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**GRAND COURT PRACTICE DIRECTION NO. 1/95****(GCR O.1, r.12)****ARRANGEMENTS FOR LISTING OF CHAMBERS SUMMONSES**

This practice direction will take effect from 1<sup>st</sup> June, 1995 and will apply to every interlocutory summons having endorsed upon it a time estimate of ½ hour or less (hereafter called a "short summons") except for summonses issued by a litigant in person. Nothing in this practice direction shall prevent an urgent summons for injunctive or other relief being made the subject of a special appointment by arrangement with the Clerk of the Court.

A judge will sit on Thursday afternoon of each week (commencing Thursday, 8<sup>th</sup> June, 1995) from 2:15 p.m. for the purpose of hearing short summonses.

Any attorney wishing to issue a short summons must, before doing so, cause details thereof to be entered in an available time slot in the court's diary during an afternoon allocated for the hearing of short summonses.

It is the duty of every attorney issuing an interlocutory summons, whether or not it is a short summons, to endorse upon it an estimate of the anticipated length of the hearing in compliance with GCR 0.32, r.2(4) and to ensure that his estimate is realistic. Summonses other than short summonses will be the subject of a special appointment by arrangement with the Clerk of the Court.

If an attorney forms the opinion that the time estimate originally endorsed upon his summons has become unrealistic, he shall –

- (a) if he believes, for whatever reason, that the hearing will now take less than ½ hour, relist the summons as a short summons; or
- (b) if he believes, for whatever reason, that the hearing will now take longer than ½ hour, take it out of the short summons list and make application to the Clerk of the Court for a special appointment.

Applications for consent orders should only be made by short summons if the order involves the exercise of a judicial discretion. If the parties are entitled to the order as of right, it should be processed administratively in accordance with GCR 0.42, rules 5 and 5A.

DATED this 1<sup>st</sup> day of May, 1995.

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Hon. George Harre, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 2/95**  
**(GCR O.1, r.12)**

**Attachment of Earnings Orders – Calculation of Post-Judgment Interest**

**(GCR 0.50A, r.7)**

1. Wherever a judgment debt is ordered to be paid by instalments pursuant to an attachment of earnings order made under GCR Order 50A, rule 7, post-judgment interest will be calculated at the time of making the order.
2. The amount of interest will be calculated on the assumption that the instalments are paid on due date, using the following formula where D is the amount of the judgment debt (including principal and pre-judgment interest); N is the number of monthly instalments; R is the prescribed rate; I is the interest payable; and X is the amount of each instalment, i.e. the normal monthly deduction rate.

$$\left(\frac{DxN}{24}\right)R = I$$

Amount of each instalment will be

$$\left(\frac{D}{N}\right) + \left(\frac{I}{N}\right) = X$$

Example:

Judgment debt CI\$12,500 which is to be payable by equal instalments over 36 months. The prescribed rate of post-judgment interest payable on CI dollar debts is currently 8% per annum. The monthly instalment is therefore CI\$388.89 calculated as follows:

Interest payable

$$\left(\frac{12,500x36}{24}\right)8\% = 1,500$$

The amount of each instalment

$$\left(\frac{12,500}{36}\right) + \left(\frac{1,500}{36}\right) = 388.89 / month$$

Each instalment therefore comprises principal of CI\$347.22 and interest of CI\$41.67.

DATED this 1<sup>st</sup> day of May, 1995.

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Hon. George Harre, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 3/95**

**(GCR O.1, r.12)**

**Attachment of Earnings Orders – Method of Payment**

**(GCR 0.50A, r.8)**

1. Payment of sums due under attachment of earnings orders must be made by cheque made payable to "The Accountant General of the Grand Court".
2. Cheques must be sent by post or hand delivered to the Court Funds Office, Government Administration Building, George Town.
3. Upon being served with an attachment of earnings order, employers will also be provided with a book of pre-printed carbonised lodgment/receipt forms.
4. The employer must complete a carbonised lodgment/receipt form and send both the white original and the blue copy to the Court Funds Office with each payment.
5. The blue copy receipt form will then be signed by an authorised officer of the Court Funds Office and returned to the employer as his receipt.
6. Deductions made from an employee's remuneration must be recorded in the employer's work account maintained in accordance with Section 30(1) of the Labour Law 1987, as amended, and the receipts issued by the Court Funds Office should be treated as part of the work account to be preserved for at least two years.

MADE this 1<sup>st</sup> day of May, 1995 with the prior approval of the Chief Justice of the Grand Court

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Alan Mason, Accountant General

**GRAND COURT PRACTICE DIRECTION NO. 4/95**

**(GCR O.1, r.12)**

**Payment Schedules – Authorised Signatures**

**(GCR 0.92, r.9)**

1. This practice direction shall come into force on 22<sup>nd</sup> January, 1996 following the amendment of GCR 0.92, r.9.
2. The following officers are authorised to sign Payment Schedules:-  
  
'A' signatories –  
  
The Chief Justice  
Puisne Judges (including acting Judges)  
Magistrates (including acting Magistrates)  
  
'B' signatories –  
  
The Clerk of the Court  
The Chief Clerk of the Summary Court  
The Registrar of the Court of Appeal  
Deputy Clerks of the Court
3. Payment Schedules requiring payment of -
  - (a) less than CI\$10,000, US\$12,000 or the equivalent in any other currency shall be signed by any 'A' or 'B' signatory;
  - (b) more than CI\$10,000, US\$12,000 or the equivalent in any other currency but less than CI\$100,000, US\$120,000 or the equivalent in any other currency, shall be signed by an 'A' signatory or any two 'B' signatories; and
  - (c) more than CI\$100,000, US\$120,000 or the equivalent in any other currency, shall be signed by an 'A' signatory.

DATED this 15<sup>th</sup> day of December, 1995

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Hon. George Harre, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 5/95**  
**(GCR O.1, r.12)**

**Trial Bundles**

**(GCR 0.34, r.10)**

1. Order 34, rule 10 is intended to ensure that:
  - (a) The trial judge is able to read the core documents prior to the commencement of the trial; and
  - (b) The Court has available all necessary documents, properly organised into bundles, at the commencement of every trial.

The rule requires the plaintiff to deliver bundles of documents to the Clerk of the Court for these purposes.

2. Order 34, rule 10 does not specify how, when or by whom the bundles of documents shall be prepared. This is a matter left to the parties to determine by agreement having regard to the circumstances of each individual case.
3. In cases involving a small number of documents (such as personal injury claims) it will normally be appropriate for all the documents to be included in the core bundles; for those bundles to be created by the plaintiff; and for them to be delivered to the defendant at the same time as they are delivered to the Clerk of the Court in accordance with rule 10(1).
4. In cases involving large numbers of documents, it would normally be appropriate for the parties' attorneys to make arrangements for those documents to be indexed, paginated and put into bundles long before the plaintiff is required to deliver them to the Clerk of the Court.
5. It is the duty of the parties and their attorneys to make all such arrangements for the preparation and exchange of bundles of documents as may be appropriate, having regard to the circumstances of the case. The objective is to ensure that both parties have available to them bundles of all the documents (indexed, paginated and organised in the way in which they will be used at the trial) at such time as may be necessary to enable them to properly prepare their respective cases in time for the commencement of the trial.

DATED this 15<sup>th</sup> day of December, 1995

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Hon. George Harre, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 1/96****(GCR O.1, r.12)****Land Acquisition Law (Revised) – Payment of Compensation into Court**

1. Where a lodgment of funds in Court is made by the Governor-in-Council pursuant to Section 27(2) of the Land Acquisition Law (Revised), such payment shall be accompanied by a request for lodgment in practice form no. 1.
2. The request for lodgment shall specify particulars of the title of the land to which the compensation relates and the names and addresses of all the persons who are believed to be entitled or claim to be entitled to all or part of such compensation.
3. The officer who signs the request for lodgment on behalf of the Governor-in-Council should send notice of lodgment to all the persons who are believed to be entitled or claim to be entitled to all or part of such compensation.

