

CAYMAN ISLANDS



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GRAND COURT LAW (2008 REVISION) (AS AMENDED) THE GRAND COURT (AMENDMENT) RULES 2015

GRAND COURT LAW (2008 REVISION) (AS AMENDED)

THE GRAND COURT (AMENDMENT) RULES 2015

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

1. Citation, Commencement and Interpretation.

- (1) These Rules shall be referred to as the Grand Court (Amendment) Rules 2015.
- (2) These Rules shall come into operation on the 16th day of March 2015 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 94 and 96

- (1) GCR Orders 94 and 96 are hereby revoked and replaced by the Orders 94 and 96 and the Forms contained in the Schedule hereto.

3. Revocation and Replacement of the Grand Court Law (1995 Revision) Table of Contents and Appendix 1, Prescribed Forms Index

- (1) The Grand Court Law (1995) Revision Table of Contents and Appendix I, Prescribed Form 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 19th day of February 2015.

The Honourable Anthony Smellie QC, Chief Justice

The Honourable Sam Bulgin QC, Attorney General

Colin McKie QC, Legal Practitioner

Hector Robinson, Legal Practitioner

ORDER 94**APPLICATIONS TO THE GRAND COURT UNDER VARIOUS STATUTES****Applications under the Bills of Sale Law (Revised) (O.94, r.1)**

1. (1) An application under Section 5 of the Bills of Sale Law (Revised) for an order that a memorandum of satisfaction be entered by the Public Recorder upon the margin of the record of a bill of sale shall be made by an originating summons in Form No. 3 of Appendix I.
- (2) Every originating summons under this rule shall be entitled in the matter of the bill of sale in question and in the matter of the Bills of Sale Law (Revised).
- (3) Every person whose interest under the bill of sale is alleged to have been satisfied or discharged shall be joined as a defendant.
- (4) The application shall be supported by an affidavit containing full particulars of the manner in which the debt arose and the manner in which it is alleged to have been satisfied or discharged.

Applications under the Building Society's Law (Revised) (O.94, r.2)

2. (1) Every application under Section 34 of the Building Society's Law (Revised) for the appointment of an actuary or accountant and every application under Section 36 or Section 42 of the Building Society's Law (Revised) for the appointment of an inspector shall be commenced by originating motion, notice of which shall be served upon the Building Society in question and upon the Inspector of Financial Services.
- (2) Every originating motion under this rule shall be entitled in the matter of the Building Society's Law (Revised) and in the matter of the Building Society in question and shall specify the full name and address of each applicant.
- (3) Every application under this rule shall be supported by the following affidavits -
 - (a) separate affidavits sworn by or on behalf of each individual applicant containing full particulars of his interest in the Building Society and the period during which he has had such interest;
 - (b) a composite affidavit sworn by or on behalf of all the applicants containing full particulars of the grounds upon which they claim that the Court should order the appointment of an accountant, actuary or inspector, as the case may be; and

- (c) an affidavit of fitness containing the full name, business address and professional qualifications of the person or persons whom the applicants seek to have appointed as accountant, actuary or inspector, as the case may be.
- (4) Order 30, rules 2, 3, 4 and 5 shall apply to an accountant, actuary or inspector as if he were a receiver appointed under that Order.
- (5) In addition to the requirements of Order 30, rule 4, every order made under this rule shall be served upon the Inspector of Financial Services.

3. No rule (O.94, r.3)

Application under Section 9 of the Strata Titles Registration Law (Revised) (O.94, r.4)

- 4. An application for the appointment of an administrator pursuant to Section 9 of the Strata Titles Registration Law 1973 may be made by originating summons or motion and the provisions of Order 30 shall apply as if the administrator was a receiver appointed pursuant to that Order.

Application under Section 17 of the Strata Titles Registration Law (Revised) (O.94, r.5)

- 5. (1) In this rule "the Law" means the Strata Titles Registration Law 1973, as amended, and any expressions used in this rule and in the Law have the same meanings in this rule as they have in the Law.
- (2) An application for a declaration under Section 17(2)(b) of the Law and any consequential directions under Section 17(3) or winding up order under Section 17(6) shall be made by petition entitled in the matter of the strata plan concerned.
- (3) A petition under this rule shall be served on -
 - (a) the strata corporation;
 - (b) the registered proprietor of every strata lot comprised in the strata plan;
 - (c) every insurer of the common property and every strata lot;
 - (d) the registered proprietor of any charge or other incumbrance over the common property and every strata lot;
 - (e) any administrator appointed pursuant to Section 9 of the Law; and
 - (f) the Registrar.

