

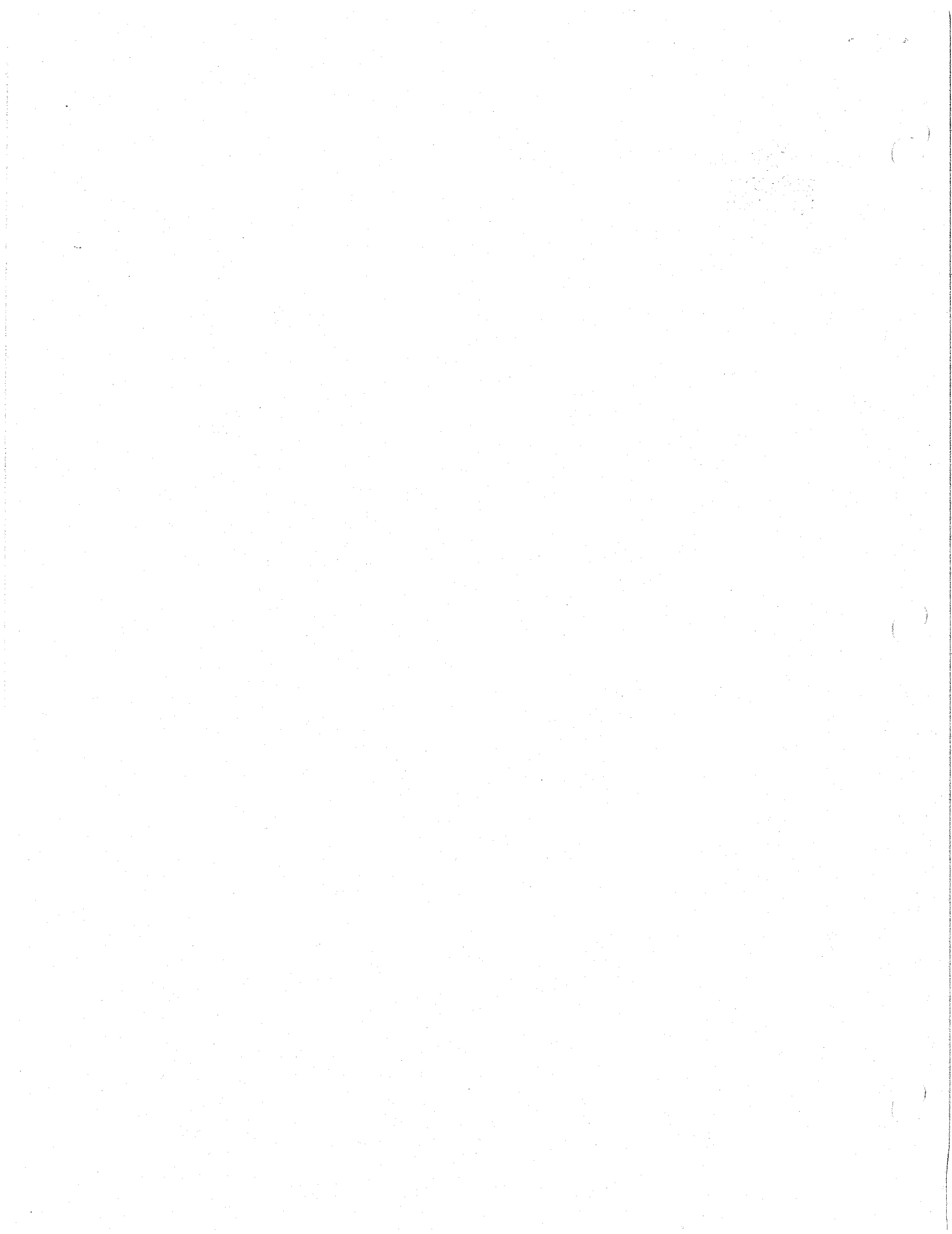
CAYMAN ISLANDS



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THE GRAND COURT LAW (1995 REVISION)

THE GRAND COURT (AMENDMENT) RULES 2000



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These Rules are made by the Rules Committee pursuant to Section 19(3)(d) of the Grand Court Law (1995 Revision).