MADE this 5<sup>th</sup> day of January, 1996 with the prior approval of the Chief Justice of the Grand Court.

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Alan Mason, Accountant General

**REQUEST FOR LODGMENT**

Pursuant to Section 27 of the Land Acquisition Law (Revised)

GCR Form 1

Description of Land

I, \_\_\_\_\_, request that the Accountant General of the Grand Court do receive into Court for lodgment to a Nominated Account the sum of CI\$ \_\_\_\_\_, being the compensation awarded by the Governor in respect of the compulsory acquisition of the above-mentioned land.

DATED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_

Signed \_\_\_\_\_  
[ \_\_\_\_\_ ]

The following persons are believed to be entitled or claim to be entitled to all or part of this compensation:


-----  
**COURT FUNDS OFFICE USE**

Date received

Nominated Account number

Date funds transferred to a Nominated Account

Lodgment approved by:




**GRAND COURT PRACTICE DIRECTION NO. 2/96**  
**(GCR 0.1, r.12)**

**Trial Bundles**  
**(GCR O.34, r.10)**

1. Order 34, rule 10 is intended to ensure that:
  - (a) The trial judge is able to read the core documents prior to the commencement of the trial; and
  - (b) The Court has available all necessary documents, properly organised into bundles, at the commencement of every trial.

The rule requires the plaintiff to deliver bundles of documents to the Clerk of the Court for these purposes.

2. Order 34, rule 10 does not specify how, when or by whom the bundles of documents shall be prepared. This is a matter left to the parties to determine by agreement having regards to the circumstances of each individual case.
3. In cases involving a small number of documents (such as personal injury claim) it will normally be appropriate for all the documents to be included in the core bundles; for those bundles to be created by the plaintiff; and for them to be delivered to the defendant at the same time as they are delivered to the Clerk of the Court in accordance with rule 10(1).
4. In cases involving large numbers of documents, it would normally be appropriate for the parties' attorneys to make arrangements for those documents to be indexed, paginated and put into bundles long before the plaintiff is required to deliver them to the Clerk of the Court.
5. It is the duty of the parties and their attorneys to make all such arrangements for the preparation and exchange of bundles of documents as may be appropriate, having regard to the circumstances of the case. The objective is to ensure that both parties have available to them bundles of all the documents (indexed, paginated and organised in the way in which they will be used at the trial) at such time as may be necessary to enable them to properly prepare their respective cases in time for the commencement of the trial.

**DATED** this 7<sup>th</sup> day of March, 1996

**HON. GEORGE HARRE**  
Chief Justice

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**  
**GRAND COURT PRACTICE DIRECTION NO. 3 OF 1996**

**TO: ALL ATTORNEYS-AT-LAW**

**FORMAL ORDERS IN GRAND COURT**

The Honourable The Acting Chief Justice has directed that normally orders should be signed by the Grand Court Judge who made the order but where it is anticipated that the Grand Court Judge will not be able to sign the order within 7 days or where it transpires that the Grand Court Judge is unavailable then the order may be submitted for signature by the Clerk of the Court. In those cases only, the order should be in the following format.

Under the caption of the suit the form of the order should read:

"ORDER

IN CHAMBERS/IN GRAND COURT

(Date of Order)

BEFORE MR. JUSTICE \_\_\_\_\_

UPON hearing Counsel for the applicant and  
[by consent of] counsel for the respondent ....  
etc.

IT IS HEREBY ORDERED THAT:  
etc. etc.

DATED the      day of                      1996

BY ORDER OF THE COURT

CLERK OF THE COURT

Extracted by .... Attorneys-at-Law for the applicant whose  
address for service is in care of his/her Attorneys."

Dated this 12<sup>th</sup> day of March 1996.

**ANTHONY SMELLIE Q.C.**  
Acting Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 1/97**

In accordance with Rule 5 of the Legal Aid Rules 1997, I have established the following Forms to be used for the purpose of the rules -

1. Application for Criminal Legal Aid.
2. Statement Means.
3. Application for Civil Legal Aid.
4. Criminal Legal Aid Certificate.
5. Civil Legal Aid Certificate.
6. Bill of costs.

Copies of the Forms may be obtained from the Courts Office.

MADE this 1<sup>st</sup> day of April, 1997.

G.E. Harre  
Chief Justice

**Form No. 1**

**LEGAL AID RULES 1997**

**Application for Criminal Legal Aid**

1. Name
  
2. Address
  
3. Have you already instructed an attorney? If so,
  - (a) Attorney's name
  - (b) Attorney's address
  - (c) Date upon which you instructed him
  - (d) Have you agreed to pay the attorney any fee?
  
4. The following documents are attached
  - (a) Copy charges/indictment
  - (b) Statement means form
  
5. Do you intend to plead guilty or not guilty to all or any of the charges?

I hereby apply for the grant of criminal legal aid in respect of the charges mentioned above on the grounds that I do not have the financial means to pay the cost of obtaining legal advice and representation.

I hereby certify that the information contained in the attached statement of means is true, accurate and complete.

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

## Form No. 2

## LEGAL AID RULES 1997

## Statement of Means

## 1. Personal details

Name:  Age: Address: Marital status:  Married  Single  Divorced

## 2. Details of children:

Name	Age
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

## 3. Details of other dependents:

Name	Relationship
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

## 4. Details of employment:

Employer's name: Employer's Address: Your Job Specification: Amount of Wages:  Work Permit No.

5. If unemployed:

Reason for unemployment:

Amount of pension (if any):

6. Details of land owned:

Registration details:	Registration Section	Block	Parcel
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Estimated value:  Amount of Mortgage

7. Details of savings:

Name of bank:

Account Nos:  Balance:

8. Details of monthly expenses:

Mortgage instalments:	<input type="text"/>
Rent:	<input type="text"/>
Utilities:	<input type="text"/>
Maintenance Orders:	<input type="text"/>
Loan instalments:	<input type="text"/>

9. Other relevant information:

A separate sheet may be used if necessary.

I declare that the details contained in this statement of means are true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

Form No. 3

LEGAL AID RULES 1997

Application for Civil Legal Aid

1. Name

2. Address

3. Have you already instructed an attorney? If so, state -

- (a) Attorney's name
- (b) Attorney's address
- (c) Date upon which you instructed him
- (d) Have you agreed to pay the attorney any fee?

4. State full particulars of the proceedings which you intend to bring or which have been brought against you.

- (a) Cause No.
- (b) Opposing Parties
- (c) Nature of Proceedings

5. The following documents are attached

- (a) Documents served on me by the Plaintiff/Applicant (if any)
- (b) A statement setting out the basis of my claim/defence
- (c) An attorney's opinion (if any)
- (d) Statement means

I hereby apply for civil legal aid to enable me to pursue the claim/defend the proceedings (**delete as applicable**) described above on the grounds that my case has merit and I do not have the financial means to obtain legal advice and representation. I hereby certify that the information contained in the attached statement of means is true, accurate and complete.

\_\_\_\_\_  
Applicant's signature

\_\_\_\_\_  
Date

**Form No. 4**

**LEGAL AID RULES 1997**

**Criminal Legal Aid Certificate**

1. Name

2. Address

3. Offenses (Specify below the Scheduled Offenses to which the certificate relates by reference to the charge numbers and/or the indictment number and the relevant counts in the indictment)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Attorneys

I hereby certify that the above mentioned person is entitled to obtain legal advice and representation in respect of the scheduled offenses specified above with effect from (specify the effective date which may not be earlier than the date upon which the applicant first instructed the attorney).

\_\_\_\_\_  
Judge/Magistrate

\_\_\_\_\_  
Date



**CRIMINAL LEGAL AID CERTIFICATE****NOTES FOR THE GUIDANCE OF ASSISTED PERSONS**

## 1. Attorney

The Certificate specifies the attorney whom the assisted person is authorised to instruct. The assisted person may not instruct any other attorney without the Court's consent.