- (4) A petition under this rule may be served in the following manner -
- (a) in the case of the strata corporation, by posting it to the address shown on the strata plan or placing it in the receptacle maintained in accordance with Section 7(1) of the Law;
 - (b) in the case of the proprietor of a strata lot, by posting it to his address appearing in the proprietorship section of the Land Register, or delivering it to his unit;
 - (c) in the case of an insurer, in any manner allowed by Order 65, rule 5;
 - (d) in the case of the registered proprietor of any charge or incumbrance, by posting it to their address appearing in the Land Register;
 - (e) in the case of an administrator, in any manner allowed by Order 65, rule 5; and
 - (f) in the case of the Registrar, in any manner allowed by Order 65, rule 5. (5) A petition under this rule shall be advertised.
- (6) Where a petition under this rule seeks a winding up order, it must nominate a fit and proper person to be appointed as liquidator and must be supported by an affidavit of fitness.
- (7) Every order made pursuant to this rule shall be served on the Registrar and advertised.
- (8) The provisions of Order 30, rules 2 to 8 shall apply to a liquidator appointed pursuant to this rule as if the liquidator was a receiver appointed pursuant to that Order.

Applications under the Married Women's Property Law Cap. 94 (Revised) (O.94, r.6)

6. (1) An application under Section 16 of the Married Women's Property Law Cap. 94 (Revised) for the determination of any question between husband and wife as to the title to or possession of the property of either or both of them shall be made by originating summons in Form No. 2 of Appendix I.
- (2) The action shall be entitled in the matter of the property in question and in the matter of the Married Women's Property Law Cap. 94 (Revised).
- (3) The application shall be supported by an affidavit containing full particulars of the property in issue and the facts and matters relied upon by the applicant in support of his application.

ORDER 96
THE REGISTERED LAND LAW

Interpretation (O.96, r.1)

1. In this Order –
 - "the Law" means the Registered Land Law (Revised) and any expression used in this Order and in the Law shall have the same meaning in this Order as it has in the Law;
 - "charged land" includes land comprised in a charged lease; and
 - "public auction" includes the listing and marketing of the charged land for sale on a public multiple listing system approved by the Court.

Applications under section 75(2) (O.96, r.2)

2.
 - (1) An application by a chargee under section 75(2) of the Law to recover possession of the charged land upon a bid being accepted at a public auction carried out pursuant to section 75(1) of the Law shall be made by originating summons in accordance with the provisions of this rule.
 - (2) The originating summons under this rule shall be in Form No. 78 of Appendix I and no acknowledgement of service shall be required.
 - (3) The chargee shall file in support of the originating summons an affidavit stating –
 - (a) the evidence that the chargee has complied with section 75(2) of the Law; and
 - (b) the names of the persons in occupation of the land, if known,
 and, unless the Court otherwise directs, any such affidavit may contain statements of information and belief and the sources and grounds thereof.
 - (4) The affidavit shall also exhibit –
 - (a) a copy of the land register for the charged land to which the application relates; and
 - (b) a copy of the charge to which the application relates, including any schedule or other attached document containing the terms of the power of sale exercised by the chargee under section 75(1) of the Law.
 - (5) The originating summons together with a copy of the affidavit shall be served on the person or persons in occupation of the land either –
 - (a) personally; or

- (b) by affixing a copy of the summons and a copy of the affidavit to the main door or other conspicuous part of the main building on the charged land; or
 - (c) by placing stakes in the ground at conspicuous parts of the charged land, to each of which shall be affixed a sealed transparent envelope addressed to "the occupiers" and containing a copy of the originating summons and a copy of the affidavit; or
 - (d) in such other manner as the Court may direct.
- (6) Without prejudice to Order 15, rules 6 and 10, any person not named as a defendant who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as a defendant.
- (7) A final order for possession in proceedings under this rule shall not, except in case of emergency and by leave of the Court, be made –
- (a) in the case of residential premises, less than 5 clear days after the date of the service; and
 - (b) in the case of other land, less than 2 clear days after the date of service.