1. Citation, commencement and interpretation

(1) These Rules shall be cited as the Grand Court (Amendment) Rules 2000.

(2) (a) These Rules shall come into operation on the 1st day of April, 2000, referred to in this rules as the "Commencement Date".

(b) These Rules shall apply to every proceeding which is pending or commenced in the Court on or after the Commencement Date.

(3) Words and expressions in these Rules which are also used in the Grand Court Rules 1995 shall have the same meaning in these Rules as in the Grand Court Rules 1995.

2. Revocation and Replacement of Order 42

GCR Order 42 is hereby revoked and replaced by the order contained in Schedule 1 hereto.

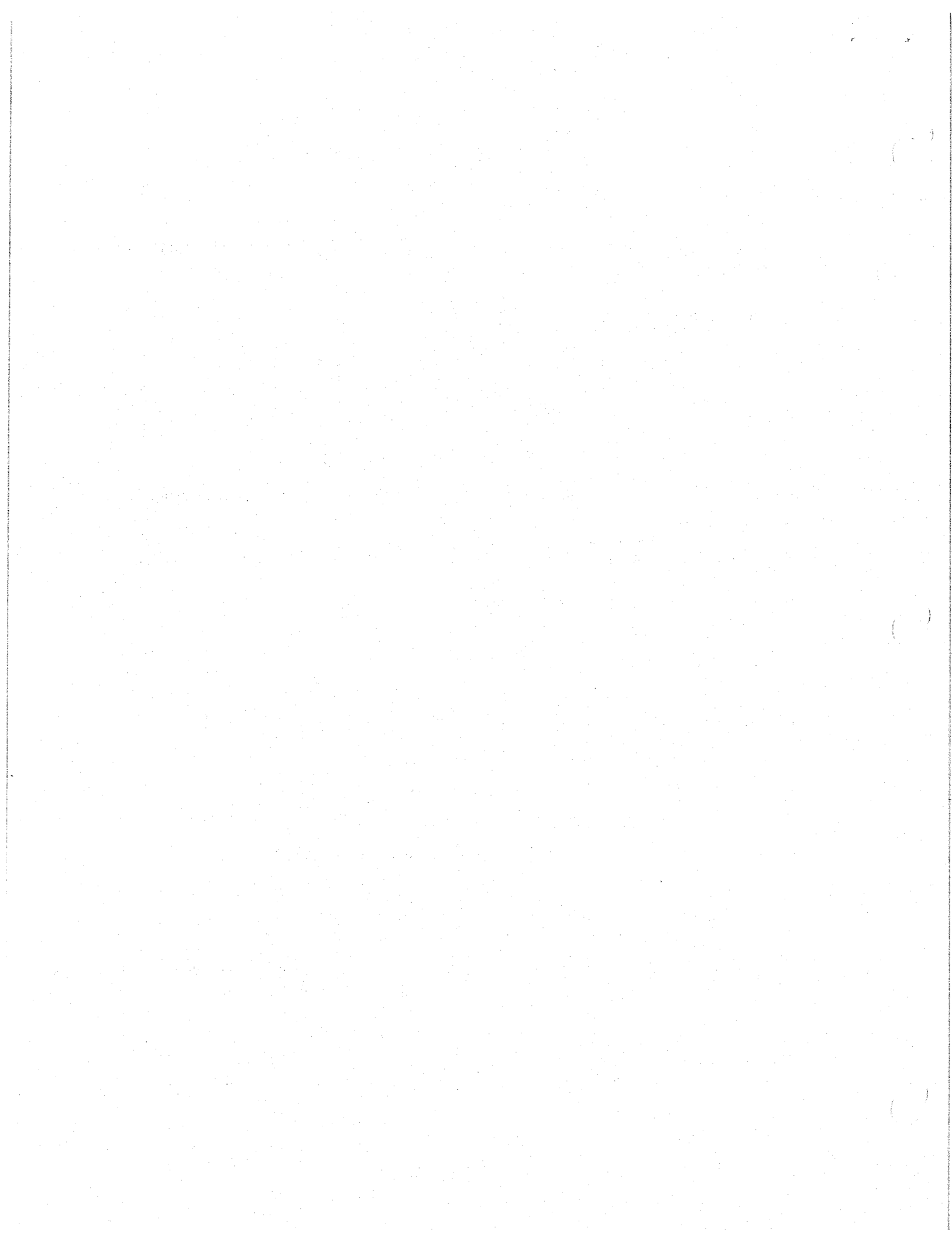
MADE by the Rules Committee on the 3rd day of March, 2000.