## 2. Proceedings

The Certificate specifies the charges in respect of which the assisted person is authorised to obtain legal advice and representation. The assisted person may not seek advice about other charges without first obtaining the Court's consent.

## 3. Contributions

If convicted of any of the charges specified in the certificate, the assisted person may be ordered to pay a contribution towards the cost of his legal representation.

## 4. Bail Applications

This certificate enables the assisted person to be represented on one bail application only unless with prior leave of the Court.

## 5. "Mentions"

This certificate does not authorise the assisted person to instruct an attorney to appear when his case is merely "mentioned" in Court.

## 6. Effective Date

This is the date from which the certificate is effective and may be backdated to the date upon which the assisted persons first instructed his attorney.

**Form No. 5**

**LEGAL AID RULES 1997**

**Civil Legal Aid Certificate**

1.	Name	<input type="text"/>
2.	Address	<input type="text"/>
3.	Attorney (See Note 1)	<input type="text"/>
4.	Proceedings (see Note 2)	<hr/> <hr/> <hr/> <hr/> <hr/>
5.	Conditions (See Note 3)	<input type="text"/>
6.	Effective Date (See Note 4)	<input type="text"/>

I hereby certify that the above mentioned person is authorised to seek and obtain legal advice and representation in respect of the proceedings or intended proceedings described above, subject to the limitations and conditions specified above.

\_\_\_\_\_  
Judge of the Grand Court

\_\_\_\_\_  
Date

## **CIVIL LEGAL AID CERTIFICATE**

### **NOTES FOR THE GUIDANCE OF ASSISTED PERSONS**

1. **Attorney**

The Certificate specifies the attorney whom the assisted person is authorised too instruct. The assisted person may not instruct any other attorney without the Court's consent.

2. **Proceedings**

The Certificate specifies the proceedings or intended proceedings in respect of which the assisted person is authorised to obtain legal advice and representation. The assisted person may not seek advice about, commence or defence any other causes of action or proceedings without first obtaining the Court's consent.

3. **Conditions**

The Certificate specifies the limitations upon the assisted person's authority to seek legal advice and representation and the conditions, as to contributions and other matters, with which he must comply. Contributions may be expressed as a fixed sum or a percentage of the total cost or a combination of both and may be payable by means of a lump sum or by instalments.

4. **Effective Date**

This is the date from which the certificate is effective and may be backdated to the date upon which the assisted persons first instructed his attorney.

**Form No. 6**

**LEGAL AID RULES 1997**

**Bill of Costs**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: \_\_\_\_ OF 19

[TITLE OF PROCEEDING]

Bill of Costs  
to be Taxed Pursuant to The Legal Aid Rules 1997

Date	Item	Amount Claimed		Amount Allowed	
	Instructions on behalf of [state name] pursuant to a legal aid certificate dated [state date]  [Set out a general description of the proceedings, the cause of action and the outcome.]  [Then set out each item of work, the date on which it was done and the time engaged.]  <p style="text-align: center;">TOTAL CLAIMED:</p> Signature of Attorney:  <p style="text-align: center;">TOTAL ALLOWED</p> Signature of Taxing Officer:				

DATED this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_

**LEGAL AID TAXATION****NOTES FOR THE GUIDANCE OF ATTORNEYS**

1. Every bill of cost must be in Form No. 6. It must specify the legal aid certificate to which it relates; it must be stated in CI dollars; and it must be signed by the attorney named in the certificate or a partner of the firm named in the certificate. Any disbursement incurred in a foreign currency must be translated into CI dollars.
2. The introduction to the bill of costs should describe the nature of the proceedings and include a short summary of the plaintiff's cause of action, the defendant's case and the final outcome. The purpose of the introduction is to provide the taxing officer with a proper understanding of the proceeding without having to read the court file.
3. The main part of the bill of costs should comprise a detailed description of each item of work done; the date upon which it was done and the amount of attorney time expended in doing the work. Time spent by paralegals, secretaries and messengers is not chargeable. Such time is considered to be part of the attorney's overheads and is reflected in the hourly rate for work done by attorneys.
4. The applicable time unit is either 15 minutes for those attorneys using a manual time recording and accounting systems or 6 minutes for those attorneys using computerised time recording and accounting systems.
5. Whenever the item of work comprises the preparation or review of any pleading, affidavit or other document on the court file, it must be clearly described so that the taxing officer can easily identify it.
6. Time waiting at court in excess of an hour will normally be disallowed.
7. It is the duty of attorneys to maintain client files, timesheets and accounting records in a way which will enable them to produce a bill of costs expeditiously and economically. Time spent by attorneys in preparing a bill of costs will normally be allowed at half the hourly rate specified in rule 17.
8. Attorneys must be prepared to verify the content of bills of costs by reference to client files, timesheets and accounting records. All claims for disbursements, except telephone calls and photocopying charges, must be supported by receipts. Attorneys must be prepared to produce telephone bills if required to do so by the taxing officer.

**GRAND COURT PRACTICE DIRECTION NO. 2/97**

**Register of Judgments and Register of Writs, etc.**

**(GCR 0.63, rr.7 and 8)**

1. GCR Order 63, rr.7 and 8 provide for the establishment of a register of judgments containing an office copy of every final judgment made or treated as having been made in open court and a register of writs and other originating process containing office copies of every writ, originating summons, originating motion or petition issued by the court. These registers are open to public inspection upon payment of the prescribed fees.
2. The registers were created on 1<sup>st</sup> June, 1995 and contain office copies of judgments given and originating process issued only after that date.
3. Any person wishing to obtain a copy of any judgment given in open court or any originating process issued prior to 1<sup>st</sup> June, 1995 should make application by letter addressed to the Clerk of the Court. Such application should specify the full title and cause number of the action in question. The Clerk of the Court will then arrange for copies to be obtained from the relevant court files as soon thereafter as is reasonably possible.

MADE this 9<sup>th</sup> day of April, 1997.

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Hon. George Harre, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 3/97****Confidentiality and Publication of Chamber's Proceedings**

In the absence of local rules, the Cayman Islands practice for the reporting of proceedings heard in chambers is to be found in the English Administration of Justice Act 1960, s.12, with the addition of the provisions of this direction. Section 12 reads:

"(1) The publication of information relating to proceedings before any court sitting in private shall not itself be contempt of court except in the following cases, that is to say –

- (a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
- (b) where the proceedings are brought under Part VIII of the Mental Health Act, 1959, or under any provision of that Act authorising an application or reference to be made to a Mental Health Review Tribunal or to a county court;
- (c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;
- (d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;
- (e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published.

(2) Without prejudice to the foregoing subsection, the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.

(3) In this section references to a court include references to a judge and to a tribunal and to any person exercising the functions of a court, a judge or a tribunal; and references to a court sitting in private include references to a court sitting in camera or in chambers.

(4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be so punishable apart from this section."

In view of the sensitivity of many proceedings now routinely being brought in the commercial or civil jurisdiction of the Grand Court, the parties involved in any matters taken in chambers about which information might be published but for an express prohibition, are to be at liberty to apply for an order against or delimiting publication.

Once the publication is made, it will then be in the discretion of the judge in the particular case to determine the ambit of publication. The publication of information relating to proceedings taken in chambers will not then of itself be a contempt of court unless it is contrary to the guidelines set out herein or contrary to a direction made by the judge in the case.

The form below should be submitted by counsel prior to and certainly no later than the occasion of the delivery of the written ruling or judgment in any case in which the issue arises. It is preferable that the application be submitted in advance, particularly when a matter is pending decision, so that it may be reflected in the order, ruling or judgment.

The use of the form will avoid the need for any separate application by way of summons in the cause. Notice of the submission of the form is to be given to all sides. Unless it is necessary that counsel be heard in person (e.g. if any other party objects) the application may be submitted with written reasons, to be considered by the judge administratively and the decision notified in writing.

11<sup>th</sup> August 1997

The Hon. Anthony Smellie, QC  
Chief Justice



**APPLICATION TO RESTRICT THE PUBLICATION OF  
A RULING, ORDER OR JUDGMENT GIVEN *IN CAMERA***

1. Full title of cause or matter:

.....