Nothing in this rule shall prevent the Court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if possession had been claimed in an action begun by writ.

- (8) Order 45, rule 3(2), shall not apply in relation to an order for possession under this rule but no writ of possession to enforce such an order shall be issued after the expiry of 3 months from the date of the order without leave of the Court.

An application for leave may be made ex parte unless the Court otherwise directs.

The writ of possession shall be in Form No. 79 of Appendix I.

- (9) The Court may, on such terms as it thinks just, set aside or vary any order made in proceedings under this rule.

Applications under section 77 (O.96, r.3)

3. (1) An application under section 77 of the Law, for an order seeking the Court's sanction of any variation of or addition to sections 70(2) and (3), 72, 73, 74 or 75 of the Law, in their application to a charge registered under the Law, shall be made by originating summons in Form No. 2 of Appendix I, and, save as provided in this rule, the provisions of Orders 7 and 28 shall apply.
- (2) The originating summons under this rule shall be titled in the matter of an application under section 77 of the Law, and shall state –

- (a) with respect to the charged land to which the application relates
 - (i) the registration section, block number and parcel number;
 - (ii) the entry number or numbers on the land register of the charge or charges to which the application relates;
 - (b) the section or sections of the Law the variation of or addition to which the plaintiff seeks sanction; and
 - (c) the nature of the variations or additions sought.
- (3) On every application under this rule all the registered proprietors of the charged land shall be named as parties to the application and, in addition to each defendant, the originating summons shall be served on the proprietors of every charge entered on the land register for the charged land.
- (4) The affidavit supporting every application under this rule shall exhibit –
- (a) a copy of the land register for the charged land to which the application relates;
 - (b) a copy of the charge to which the application relates, including any schedule or other attached document containing the variations of or additions to the provisions of the Law in respect of which the Court's sanction is sought.
- (5) Where a chargee makes an application under this rule seeking the Court's sanction of a variation of or addition to the provisions of section 75 of the Law to permit the sale of the charged land by private treaty, the affidavit supporting the application shall set out –
- (a) the evidence that the chargee has complied with section 72 of the Law;
 - (b) the steps taken by the chargee, if any, prior to the filing of the application, to sell the charged land by public auction;
 - (c) the reserve price or listing price which was adopted for the purposes of the public auction;
 - (d) details of every offer which the chargee received in the attempts to sell the charged land by public auction,

and shall exhibit at least one written valuation report prepared in respect of the charged land by an independent professional real estate appraiser selected from the list of approved appraisers published from time to time by the Grand Court Rules Committee.

- (6) A valuation report submitted for the purposes of this rule must have been prepared no more than three months prior to the date of the filing of the application.
- (7) Without prejudice to the wide discretion conferred by section 77 of the Law, the Court may, on the hearing of an application under this rule, give directions –
 - (a) as to service of notice of the application on any person who appears to have an interest in the charged land but who has not been served with the application;
 - (b) requiring the production of further evidence as to the valuation of the charged land;
 - (c) requiring the chargee to take further steps to sell the charged land by public auction on the open market;
 - (d) fixing a reserve or minimum price for the sale;
 - (e) prescribing such conditions to which the sale shall be subject as the Court deems fit.
- (8) On an application made under this rule the Court may order that any person in possession of the charged land or in receipt of the rents or profits of the charged land deliver up vacant possession of the charged land or receipt of the rents and profits to such person and on such date as the Court may direct.
- (9) Where, on an application made under this rule, a chargee seeks vacant possession of the charged land, the chargee shall provide evidence, to the best of the chargee's knowledge and belief, of the persons in occupation of the charged land and of their relationship, if any, to the chargor, and shall serve notice of the application for vacant possession on such person or persons in accordance with Order 96 rule 2(5).
- (10) the provisions of rule 2 (6), (7), (8) and (9) of this Order shall apply to orders for possession made under this rule.

