or principal address of the body corporate,

Nothing in this rule shall affect any enactment which provides for the manner in which a document may be served on a body corporate.

Interest on awards (O. 73, r. 32)

- 32. (1) Where an applicant seeks to enforce an award of interest, the whole or any part of which relates to a period after the date of the award, he shall file an affidavit giving the following particulars –
 - (a) whether simple or compound interest was awarded;

- (b) the date from which interest was awarded;
 - (c) the rate of interest awarded; and
 - (d) a calculation showing the total amount claimed up to the date of the affidavit and any sum which will become due thereafter on a per diem basis.
- (2) The affidavit under paragraph (1) must be filed whenever the amount of interest has to be quantified for the purpose of obtaining a judgment or order under Section 52 or 72 of the 2012 Law or under Section 5 of the 1975 Law, or for the purposes of enforcing such a judgment or order by one of the means mentioned in Order 45, rule 1.

No rule (O. 73, r. 33)

Registration of awards under 1967 Order (O. 73, r. 34)

- 34.** (1) In this rule and in any provision of these rules as applied by this rule, "award" means an award rendered pursuant to the Washington Convention.
- (2) Subject to the provisions of this rule, the following provisions of Order 71, namely, rules 3, 7 (except paragraph (3)(c) and (d) thereof) and 10(3) shall apply with necessary modifications in relation to an award as they apply in relation to a judgment to which the Foreign Judgment Reciprocal Enforcement Law (Revised) applies. For that purpose, the expressions 'judgment creditor' and 'judgment debtor' as they appear in Order 71 shall mean the person seeking recognition or enforcement of an award and the other party to the award.
- (3) An application to have an award registered under the 1967 Order shall be made by originating summons.
- (4) The affidavit required by Order 71, rule 3, in support of an application for registration shall –
- (a) in lieu of exhibiting the judgment or a copy thereof, exhibit a copy of the award certified pursuant to the Washington Convention; and
 - (b) in addition to the matters mentioned in paragraph 3(c)(i) and (ii) of Order 71, state whether at the date of the application the enforcement of the award has been stayed (provisionally or otherwise) pursuant to the Washington Convention and whether any, and if so what, application has been made pursuant to the Washington Convention, which, if granted, might result in a stay of the enforcement of the award.
- (5) There shall be kept by the Clerk of the Court a public register of the awards ordered to be registered under the 1967 Order and particulars shall be entered in the register of any execution issued on such an award.

- (6) Where it appears to the Court on granting leave to register an award or on an application made by the applicant after an award has been registered –
- (a) that the enforcement of the award has been stayed (whether provisionally or otherwise) pursuant to the Washington Convention; or
 - (b) that an application has been made pursuant to the Washington Convention, which, if granted, might result in a stay of the enforcement of the award,
- the Court shall, or, in the case referred to in subparagraph (b) may, stay execution of the award for such time as it considers appropriate in the circumstances.
- (7) An application by the applicant under paragraph (6) shall be made by summons and supported by affidavit.

Registration of awards under the 1988 Order (O. 73, r. 35)

35. Rule 34 shall apply, with the necessary modifications, in relation to an award rendered pursuant to the MIGA Convention as it applies to an award rendered pursuant to the Washington Convention.

Arbitrations conducted under the 1974 Law (O. 73, r. 36)

36. (1) Any arbitration application made in respect of an arbitration commenced under the 1974 Law shall be conducted in accordance with such Rules of the Grand Court as were in force at the time that such arbitration was commenced.

No. 6A

Arbitration Application (O.73, r. 4)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD of 20__

In the Matter of the Arbitration Law, 2012

And in the matter of an [anticipated] arbitration between [*name of Claimant(s)*] and [*name of Respondent(s)*]

BETWEEN

APPLICANT

AND

RESPONDENT

[AND ON NOTICE TO [*name(s) of any arbitrator(s) listed above as respondent(s) or name(s) and address(es) if not named as respondent(s)*]]

[ORIGINATING] ARBITRATION APPLICATION

LET THE Respondent [*if an Originating Application, state his address*] attend before the Court at the Law Courts, George Town, Grand Cayman on the day of 20__, at
 o'clock on the hearing of an application by the Applicant.

This application is made [on notice][ex parte]

The grounds for the application are as follows.

[*Set out the grounds for making the application and the details of the orders being sought. The details should include those required by GCR O. 73, r. 4.*]

The time limit for the Respondent to acknowledge service is [*14 days, or where application is to be served out of the jurisdiction, the number of days set by the Court*]

Dated the day of 20__

[*Signature of Plaintiff or applicant, or his attorney*]

This [Originating] Arbitration Application was issued by [*name of Applicant or his attorney*]
whose address for service is [*state address within the jurisdiction*]

Acknowledgment of service of [Originating] Arbitration Application (0. 73, rr. 11 and 12)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF [ORIGINATING] ARBITRATION APPLICATION**

The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Respondent or by the Respondent if acting in person. After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495GT, George Town, Grand Cayman.