2. Name of party on whose behalf the issue of confidentiality is to be raised:

.....

3. Name of counsel or attorney:

.....

4. Order, ruling or judgment to be considered (already given or to be given – describe by reference to the instant pleading):

.....

5. Suggested restrictions, changes or redactions:

.....

.....

(Signature of counsel)

Dated: .....

File by: .....

NOTE: Brief written reasons for the proposed restrictions on publication are to be submitted with this form.

**GRAND COURT PRACTICE DIRECTION NO. 1/98**

**(GCR O.1, r.12)**

**Short Summons List**

1. The procedure for entering matters in the Short Summons List will now be as follows:
  - The Short Summons List will be held each Thursday.
  - The diary will be kept in the Court office and will be available to attorneys to enter cases. The entry of summonses should be by closing time on Thursday the week prior to listing, include the case number, parties, nature of summons, attorneys involved and time estimate. Documents are to be filed with the Court before listing.
  - The list will commence at 2:15 p.m. and up to 10 short matters (20 minutes and under) may be listed. All short matters should be listed for 2:15 p.m.
  - Matters estimated to last over 20 minutes but not more than 30 minutes should be listed at 3:30 p.m. and up to 1 hour may be listed.

DATED this 26<sup>th</sup> day of July, 1998.

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Hon. Henry Graham,  
Acting Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 1/99****(GCR O.1, r.12)****Filing Documents in Court****1 Application and Commencement**

- 1.1 This practice direction applies to all proceedings to which the Grand Court Rules have general application by virtue of O.1, r.2 and to all winding up proceedings.
- 1.2 It does not apply to-
  - 1.2.1 proceedings governed by the Matrimonial Causes Rules 1986 as amended;
  - 1.2.2 proceedings governed by the Grand Court (Bankruptcy) Rules 1977 as amended; and
  - 1.2.3 appeals from civil proceedings in the Summary Court.
- 1.3 This practice direction shall come into force on 1<sup>st</sup> March, 1999 (“the Commencement Date”).

**2 Introduction**

- 2.1 The Grand Court (Civil Procedure) Rules 1976 specifically required that all pleadings be filed. Although there was no similar requirement for affidavits and other documents to be filed, it became the established practice for all pleadings, affidavits, notices, lists and other documents to be filed whether or not they were actually used by the Court.
- 2.2 The rules relating to filing were materially changed with effect from 1<sup>st</sup> June, 1995, but the pre-existing practice has continued with the result that the Court office is accumulating a large volume of documents unnecessarily. The Grand Court Rules 1995 required that the following documents shall be issued by or filed with the Court-
  - 2.2.1 writs, originating summonses, originating motions and petitions (O.5, r.1);
  - 2.2.2 third party notices (O.5, r.1 and O.16, r.3);
  - 2.2.3 acknowledgements of service (O.12, r.4);
  - 2.2.4 interlocutory summonses and notices of motion (O.32, r.2);
  - 2.2.5 affidavits (including the exhibits) which are actually used in court (O.41, r.9);
  - 2.2.6 judgements and orders (O.42, r.5);

- 2.2.7 applications for default judgements (O.42, r.6);
  - 2.2.8 writs of execution (O.46, r.6);
  - 2.2.9 notices of change, appointment, etc. of attorney (O.67, r.8).
- 2.3 No other documents are required to be filed, although it is the established practice to file all pleadings. GCR O.18 has been amended to require pleadings to be filed within 14 days after service.
- 2.4 The procedure for issuing writs (including writs of execution) and other forms of originating and interlocutory process involves filing an original document signed by or on behalf of the plaintiff or applicant. The procedure for drawing up and perfecting judgements and orders also involves filing an original document signed by the judge or stamped with a facsimile of the judge's signature. Acknowledgements of service and notices of change, etc. are required to be filed because they constitute notice both to the Court and to the parties. Affidavits only require to be filed if and when they are *used* in a cause or matter.
- 2.5 With effect from the Commencement Date, the practice relating to filing will be brought into line with the Rules as follows.

### 3 New Practice

- 3.1 **Pleadings.** The new GCR O.18 now requires that all pleadings be filed within 14 days after service. Pleadings are defined to mean statements of claim, defences, replies, counterclaims, defences to counterclaims, pleadings subsequent to reply (which may only be served with leave) and particulars of pleadings (but not the requests for particulars). It should be noted that the term "pleadings" does not include generally endorsed writs, summonses, motions or petitions, all of which do require to be filed as part of the procedure whereby they are issued. A writ which is specially endorsed with a statement of claim does constitute a pleading and requires to be filed as part of the procedure for issuing the writ.
- 3.2 **Discovery.** GCR O.24 requires that lists of documents, notices to produce documents, affidavits verifying lists, etc. shall be served. It does not require that any such documents shall be filed.
- 3.3 **Interrogatories.** Interrogatories and affidavits containing answers to interrogatories served in accordance with GCR O.26 shall not be filed.
- 3.4 **Evidence for trial.** The parties to actions commenced by writ are required or permitted by various rules to prepare and exchange written evidence in advance of the trial. GCR O.38 provides for the exchange of witness statements, expert reports and affidavits. GCR O.38 Part II comprises a code relating to the admission of hearsay evidence which involves the service of notices and counter-notices. GCR O.39 makes provision for evidence to be taken by

deposition. No witness statements, affidavits, reports, depositions or notices served pursuant to these rules are required to be filed.

### 3.5 **Affidavits.**

3.5.1 Whether or not affidavits are required to be filed depends upon the purpose for which they are served. GCR O.41, r.9 provides that every affidavit *used* in a cause or matter must be filed. An affidavit is only *used* within the meaning of this rule when it is read by the judge and constitutes part of the evidential basis upon which a judgement is given or an order is made. Affidavits which are sworn in compliance with orders (e.g., affidavits verifying lists of documents and affidavits made in compliance with asset disclosure orders) are required to be served but should not be filed because they are not intended to be used by the Court.

3.5.2 Whilst copies of affidavits sworn in connection with interlocutory applications are required to be served, the original affidavits are only required to be filed in accordance with GCR O.41, r.9 if the application is in fact contested with the result that such affidavits are read by the judge and constitute part of the evidential basis upon which the order is made. It follows that original affidavits need not be filed in advance of the hearing.

3.5.3 Written statements of evidence, whether in the form of affidavits, witness statements or depositions, intended to be used in evidence at trial are only required to be filed in the event that a trial takes place and such documents are in fact admitted in evidence. Since the vast majority of actions are settled, such documents should not be filed in anticipation of a trial taking place.

3.5.4 GCR O.41, r.9(2) requires that the exhibits to affidavits should *not* be filed. Copy exhibits need to be served and made available to the Judge in advance of the hearing but the original exhibits should be kept by the party's attorney and are not required to be filed.

3.6 **Originating Summons Procedure.** Affidavits sworn in compliance with GCR O.28 are required to be filed.

3.7 **Petition and Originating Notice of Motion Procedure.** Affidavits sworn in connection with petitions and originating (but not interlocutory) notices of motion require to be filed.

3.8 **Payment into Court.** Notices relating to payment into court and acceptance of funds in court served pursuant to GCR O.22, rr.3 and 4 shall not be filed. Lodgement and payment schedules require to be delivered to the Court Funds Office but are not required to be filed on the Court file.

- 3.9 **Voluntary Filing is not Permitted.** With effect from the Commencement Date, the Clerk of the Court will not accept for filing any document which is not required to be filed under the Rules.

4 **Preparing Interlocutory Applications and Trials**

- 4.1 When preparing an interlocutory application, it shall be the duty of the applicant's attorney, after consultation with the attorneys for the other parties, to prepare and deliver to the relevant judge's secretary a bundle containing copies of all those pleadings, affidavits, etc. which are relevant to the application. Unless the application is both short and straightforward, such bundles should normally be delivered in advance of the hearing, preferably by the Thursday of the previous week. In the event that the hearing is vacated for whatever reason, the judge's bundle will be returned to the applicant's attorney and there will be no requirement for any part of it to be filed. In the event that the hearing takes place, the judge's bundle will be returned to the applicant's attorney after the judge has made his order, but it shall be the duty of the parties' attorneys to file the originals of those affidavits read by the judge.