Application under Section 96 (O.96, r.4)

- 4. (1) An application under Section 96 of the Law to extinguish or modify any easement, restrictive agreement or profit shall be made by petition entitled in the matter of the servient land concerned.
- (2) A petition under this rule shall be served on –
 - (a) every person having a registered interest in the dominant lands concerned whether registered in the appurtenances, proprietorship or incumbrances sections of the Land Register;

- (b) any person, other than the petitioner, having a registered interest in the servient land whether registered in the appurtenances, proprietorship or incumbrances section of the Land Register; and
 - (c) any person who has registered a caution or restriction over any of the dominant lands.
- (3) A petition under this rule may be served by posting it to the persons concerned at their addresses appearing in the Land Register and shall be deemed to have been received –
 - (a) in the case of a person whose address is within the Islands, 7 days after the date of posting; and
 - (b) in the case of a person whose address is outside the Islands, 21 days after the date of posting.
- (4) A petition under this rule shall be advertised.
- (5) A petition under this rule shall be supported by an affidavit giving full particulars of the facts and arguments relied upon by the petitioner.

ORDERS 97-98

NO ORDERS

No. 78

Originating Summons – Possession by Chargee after Auction (O.96, r.2)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 20__

In the Matter of the Registered Land Law (____ Revision) (the "Law")

And in the Matter of an application for possession under section 75(2) in respect of the property comprised in [*state title reference*] and known as [*give physical address or description*] (the "Property")

BETWEEN:

PLAINTIFF

AND:

DEFENDANT

ORIGINATING SUMMONS – POSSESSION BY CHARGEЕ AFTER AUCTION

TO: [*State name and address of Defendant(s)*
 (*if any*) *whose name is known to the Plaintiff*]

AND TO: [*Every other person in occupation of the Property*]

LET ALL PERSONS concerned attend before the Judge in Chambers, at the Law Courts, George Town, Grand Cayman on the day of , 20__ , at o'clock, on the hearing of an application by the Plaintiff for an order that the Plaintiff do recover possession of the Property on the ground that the Property has been sold by public auction pursuant to section 75(1) of the Law and the Plaintiff is entitled to possession and that the Plaintiff do have leave to issue a writ of possession against the Defendant[s].

Dated the day of 20__

[*Signature of Plaintiff or his Attorney*]

NOTE - Any person occupying the premises who is not named as a defendant by this summons may apply to the Court personally or by attorney to be joined as a defendant. If a person occupying the premises does not attend personally or by attorney at the time and place above-mentioned, such order will be made as the Court may think just and expedient.

TIME ESTIMATE: The estimated length of the hearing of this summons is [*state time*].

This Originating Summons was issued by [*name of Plaintiff or his Attorney*] whose address for service is [*state address within jurisdiction*].

No. 79

Writ of Possession (O. 96, r.2)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 20__

IN THE MATTER of the Registered Land Law [] Revision
AND IN THE MATTER of an order for possession under section 75 [or section 77 as the case may be]

BETWEEN: PLAINTIFF

AND: DEFENDANT

WRIT OF POSSESSION

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith

To the Bailiff, greeting

WHEREAS in the above action it was on the day of 20__ ordered and adjudged that the Defendant do give the Plaintiff possession of [*describe the land by reference to its registered title*].

WE COMMAND you to enter the said land and cause the Plaintiff to have possession of it.

AND WE ALSO COMMAND you to indorse on this writ immediately after execution thereof a statement of the manner in which you have executed it and send a copy of the statement to the Plaintiff.

WITNESS the Honourable Mr Justice [*state name*], Chief Justice of the Grand Court this day of , 20__ .

Dated the day of 20__.

[*Signature of Plaintiff's Attorney*]

This Writ was issued by [*name of Plaintiff or his Attorney*] whose address for service is [*state address within the jurisdiction*] [*Attorney for the Plaintiff*].