The Hon. Anthony Smellie QC
Chief Justice

The Hon. David Ballantyne
Attorney General

Andrew J. Jones, Esq.
Legal Practitioner

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SCHEDULE 1

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Order 42 Judgments and Orders

Explanatory Note

1. GCR O.42 is being re-stated in order to correct certain internal inconsistencies and drafting errors. The amendment is not intended to make any substantive changes.
2. Subscribers to the Gazette should remove page numbers 1 to 36 (Index) and 209-215A (Order 42) from their ring binders and substitute the pages contained in the schedules to these Rules.

THE GRAND COURT LAW (1995 REVISION)

THE GRAND COURT RULES, 1995

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ORDER 42**JUDGMENTS AND ORDERS****Form of judgment, etc. (O.42, r.1)**

1. - (1) Every judgment or order made by a Judge shall contain the following information in addition to its operative parts -

- (a) the name of the Judge who made it;
- (b) whether it was made in open Court or in Chambers;
- (c) the date from which it takes effect;
- (d) the date upon which it was filed;
- (e) the summons, notice or other application in respect of which it was made;
- (f) the identity of those parties who appeared and those who did not appear and in the case of those who appeared, whether they appeared in person or by an attorney;
- (g) except in the case of a judgment given in the trial of an action begun by writ, a statement of the affidavits read and witnesses who gave oral evidence;
- (h) if it was made upon any undertaking given by any party or parties, the full terms of such undertaking or undertakings; and
- (i) at the foot of its last page, the name and address of the party by whom it was drawn up and presented for filing.

(2) If, in the case of any judgment, a form thereof is prescribed by Appendix I the judgment must be in that form.

(3) Every judgment or order to which this rule applies must be signed by a Judge.

(4) This rule shall not apply to-

- (a) consent judgments or orders to which rule 5A applies;

- (b) default judgments or orders to which rule 6 applies; and
- (c) any other order which the Clerk of the Court is authorised to sign.

No rule (O.42, r.1A)

Judgment, etc., requiring act to be done: time for doing it (O.42, r.2)

2. - (1) Subject to paragraph (2), a judgment or order which requires a person to do an act must specify the time after service of the judgment or order, or some other time, within which the act is to be done.

(2) Where the act which any person is required by any judgment or order to do is to pay money to some other person, give possession of any land or deliver any goods, a time within which the act is to be done need not be specified in the judgment or order by virtue of paragraph (1) but the foregoing provision shall not affect the power of the Court to specify such a time and to adjudge or order accordingly.

Date from which judgment or order takes effect (O.42, r.3)

3. - (1) Subject to the provisions of rule 3A, a judgment or order of the Court takes effect from the day of its date.

(2) Such judgment or order shall be dated as of the day on which it is pronounced, given or made, unless the Court orders it to be dated as of some earlier or later day, in which case it shall be dated as of that other day.

(3) Whenever any judgment or order is drawn up and filed after the date upon which it is pronounced, given or made, it shall bear the date of filing in addition to the date upon which it was pronounced, given or made.

(4) It shall be the duty of the attorney drawing up a judgment or order to include in it the date upon which it was pronounced, given or made and it shall be the duty of the Clerk of the Court to include in it the date of filing.