5 **Correspondence Between Attorneys.**

- 5.1 Correspondence between the parties' attorneys should never be copied to the Court and will not be placed on court files.
- 5.2 Any such correspondence received by the Clerk of the Court will be destroyed.

6 **Authorities**

- 6.1 Lists of authorities and/or bundles of copy authorities should be agreed between the parties' attorneys and sent to the Judge's secretary in advance of the hearing.
- 6.2 Neither lists of authorities nor bundles of copy authorities should be filed.

**DATED** this 28<sup>th</sup> day of January, 1999.

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Honourable Anthony Smellie, QC  
Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 2/99**

**(GCR O.1, r.12)**

**Drawing Up and Filing of Judgments and Orders**

**(GCR O.42, r.5(4) and (5))**

1. Every judgment or order should be *dated* with the date upon which it was made. A judgment or order is made when the judge pronounces it.
2. The attorney responsible for drawing up a judgment or order should include the date upon which it was made in the draft which is presented for signature. Unsigned draft orders must be not be sealed.
3. The date upon which a judgment or order is *filed* is the date upon which it is signed. After having been signed the judgment or order will be sealed with the Court seal and the date of filing will be inserted either by the judge himself or a court official.

**MADE** this 28<sup>th</sup> day of January, 1999.

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The Hon. Anthony Smellie, QC, Chief Justice

**GRAND COURT PRACTICE DIRECTION NO. 3/99****SHORT SUMMONS LIST****(GCR 0.1, r.12)**

1. This practice direction supersedes and replaces practice directions 1/95 and 1/98, and takes effect from 1<sup>st</sup> March, 1999.
2. A judge will sit in chambers every Thursday morning commencing 9:00am to hear short interlocutory summonses. There will be no assigned time slots. An attorney need not be present at 9:00am but should appear by at least 10:00am if he expects his application to be heard. The chambers judge will hear short summonses continuously, in the order he chooses, normally beginning with the shortest applications. There is no limit to the number of short summonses that may be listed for a particular day; a judge may adjourn at 1:00 and reconvene at 2:15pm if the list is sufficiently long.
3. No application expected to last more than 20 minutes should be placed on the short summons list. Short summonses will normally be consent, ex parte, or unopposed matters. The chambers judge will not hear matters involving viva voce evidence (such as judgment debtor examinations) or lengthy affidavits, or applications for injunctive relief. The Listing Officer at her discretion may list straightforward and short (under 30 minutes) contested procedural matters but these will normally be heard nearer the end of the list. Matters not properly on the short summons list may be adjourned by the judge.
4. Summonses and affidavits (without exhibits) must be filed in the Registry in the normal way, and the matter listed in the Listing Officer's diary. If attorneys comply with filing requirements and deliver a summons bundle (with all relevant material) to the judge's secretary by Monday at 5:00pm, the short summons may be heard the following Thursday.
5. Attorneys are reminded in particular of the Rules changes in respect of applications for judgment debtor examinations, default judgments and reinstatement of companies.

Dated this 8<sup>th</sup> day of February, 1999.

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Hon. A. Smellie, Chief Justice



**GRAND COURT PRACTICE DIRECTION NO. 4/99****INDICTMENTS****1. Application and Commencement**

- 1.1 This practice direction applies to all committals for trial to the Grand Court in accordance with Part V of the Criminal Procedure Code (Law 13 of 1975) (the "Code").
- 1.2 This practice direction shall come into force on 1<sup>st</sup> June 1999 (the "commencement date")

**2. Introduction**

- 2.1 Section 106 of the Code requires that a signed indictment be filed in the office of the Grand Court.
- 2.2 The code specifies that a copy of the indictment shall be served on the accused at least three days before the day of the trial. There are no directions in the Code to specify when the indictment shall be filed.

**3. New Practice**

- 3.1 This Practice Direction requires that all indictments with the exception of those specified in paragraph 3.2 shall be filed in the office of the Clerk of the Court within seven days of the date of committal for trial.
- 3.2 Where the prosecution are unable to file an indictment within the seven days specified in paragraph 3.1 it shall be the duty of the prosecution to bring this to the attention of the Listing Officer of the Grand Court within seven days of the date of committal for trial. The Listing Officer will then fix a mention date for a judge to give directions.

**4. Plea & Direction Forms**

- 4.1 As a consequence of the above, plea and direction forms are to be filed by the defence within seven days of the filing of the indictment.

Dated this 26<sup>th</sup> day of June 1999

Anthony Smellie, QC  
Chief Justice

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**PRACTICE DIRECTION NO. 5/99**

In accordance with Rule 5 of the Legal Aid Rules 1997 an Affidavit of Means in the Form attached will be required of applicants for Legal Aid. Effective immediately, this Form of Affidavit of Means will be required in substitution for the Statement of Means prescribed by Practice Direction 1/97 issued on 1 April 1997.

Copies of the Form of Affidavit of Means may be obtained from the Courts Office.

Anthony Smellie  
Chief Justice

27<sup>th</sup> October 1999

**LEGAL AID RULES 1997**

**Affidavit of Means**

I \_\_\_\_\_ of \_\_\_\_\_  
Make oath and say as follows:

The following details are a true statement of my financial means and I understand that it is an offence under the Poor Persons (Legal Aid) Law punishable by imprisonment or a fine to make a false statement.

1. Personal Details:

Name: \_\_\_\_\_ Age: \_\_\_\_\_

Address: \_\_\_\_\_

Marital status: Married / Single / Divorced / Separated

2. Details of Children:

Name	Age

3. Details of other dependents:

Name	Relationship

4. Details of Employment:

Employer's name: \_\_\_\_\_

Employer's address: \_\_\_\_\_

Nature of employment: \_\_\_\_\_

4. (continued)

Amount of wages CI\$ \_\_\_\_\_ Per week/month/year

Overtime/bonus/gratuities CI\$ \_\_\_\_\_ Per week/month/year

Work Permit Number \_\_\_\_\_

5. Details of other employment:

Employer's name: \_\_\_\_\_

Employer's address: \_\_\_\_\_

Nature of employment: \_\_\_\_\_

Amount of wages CI\$ \_\_\_\_\_ Per week/month/year

Overtime/bonus/gratuities CI\$ \_\_\_\_\_ Per week/month/year

Work Permit Number \_\_\_\_\_

6. I enclose proof of my earnings and saving accounts.

7. I am unemployed for the following reasons

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My prospect of obtaining employment is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Details of other income (examples are affiliation/maintenance/property rental/self employment/pension):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Details of savings/checking accounts:

Name of bank or other account	Account number	Balance

10. Details of land owned:

Registration Section	Block	Parcel	Estimated Balance	Mortgage Balance

11. I have no other form of income or property.

12. Details of monthly expenses:

Mortgage/rent	CI\$
Utilities	CI\$
Maintenance Payments	CI\$
Loan Payments	CI\$
	CI\$
	CI\$
	CI\$

13. Any other relevant information (A separate sheet may be used if necessary):

Sworn to at George Town, Grand Cayman )  
 this day of )  
 1999 before me )  
 ) \_\_\_\_\_

\_\_\_\_\_  
 Justice of the Peace

**GRAND COURT PRACTICE DIRECTION NO. 1/00****(GCR O.1, r.12)****LISTING FORMS****1 Application and Commencement**

1.1 This practice direction applies to-

- a. all interlocutory applications made in any action begun by a writ or originating summons;
- b. all applications governed by the Matrimonial Causes Rules, 1986 As Amended, except for undefended divorce petitions;
- c. all applications made in connection with bankruptcy and winding up proceedings, except for the hearing of a creditor's winding up petition;
- d. the trial of all actions begun by originating summons;
- e. the trial of all applications for judicial review, applications for writs of habeus corpus and appeals to the Grand Court governed by GCR O.55 and 56; and
- f. any other application (not being one specified in paragraph 1.2) in respect of which the Listing Officer requires a Listing Form to be completed.