THE GRAND COURT LAW (1995 REVISION)

THE GRAND COURT RULES, 1995 (REVISED EDITION)

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16.	List of documents	(O.24, r.5)
17.	Interlocutory summons – general form	(O.32, r.2)
18.	Writ of subpoena	(O.38, r.14)
19.	Letter of request	(O.39, r.2)
20.	Application for default judgment	(O.42, r.6)
21.	Default judgment in action for liquidated damages	(O.13, r.1, O.19, r.2, O.42, r.1)
22.	Default interlocutory judgment for damages to be assessed	(O.13, r.2, O.19, r.3, O.42, r.1)
23.	Final judgment after assessment of damages, etc.	(O.42, r.1)
24.	Judgment for plaintiff under Order 14	(O.14, r.3)
24A.	Judgment for defendant under Order 14	(O.14, r.14)
25.	Judgment after trial before Judge without jury	(O.42, r.1)
26.	Writ of fieri facias	(O.45, r.12)
27.	Writ of fieri facias on order for costs	(O.45, r.12)
28.	Writ of possession	(O.45, r.12)
29.	Writ of sequestration	(O.45, r.12)
30.	Order for examination of judgment debtor or officer	(O.45, r.7(4))
30A.	Application for examination of judgment debtor	(O.48, r.1)
31.	Garnishee order to show cause	(O.49, r.1)
32.	Garnishee order absolute	(O.49, rr.1,4)
33.	Charging order - notice to show cause	(O.50, r.1)
34.	Charging order - absolute	(O.50, r.3)
34A.	Affidavit and Stop Notice	(O.50, r.11)
35.	Application for attachment of earnings order (judgment debt)	(O.50A, r.4)

36.	Statement of means	(O.50A, r.5; O.52, r.12)
37.	Notice to employer	(O.50A, r.6)
38.	Attachment of earnings order (judgment debt)	(O.50A, r.10(1))
39.	Notice of hearing (reconsideration)	(O.50A, r.7)
40.	Notice of hearing	(O.50A, r.7)
41.	Notice to show cause (failure to file statement of means)	(O.50A, r.8(1))
42.	Order to employer for production of statement of earnings	(O.50A, r.14(1))
43.	Notice to show cause (employer's failure to produce statement of earnings)	(O.50A, r.14)
44.	Application for attachment of earnings order (maintenance payments)	(O.50A, r.16)
45.	Attachment of earnings order (maintenance order)	(O.50A, r.16)
46.	Summons for consolidated attachment of earnings order	(O.50A, r.18)
47.	Consolidated attachment of earnings order	(O.50A, r.17)
48.	Notice of motion for committal (general)	(O.52, r.4)
49.	Warrant of committal	(O.52, r.10)
50.	Notice of motion for committal (non-payment of debt)	(O.52, r.12)
51.	Order for committal (non-payment of debt)	(O.52, r.15)
51A.	Suspended order for committal (non-payment of debt)	(O.52, r.15)
52.	Warrant of discharge	(O.52, r.16)
53.	Application for leave to apply for judicial review	(O.53, r.3)
54.	Notice of intention to renew application for judicial review	(O.53, r.3)
55.	Writ of habeus corpus ad subjiciendum	(O.54, r.10)
56.	Order under the Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978	(O.70, r.2)
57.	Originating application	(O.85, r.8(2))
58.	Election petition	(O.93, r.2)
59.	Ex parte originating summons - Section 4 Application	(O.103, r.2)
60.	Originating summons - summary possession	(O.113, r.2)
61.	Summons for third party directions	(O.16, r.4)
62.	Order for third party directions	(O.16, r.4)
63.	Notice to fix trial date	(O.34, r.3)
64.	Mareva Injunction (Cayman Islands)	(O.29, r.1)
65.	Mareva Injunction (Worldwide)	(O.29, r.1)
66.	Originating Application	(O.102, r.18)
67.	Order	(O.102, r.18)
68.	Petition	(O.102, r.19)
69.	Order	(O.102, r.19)
70.	Order	(O.102, r.20)
71.	Registrar's Summons	(O.72, r.4)
72.	Registrar's Notice	(O.72, r.4)
73.	Written Transfer Application	(O.72, r.6)
74.	Transfer Order	(O.72, r.6)
75.	Written Application for Review of a Transfer Order	(O.72, r.6)
76.	Order Staying Proceedings	(O.73, r.6)
77.	Order to enforce an Arbitral Award	(O.73, r.31)
78.	Originating Summons – Possession by Chargee after Auction	(O.96, r.2)
79.	Writ of Possession	(O.96, r.2)