Judgment against a State (O.42, r.3A)

- 3A. - When a judgment on failure to acknowledge service has been entered against a State, as defined in Section 14 of the State Immunity Act 1978, the judgment shall not take effect until 2 months after service on the State of -

- (a) a copy of the judgment; and
- (b) a copy of the affidavit in support of the application for leave to enter judgment, unless one has already been served pursuant to a direction under Order 13, rule 7A(4).

Orders required to be drawn up (O.42, r.4)

4. - (1) Subject to paragraph (2), every order of the Court shall be drawn up and filed unless the Court otherwise directs.

(2) An order -

(a) which -

- (i) extends the period within which a person is required or authorised by these Rules, or by any judgment, order or direction, to do any act; or
- (ii) grants leave for the doing of any of the acts mentioned in paragraph (3); and

(b) which neither imposes any special terms nor includes any special directions other than a direction as to costs,

need not be drawn up and filed unless the Court otherwise directs.

(3) The acts referred to in subparagraph (2)(a)(ii) are -

- (a) the issue of any writ, other than a writ for service out of the jurisdiction;
- (b) the amendment of a writ or other originating process or a pleading;
- (c) the filing of any document;
- (d) any act to be done by the Clerk of the Court.

Drawing up and filing of judgments and orders (O.42, r.5)

5. - (1) The party seeking to have any judgment or order filed must draw up the judgment or order and present it to the Clerk of the Court together with the number of copies required by paragraph (8) or (9), as the case may be.

(2) In the event that any judgment or order requires that any money be paid into or out of Court, the party seeking to have it filed must also draw up the necessary lodgment or payment schedule in accordance with Order 92, rule 10, and present it to the Clerk of the Court at the same time as presenting the judgment or order.

(3) It shall be the duty of the Clerk of the Court to provide at the request of any party a copy of any minute of order.

(4) A party presenting a judgment or order for filing (other than one in default or by consent) must identify to the Clerk of the Court the relevant cause number.

(5) Where more than one party has appeared in a proceeding in which a judgment or order has been made and all those parties are represented by attorneys, the attorney for the successful party shall draw up the judgment or order and circulate it to the attorneys for the other parties who shall indorse it "approved as to form and content".

(6) Upon being presented with a judgment or order complying with rule 5A or rule 6 or indorsed in accordance with paragraph (5), the Clerk of the Court shall sign it and file it by sealing it and placing it on the Court file.

(7) Upon being presented with an ex-parte order or an interparties order which has not been indorsed in accordance with paragraph (5), the Clerk of the Court shall present it to the judge for signature.

(8) The Clerk of the Court shall notify the party who drew up the judgment or order when it has been filed and shall provide such party with as many sealed copies as he may require upon payment of the prescribed fee.

(9) A party seeking to file a final judgment or order or a default judgment shall provide the Clerk of the Court with at least three copies, two of which shall be retained for filing.

(10) A party seeking to file an interlocutory judgment or order other than a final one shall provide the Clerk of the Court with at least two copies, one of which shall be retained for filing.

(11) An office copy of every judgment or order of the kind specified in paragraph (9) shall be placed by the Clerk of the Court on the Register of Judgments maintained in accordance with Order 63, rule 7.

Consent judgments and orders (O.42, r.5A)

5A.- (1) Subject to paragraphs (2), (3) and (4), where all the parties to a cause or matter are agreed upon the terms in which a judgment should be given or an order should be

made, a judgment or order in such terms may be given effect as a judgment or order of the Court by the procedure provided in rule 5 without the need for any party to appear before a Judge.