1.2 This practice direction shall not apply to-

- a. the trial of actions begun by writ in respect of which GCR O.34 continues to apply;
- b. undefended divorce petitions;
- c. creditor's winding up petitions;
- d. applications for leave to appeal to the Court of Appeal;
- e. appeals from the Summary Court; and
- f. applications under Section 4 of the Confidential Relationships (Preservation) Law (1995 Revision).

1.3 This practice direction shall come into force on 3<sup>rd</sup> January, 2000.

**2 Introduction**

2.1 The position of “Listing Officer” was created to ensure efficient use of court time. The Listing Officer’s ability to carry out this function is directly related to the information provided by attorneys regarding their cases. When case information is incomplete, listing difficulties arise.

**3 New Practice**

3.1 As a consequence of the above, all requests for court dates must be accompanied by a completed Listing Form.

**4 Listing Form**

4.1 The Listing Form shall be in Practice Form 1/00.

4.2 In the case of any ex-parte application or any proceeding begun by petition, the Listing Form shall be completed by the attorneys acting for the applicant or petitioner as the case may be.

4.3 In the case of any interparties application or the trial of any originating summons in respect of which the respondent has filed a notice of intention to defend, the listing form shall be completed and signed by the attorneys acting for both the applicant and all the respondents.

Dated this \_\_\_\_\_ day of December, 1999.

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The Hon. Chief Justice Anthony Smellie

## IN THE GRAND COURT OF THE CAYMAN ISLANDS

GRAND COURT PRACTICE FORM NO. 1/00  
(GCR O.1, r.12)LISTING FORM

<b>Title of Proceeding:</b>	<b>Cause No.:</b>
<b>Applicant(s) and Attorney(s):</b>	<b>Respondent(s) and Attorney(s):</b>
<b>Is a particular Judge seized of the matter:</b>	<b>Type of application and Rule of Law pursuant to which it is brought:</b>
<b>Brief description of the substance of the application:</b>	<b>Legal issues to be argued:</b>
<b>Material filed to date:</b>	<b>Full description of the nature and extent of affidavit and other material (including authorities) that will be delivered to the Judge in advance of the hearing:</b>
<b>Has an order for cross-examination on affidavits made been/is an application for leave to be made?</b>	<b>Joint opinion of all participating attorneys as to reasonable length of the hearing:</b>
<b>Prospects of settlement before hearing:</b>	

Note: If a Judge upon reading the material filed is of the view that the attorney(s) has misrepresented the nature and/or length of an application, he may vacate it from the list.



**PRACTICE DIRECTION No. 1/2001****(GCR O.1, r.12)****GUIDELINES RELATING TO THE TAXATION OF COSTS****(GCR O.62, r. 17)****1. Introduction**

- 1.1 These Guidelines are made pursuant to GCR Order 62, rule 17 and are intended to be a comprehensive code relating to the procedure in respect of taxation; the form and content of bills of costs; and the nature and amount of fees, charges, disbursements, expenses, or remuneration which may be allowed on taxation.
- 1.2 These Guidelines have no application to bills of costs relating to work done before 1<sup>st</sup> January 2002, ("the Commencement Date") which will be taxed in accordance with the schedule to the Grand Court (Taxation of Costs) Rules 1995.
- 1.3 Where an order for costs relates to work done both before and after the Commencement Date, it will normally be appropriate to prepare two separate bills of costs.
- 1.4 Words and expressions used in these Guidelines shall have the meaning ascribed to them by GCR O.1, r.7 and GCR O.62, r.3 as the case may be.
- 1.5 These Guidelines apply both to taxations on the standard basis and taxations on the indemnity basis. The only distinction between a taxation on this basis is (a) the difference in the burden of proof and (b) the application of maximum hourly rates for attorneys fees in the case of taxations on the standard basis.

**2. Structure of a bill of costs**

- 2.1 A bill of costs should distinguish between legal fees and disbursements.
- 2.2 A bill of costs may be drawn up in CI\$ or US\$ (referred to as "the currency of the bill"). Costs incurred in any other currency must be translated into the currency of the bill at the exchange rate ruling on the date of the bill. The CI\$/US\$ exchange ratio is fixed at 0.82.
- 2.3 The bill should contain an introduction which describes the nature of the litigation sufficient to enable the taxing officer to gain a proper understanding of it without necessarily having to read the pleadings, evidence or judgments.

- 2.4 The work done and disbursements incurred should be itemised and set out chronologically.
- 2.5 The lawyers engaged should be identified sufficiently to enable the taxing officer to determine the appropriate hourly rate(s) for work done by each of them.
- 2.6 Each item of work done should be described. The number of hours worked on each item by each lawyer or paralegal should be stated, together with the applicable hourly rates.
- 2.7 The bill should be divided into five columns as follows:
  - (a) Column 1 should contain the item number.
  - (b) Column 2 should contain a description of each item of work arranged chronologically; the date(s) on which or period(s) during which it was done; the identity of the person(s) doing the work; the time spent; and the applicable hourly rates.
  - (c) Column 3 should contain the total amount claimed in respect of the item.
  - (d) Column 4 is for use by the paying party and should be left blank.
  - (e) Column 5 is for use by the taxing officer and should be left blank.
- 2.8 When the item comprises a disbursement it should be described in Column 2 and the amount claimed should be stated in Column 3.
- 2.9 Whenever possible, the paying party's response should be summarised in Column 4. The word "Agreed" should be inserted to indicate that the item and the amount claimed in respect of it are agreed in all respects. "Not agreed" shall be taken to mean that the item should be disallowed in toto. The paying party may insert a lower dollar amount to indicate that the amount claimed should be reduced because the time spent is excessive and/or the hourly rate(s) is excessive.
- 2.10 A brief explanation of the paying party's objection should be included in Column 4.
- 2.11 Where appropriate, the paying party should explain or elaborate upon his objection by a separate statement in writing.
- 2.12 The taxing officer will insert in Column 5 the amount allowed in respect of each item.
- 2.13 The successful party's bill of costs must contain a declaration signed by his attorney to the effect that

- (a) the bill is accurate and complete; and
- (b) the amount sought in the bill does not exceed the successful party's incurred costs.

2.14 Having completed Column 4, the paying party's attorney must also sign the bill of costs.

2.15 Wherever possible, copies of bills of costs should be served in the form of a computer disk or by e-mail.

### **3. Procedure for serving and lodging bills of costs**

3.1 The successful party must serve his bill of costs on the paying party personally or upon his attorney.

3.2 Where more than one party is liable jointly or severally to pay the whole or part of the costs, a copy of the bill of costs shall be served on every paying party.

3.3 Unless the bill of costs is exceptionally long or complex, the paying party should complete Column 4 and return it to the successful party within 21 days.

3.4 Unless the total amount payable is agreed, the successful party must lodge the bill of costs for taxation within 14 days of receiving it back from the paying party.

3.5 If the paying party fails to respond within 21 days or such longer period as may be agreed between the parties or allowed by the taxing officer, the successful party may apply for a default costs certificate.

3.6 The paying party may not participate in a taxation unless and until he has completed Column 4 of the bill of costs.

### **4. Procedure on taxation**

4.1 A taxation shall be inquisitorial in nature.

4.2 The taxing officer shall control the procedure applicable to each taxation which will not necessarily involve any oral hearing.

4.3 The taxing officer will investigate each item in the bill of costs unless it is agreed and determine what amount, if any, shall be allowed in respect of it.

4.4 If the paying party has failed to complete Column 4 of the bill of costs or failed to respond to any particular item within the prescribed time limit, the taxing officer will proceed to taxation on the assumption that the bill or particular item, as the case may be, is "Agreed".