Notes for Guidance

1. Each Respondent (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. If you wish to defend claims made in the [originating] arbitration application, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, an [originating] arbitration application is served on the Respondent personally is treated as having been served on the day it was delivered to him.
4. Where the Respondent is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the [Originating] Arbitration Application)".
5. Where the Respondent is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
6. Where the Respondent is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
7. Where the Respondent is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
8. Where the Respondent is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Respondent acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO FSD: OF 20__

In the Matter of the Arbitration Law, 2012

And in the matter of an [anticipated] arbitration between [*name of Claimant(s)*] and [*name of Respondent(s)*]

BETWEEN

APPLICANT

AND

RESPONDENT

[AND ON NOTICE TO [*name(s) of any arbitrator(s) listed above as respondent(s) or name(s) and address(es) if not named as respondent(s)*]]

ACKNOWLEDGMENT OF SERVICE
OF [ORIGINATING] ARBITRATION APPLICATION

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment or an order being entered against a Respondent whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Respondent by whom or on whose behalf the service of the [Originating] Arbitration Application is being acknowledged.

2. State whether the Respondent intends to contest the application (tick appropriate box)

☐ yes ☐ no

Service of the [Originating] Arbitration Application is acknowledged accordingly

(Signed).....

Attorney for

Please complete overleaf

Notes on address for service

Attorney: where the Respondent is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Respondent may not act by a foreign attorney.

Respondent in person: where the Respondent is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Applicant's Attorney (or by Applicant if suing in person) of his name, address and reference, if any, in the box below.

--

Indorsement by Respondent's Attorney (or by Respondent if suing in person) of his name, address and reference, if any, in the box below.

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No. 76

Order staying proceedings (O. 73, r. 6)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD [] OF []-[INITIALS OF JUDGE]

IN CHAMBERS
[DATE OF HEARING]
BEFORE HON. JUSTICE [NAME OF JUDGE]

[TITLE OF PROCEEDING]

ORDER

UPON hearing the Defendant's Summons issued on [date]

AND UPON reading the [affidavits read]

AND UPON hearing counsel for the parties

[AND UPON [set out any undertakings required in support of orders made pursuant to section 9(3) of the Arbitration Law, 2010]]

IT IS ORDERED that

1. Pursuant to section 9(2) of the Arbitration Law, 2012 all further proceedings in this action be stayed [until further order].
2. [Any orders pursuant to section 9(3) of the Arbitration Law, 2012.]
3. The Defendant's costs of these proceedings, including its costs of and occasioned by this Summons, be paid by the Plaintiff on the [standard/indemnity] basis, to be taxed if not agreed.

DATED this day of 20

FILED this day of 20

The Honourable Mr Justice [INSERT]

Judge of the Grand Court

THIS Order was filed by [name of Defendant or his attorney] whose address for service is [state address within the jurisdiction]

Order to enforce an arbitral award (O. 73, r. 31)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO: FSD[] OF []-[INITIALS OF JUDGE]

IN THE MATTER OF THE [ARBITRATION LAW, 2012][FOREIGN ARBITRAL
AWARDS ENFORCEMENT LAW, 1975]

IN [CHAMBERS][COURT]
[DATE OF HEARING]
BEFORE HON. JUSTICE [NAME OF JUDGE]

[TITLE OF PROCEEDING]

EX PARTE ORDER

UPON hearing the Plaintiff's Ex Parte Originating Summons issued on [date]

AND UPON reading the [affidavits read]

AND UPON hearing counsel for the Plaintiff

IT IS ORDERED AND ADJUDGED that

1. Pursuant to section [52 or 72 of the Arbitration Law, 2012][Section 5 of the Foreign Arbitral Awards Enforcement Law, 1975] the Plaintiff has leave to enforce in the same manner as a judgment or order to the same effect the following award made in an arbitration between the Plaintiff and the Defendant (a copy of which is attached hereto):

(a) [details of the award]

2. Judgment is hereby entered in the terms of the above-mentioned award.

3. Within 14 days [*or such period as the court may fix if served out of the jurisdiction*] after service of this Order the Defendant may apply to set aside this Order and the said award shall not be enforced until after the expiration of that period, or, if the Defendant applies within the 14 day period [*or such period as the court may fix if served out of the jurisdiction*] to set aside this Order, until the application is finally disposed of.
4. The Plaintiff's costs of and occasioned by this application be paid by the Defendant on the [standard][indemnity] basis, to be taxed if not agreed.

DATED this [] day of [] 20

FILED this [] day of [] 20

The Honourable Mr Justice [Insert]
Judge of the Grand Court

THIS Order was filed by [*name of Plaintiff or his attorney*], whose address for service is [*state address within the jurisdiction*]

THE GRAND COURT LAW (1995 REVISION)

THE GRAND COURT RULES, 1995 (REVISED EDITION)

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