(2) This rule applies to any judgment or order which consists of one or more of the following -

- (a) any judgment or order for -
 - (i) the payment of liquidated sum, or damages to be assessed, or the value of goods to be assessed;
 - (ii) the delivery up of goods, with or without the option of paying the value of the goods to be assessed, or the agreed value; or
 - (iii) the possession of land;
- (b) any order for -
 - (i) the dismissal, discontinuance or withdrawal of any proceedings, wholly or in part;
 - (ii) the stay of proceedings, either unconditionally or upon conditions as to the payment of money;
 - (iii) the stay of proceedings upon terms which are scheduled to the order but which are not otherwise part of it (a "Tomlin order");
 - (iv) the stay of enforcement of a judgment, either unconditionally or upon condition that money due under judgment is paid by instalments specified in the order;
 - (v) the setting aside of a judgment in default;
 - (vi) the payment out of money in Court;
 - (vii) the discharge from liability of any party; or
 - (viii) the payment, taxation or waiver of costs, or such other provision for costs as may be agreed;
- (c) any order, to be included in a judgment or order to which the preceding subparagraphs apply, for -

- (i) the extension of the period required for the service or filing of any pleading or other document;
- (ii) the withdrawal of the record; or
- (iii) liberty to apply, or to restore.

(3) Before any judgment, or order to which this rule applies may be filed, it must be drawn up in terms agreed and entitled "Consent Order" and it must be indorsed by attorneys acting for each of the parties.

(4) This rule shall not apply to any judgment or order in proceedings in which any of the parties is a litigant in person or a person under disability.

Default judgments (O.42, r.6)

6. - (1) A party seeking to have a default judgment entered pursuant to Order 13 or Order 19 shall make an application to the Clerk of the Court in Form No. 20 of Appendix I referred to in this rule as an "application for default judgment".

(2) An application for default judgment shall be accompanied by a draft of the judgment sought together with such number of copies specified in rule 5(9).

(3) When an application for default judgment has been filed the Court file shall be deemed to be closed and no notice of intention to defend, pleading, summons or other document shall be filed until after the default judgment has been made or, if the application for default judgment is found to be irregular, until after it has been rejected.

(4) Upon receipt of an application for default judgment the Clerk of the Court shall -

- (a) if it appears to him that the requirements of Order 13 or Order 19 have been met, sign the judgment and file it in accordance with rule 5(6) and notify the applicant in accordance with rule 5(8); or
- (b) if it appears to him that the requirements of Order 13 or Order 19 have not been met or that it is otherwise irregular, indorse the application to the effect that it is irregular specifying his reason, whereupon the Court file shall be deemed to be open and he shall return the notice of application for default judgment to the applicant.

(5) Any notice of intention to defend or pleading which purports to have been filed whilst the Court file is closed pursuant to paragraph (3) shall be deemed to be a nullity, unless the application for default judgment is rejected, whereupon it shall be deemed to have been filed on the date of such rejection.

(6) A party seeking to file -

- (a) a judgment or order made in open Court including such a judgment or order made by consent; or
- (b) a default judgment; or
- (c) a judgment or order made in Chambers which by the direction of the Judge pursuant to Order 32, rule 27 or by the consent of all the parties noted thereon is to be filed on the Register of Judgments under Order 63, rule 7(1),

shall provide the Clerk of the Court with at least three copies, two of which shall be retained for filing.

(7) A party seeking to file a judgment or order made in Chambers other than such a judgment or order referred to in subparagraph (6)(c) shall provide the Clerk of the Court with at least two copies, one of which shall be retained for filing.

Original and office copies of judgments etc. (O.42, r.7)

7. -
- (1) The original of any judgment or order is that which bears the Judge's or Clerk of the Court's signature as the case may be and shall be filed on the Court file.
 - (2) An office copy of any judgment or order is one which bears the official facsimile of the signature of the Judge or Clerk of the Court who signed the original.
 - (3) The Clerk of the Court may issue any number of office copies.
 - (4) Both original and office copies of judgments and orders must be sealed with the Court seal.
 - (5) A duplicate original of any judgment or order may be signed only if the Judge or Clerk of the Court considers that there is some special reason for doing so.

Judgments given in foreign currencies (O.42, r.8)

8. -
- (1) Every judgment providing for payment of any sum of money shall specify the currency or currencies in which judgment is given.

(2) A judgment expressed only in "dollars" or "\$" shall be deemed to mean Cayman Islands dollars.

Application in respect of orders of the Privy Council (O.42, r.9)

9. - An application to make an order of the Privy Council an order of the Grand Court may be made ex parte by affidavit to the Court.