- 4.5 The taxing officer will require the successful party to justify each item in whatever way appears to him to be appropriate. The successful party may be required to give an oral explanation and/or make written submissions and/or produce supporting documents of the kind referred to in rule 30(3).
- 4.6 For the purposes of justifying a bill of costs no distinction is to be drawn between work done by foreign lawyers and that done by local attorneys. Original files belonging to foreign lawyers must be produced if required by the taxing officer, failing which the amount claimed will be disallowed.
- 4.7 The taxing officer may require the production of files or individual documents which are privileged, but he should not disclose them to the paying party.
- 4.8 The taxing officer will require the paying party to justify his objections to the bill of costs in whatever way appears to him to be appropriate. The paying party may be required to explain his objections in writing and/or make oral submissions to the taxing officer.
- 4.9 The successful party will be required to produce to the taxing officer and disclose to the paying party all necessary invoices and receipts in respect of the disbursements claimed in the bill of costs. The successful party may also be required to produce the actual invoices rendered by his attorney and foreign lawyers and to reconcile the amount claimed in bill of costs with the amount specified in the invoices.

## **5. Procedure for Taxation of Costs Payable out of a Fund**

- 5.1 When the costs of a trustee, personal representative or official liquidator are ordered to be paid out of a fund and taxed on the indemnity basis, the Bill of Costs should be prepared in accordance with Section 2 of these Guidelines.
- 5.2 The Bill of Costs should be served on the person (if any) designated for this purpose, such as a representative beneficiary in the case of costs payable out of a trust fund or the creditors' committee in the case of costs payable out of the assets of an insolvent company.
- 5.3 In cases where the trustee, personal representative or official liquidator is required to serve his Bill of Costs, he may apply for a default costs certificate or a certificate for costs in an agreed amount as may be appropriate .
- 5.4 In any other case, the trustee personal representative or official liquidator must make an application for taxation, in which case the procedure contained in Section 4 of these Guidelines will apply.

## **6. Disbursements**

- 6.1 An expense may be claimed as a disbursement on taxation if:
- (a) it was reasonably and properly incurred by the successful party's attorney in the course of conducting the proceedings; and
  - (b) it is not an expense of a kind which is customarily included in the overheads reflected in attorney's hourly rates and is therefore deemed to be reflected in the hourly rates charged by the successful party's attorney.
- 6.2 The amount claimed in respect of any disbursement shall not exceed the actual amount paid by the successful party who may be required to produce a receipt or other documents evidencing the amount paid.
- 6.3 Notwithstanding paragraphs 6.1 and 6.2 above, the following sums may be claimed as disbursements:
- (a) photocopying charges - up to 50¢ per page;
  - (b) printing charges - up to 50¢ per page;
  - (c) telephone and fax charges - the amount of the call charge plus a mark up not exceeding 20%;
  - (d) transcripts produced by court reporters - up to CI\$3.50 per page.
- 6.4 Legal fees paid to foreign lawyers cannot be claimed as disbursements unless the foreign lawyer is engaged to give an opinion on a point of foreign law which is in issue in the proceedings.
- 6.5 Admission fees and work permit fees paid in respect of foreign lawyers are not recoverable on taxation on the basis that such expenses are part of the overheads reflected in the foreign lawyer's hourly rates.
- 6.6 Work permit fees paid in respect of expert witnesses are recoverable.

## **7. Attorney's fees**

- 7.1 The amount of attorney's fees allowable on taxation on the standard basis shall be determined on the basis of time spent. The unit of time used in a bill of costs may be  $\frac{1}{10}$  hour or  $\frac{1}{4}$  hour.

- 7.2 Amounts claimed on the basis of brief fees, refreshers, lump sums, percentages, conditional fee agreements, contingency agreements or any basis other than hourly rates will be disallowed.
- 7.3 In the case of taxations on the standard basis, the hourly rates to be applied will be determined on the basis of the post qualification experience of the persons engaged as follows:

<b>More than 15 years</b>	<b>Up to CI\$300 or US\$365</b>
Between 10 and 15 years	Up to CI\$275 or US\$335
Between 5 and 10 years	Up to CI\$250 or US\$305
Less than 5 years	Up to CI\$150 or US\$185
Articled Clerks and Paralegals	UP to CI\$ 90 or US\$110

These are maximum rates. The taxing officer may, in the exercise of his discretion, determine that lower rates are appropriate in any particular case. The number of years post-qualification experience shall be reckoned from the date upon which the attorney was first admitted to practice as a professional lawyer either in the Cayman Islands or elsewhere. Queen's Counsel shall be treated as attorneys having more than 15 years post qualification experience.

- 7.4 In the case of taxations on the indemnity basis, the hourly rate or scale of rates will be that agreed between the attorney and his client provided that such rate or scale is not unreasonable. The mere fact that the agreed rate is higher than the maximum rate(s) allowable on a taxation on the standard basis shall not be regarded as evidence that it is unreasonable.
- 7.5 In determining the amount allowable in respect of each item in a bill of costs the taxing officer shall have regard to both the experience of the person undertaking the work and the nature of the work undertaken. For example, work done by an attorney of more than 15 years experience which could equally well have been done by a paralegal or junior attorney will be allowed at the appropriate lower hourly rate. However, the taxing officer will take into account that routine tasks done by paralegals and junior attorneys need to be directed and supervised by experienced attorneys.
- 7.6 Work done by articled clerks or trainees is not recoverable on taxation unless it is work of a kind which would normally be done by paralegals.
- 7.7 The cost of routine typing and file maintenance done by secretaries comprises part of the overheads reflected in the hourly rates for attorneys and is therefore not recoverable on taxation.
- 7.8 The cost of organising, cataloguing and filing documents for the purposes of discovery, inspection and/or trial is recoverable on taxation.

**8. Work done by persons other than attorneys**

- 8.1 Legal work done by "in-house counsel" who are in the employment of the successful party is not normally recoverable on taxation. It will only be recoverable if the successful party can satisfy the taxing officer that it is work of a kind which would otherwise be done by outside lawyers. For example, the work involved in instructing outside lawyers is not recoverable; time spent receiving and considering advice from outside lawyers is not recoverable; but time spent preparing a draft list of documents under the supervision of outside lawyers may be recoverable.
- 8.2 Investigative and other work done by non-lawyers will be recoverable on taxation only to the extent that the Court has given a direction pursuant to rule 18 that it should be allowed.

**9. Travelling and hotel expenses**

- 9.1 Reasonable travelling expenses incurred in bringing witnesses to the Islands or between the Islands shall be recoverable on taxation.
- 9.2 Reasonable expenses incurred by witnesses travelling within Grand Cayman or within Cayman Brac shall not be recoverable on taxation.
- 9.3 Reasonable hotel expenses incurred in accommodating witnesses during a hearing shall be recoverable on taxation, not exceeding US\$250 per day. Only the accommodation element of the hotel charges may be recovered.
- 9.4 Travelling and hotel expenses paid to foreign lawyers shall not be recoverable on taxation.

**10. Service of process**

- 10.1 The cost of serving process out of the jurisdiction is recoverable as a disbursement.
- 10.2 The cost of effecting personal service on an individual within the jurisdiction is recoverable at the rate specified in Schedule 3 of the Court Fees Rules 2000 whether the successful party employs the bailiff or a private process server.
- 10.3 The cost of serving process on the registered office of a company or upon a party's attorney and the cost of filing documents at court is not recoverable on the basis that the cost of employing messengers is part of the overheads reflected in the attorney's hourly rates.

Issued by The Rules Committee on the 22nd day of October, 2001.

The Hon. Anthony Smellie, .Q.C., Chief Justice  
The Hon. David Ballantyne, Attorney General  
Andrew J. Jones, Esq., Legal Practitioner  
Alden M. McLaughlin, Esq., Legal Practitioner



**PRACTICE DIRECTION No. 1/2002****(GCR O.1, r.12)****SCHEMES OF ARRANGEMENT AND COMPROMISE  
UNDER THE COMPANIES LAW, SECTION 86****(GCR O.102, r. 21)****1. Introduction**

- 1.1 This practice direction applies to all applications seeking the sanction of the Court for proposed schemes of arrangement or compromise between a company and its creditors or members (or any class of them) filed on or after 15<sup>th</sup> July, 2002, the date upon which GCR 102, r.21 comes into force.
- 1.2 The purpose of this practice direction is to explain GCR O.102, r.21 and clarify certain practices of the Court about which there was some uncertainty.

**2. Commencing proceedings**

- 2.1 The previous practice of the Court, whereby the applications for an order convening the Court meeting and the sanction of the scheme of arrangement were treated as two entirely separate proceedings, has been abolished. In future these applications will be made in the same proceeding, thus resulting in the creation of a single Court file.
- 2.2. The proceeding will be commenced by petition seeking the Court's sanction of a proposed scheme of arrangement or compromise. At the same time as filing the petition the applicant must also file an interlocutory summons for an order convening the Court meeting(s). As part of the directions given on this application, the Court will fix a date for the substantive hearing of the petition, notice of which will be given to the shareholders/creditors as part of the scheme documentation.
- 2.3 Within seven days after the Court meeting has been held, the applicant must file an affidavit sworn by the Chairman of the meeting verifying that notice was duly sent in accordance with the order for directions; that the meeting was duly held; and giving particulars of the result. In the event that the scheme was not approved, the applicant will also formally ask for the petition to be dismissed. In the event that the scheme was approved, the substantive hearing of the petition will take place on the pre-determined date. In most cases it should be unnecessary to file any further evidence.

### **3. Matters to be determined at the first Hearing**

- 3.1 The first hearing (on the interlocutory summons for an order to convene the Court meeting) will normally be heard *ex parte*, but practitioners should consider giving notice in cases where it is practical to do so.
- 3.2 In every case the Court will consider whether it is appropriate to convene class meetings and, if so, the composition of the classes. It follows that the supporting affidavit must contain all such information as may be necessary to enable the Court to make this determination. Unless the case is a plain and obvious one, the applicant's counsel should provide the Court with a skeleton argument addressing the relevant issues.
- 3.3 The Court will consider whether the proposed time and place of the Court meeting(s) and the method of giving notice is appropriate in all the circumstances. The test is whether the parties having the economic interest, which is typically not the registered holder of the shares or debt instruments, will have sufficient time in which to consider the scheme documentation and make an informed decision. Where necessary, the Court should be provided with evidence of the "shareholder/creditor profile". In cases where the relevant shares or debt instruments are listed on a stock exchange, the Court must be provided with all necessary evidence upon which to satisfy itself that the proposed notice period and method of giving notice will comply with the applicable rules.
- 3.4 The applicant must satisfy the Court that the scheme documentation will provide the shareholder/creditor (which for this purpose means the person having the ultimate economic interest) with all the information reasonably necessary to enable them to make an informed decision about the merits of the proposed scheme. Since this application will typically be made *ex parte*, the applicant's counsel must draw the Court's attention to any aspects of the explanatory memorandum or proxy statement which might arguably depart from best practice.
- 3.5 If the proposed scheme relates to shares or debt instruments which are listed on a stock exchange, the applicant must file evidence which sets out the relevant listing rules and practice and explains the steps which have been or will be taken to comply with such listing rules or practice. The Court will always require to know whether the proposed explanatory memorandum or proxy statement requires the approval of the relevant stock exchange and, if so, whether such approval has been obtained.
- 3.6 If one of the proposed class meetings consists of a small number of persons who are all willing to be bound by the terms of the scheme, the Court may, in its discretion, waive the requirement for a formal class meeting to be held of that particular class if the evidence before it at the first hearing shows that all of the particular members in question consent to be bound by the terms of the scheme.

#### **4. "Looking through the Register"**

- 4.1 GCR O.102, r.21(6) confirms the existing practice of the Court which is to "look through the Register" in appropriate cases for the purpose of determining whether or not the statutory majorities have been achieved.
- 4.2 In the past there has been some uncertainty about the way in which the Court will interpret and apply the statutory provisions in cases where the whole or substantially the whole of the relevant shares are registered with custodians or clearing houses such as Euroclear and Clearstream Luxemburg (previously known as Cedel). In the case of schemes involving creditors, similar uncertainty has arisen in cases where the scheme relates to a global note and where the whole of the debt instruments are registered with a single trustee. In such cases the Court will "look through the register" for the purpose of determining whether or not the statutory majorities have been achieved and any necessary directions for this purpose will be given at the hearing of the interlocutory summons.
- 4.3 For example, the Court may direct that the custodian be permitted to vote both for and against the scheme in accordance with the instructions received from its clients and proxy forms should be prepared accordingly. In such cases the scheme documentation should include a form of voting instructions for use by custodians.
- 4.4 Custodians and clearing houses may be required to specify both the number of clients or members from whom they have received instructions in addition to the number of shares voted. The majority in number will be calculated on the basis of the number of clients or members giving instructions to the custodian or clearing house. The Court understands that both Euroclear and Clearstream Luxembourg are content to proceed in this way. In cases involving other custodians or clearing houses, the Court will require evidence that the custodian or clearing house is willing and able to give effect to the Court's directions.

#### **5. Hearing the Petition**

- 5.1 The substantive hearing of the petition will take place in open Court.
- 5.2 The date for the substantive hearing of the petition will be fixed at or before the hearing of the interlocutory summons for a direction convening the Court meeting.

- 5.3 Notice of the hearing date should be included in the scheme documentation, thus avoiding any subsequent need to publish advertisements. The explanatory memorandum or proxy statement should draw attention to the fact that shareholders or creditors will have the right to attend and be heard on the hearing of the petition.
- 5.4 GCR O.102, r.21(10) provides that any person who voted at the Court meeting and any person who gave voting instructions to a custodian or clearing house who voted at the Court meeting, shall be entitled to be heard on the petition. In addition, the Court may be prepared to hear any other person whom it is satisfied has a substantial economic interest in the shares or debt instruments to which the scheme relates.

**6. Miscellaneous**

- 6.1 The Court is prepared in appropriate cases to direct that Court meetings be held outside the Cayman Islands.
- 6.2 Relevant extracts from the company's memorandum and articles of association should be exhibited to the supporting affidavit. It is not necessary to exhibit the whole of the memorandum and articles of association in every case.

Dated this 4<sup>th</sup> day of July, 2002.

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The Hon. Anthony Smellie, QC, Chief Justice

**PRACTICE DIRECTION No. 1/2003****(GCR O.1, r.12)****OFFICIAL LIQUIDATORS  
SECURITY FOR THE DUE PERFORMANCE OF THEIR DUTIES**

1. Section 106 of the Companies Law (2003 Revision) provides that upon appointing a person to the office of liquidator, the Court may also determine whether and what security is to be given by him.
2. Hitherto, it has been the practice of the Court to take judicial notice of the fact that the firms of which liquidators are partners or employees maintain appropriate professional indemnity insurance applicable to the performance of their duties. For this reason, it has not been the practice of the Court to require liquidators to give security on a case by case basis.
3. With effect from the date of this practice direction, every firm whose partners or employees are or seek to be appointed as liquidators shall file with the Clerk of the Court written confirmation that they are covered by professional indemnity insurance (up to a limit of at least US\$10 million each and every claim) applicable to performance of their duties as liquidators.
4. Such confirmation shall be filed with the Court within 28 days of the date of this practice direction and thereafter annually in January each year.
5. Nothing in this practice direction shall prevent the Court in an appropriate case from making an order that an liquidator shall -
  - (a) produce evidence that he is covered by professional indemnity insurance up to a limit in excess of US\$10 million; or
  - (b) procure the issue of a security bond to cover acts of fraud or dishonesty committed by the liquidator or any of his staff.
6. In this practice direction references to "liquidator" shall include both official liquidators and provisional liquidators.

Dated this 4<sup>th</sup> day of August, 2003.

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The Hon. Anthony Smellie, QC, Chief Justice