

CAYMAN ISLANDS

The Cayman Islands Administration of Justice Law

(Cap 421)

The Grand Court Rules, 1965

WHEREAS it appears expedient that Rules of Court should be made for the Grand Court of the Cayman Islands to regulate proceedings before the Court in connection with -

- (1) Disposition of matters in Chambers;
- (2) Applications for an order of Mandamus, an order of Prohibition or an order of Certiorari;
- (3) Applications for the issue of a writ of Habeas Corpus;
- (4) Proceedings for attachment for contempt of Court in the cases specified hereafter.

I, GEOFFREY JONAS HORSFALL, Judge of the Grand Court of the Cayman Islands under the powers vested in me by Sections 38 40 (3) and 85 of the Cayman Islands Administration of Justice Law and all other powers hereunto me enabling and with the approval of the Administrator in Executive Council, do hereby make the following Rules of Court:-

Cap. 421

1. These Rules may be cited as the Grand Court Rules, 1965, and shall come into operation on 1st July, 1965.

Short title and commencement.

Disposition of matters in Chambers.

2. The Judge of the Grand Court shall have discretion to hear and determine in Chambers any matter other than the trial of an action within the jurisdiction of the Court which he may deem more convenient for disposal in Chambers rather than in Court, and nothing in the Law or the Rules of the Resident Magistrate's Court of Jamaica shall limit or detract from the exercise of such discretion.

Discretion to Judge to hear matters in Chambers or in Court.

3. (1) The following proceedings (in addition to any other proceeding directed by this Law or by any other Law to be so heard) shall be heard by the Judge of the

Proceedings to be heard by the Judge of the Grand Court.

## Grand Court:-

- (a) applications for an order of mandamus, an order of prohibition or an order of certiorari;
  - (b) applications for the issue of a writ of habeas corpus;
  - (c) proceedings for attachment for contempt of court in cases specified hereafter in this Title.
- (2) No order nisi, rule nisi or summons to show cause shall be made, granted or issued in any proceedings to which this Title relates.

## Mandamus, Prohibition and Certiorari.

Application  
not to be made  
without leave.

4. (1) No application for an order of mandamus, prohibition or certiorari shall be made unless leave therefor has been granted in accordance with this section.

(2) An application for such leave as aforesaid shall be made ex parte to the Judge in Chambers, and shall be accompanied by a statement setting out the name and description of the applicant, the relief sought and the grounds on which it is sought, and by affidavit verifying the facts relied on. The Judge may, in granting leave, impose such terms as to costs and as to giving security as he thinks fit.

(3) The applicant shall file the application for leave not later than the preceding day in the office of the Clerk of the Court and shall lodge with it copies of the statement and affidavits.

(4) The Judge may at any time on ex parte application shorten or extend the time required for the doing of anything under these Rules.

(5) The grant of leave under this section to apply for an order of prohibition or an order of certiorari shall, if the Judge so directs operate as a stay of the proceedings in question until the Judge otherwise orders.

(6) Where an application for leave under these Rules is refused by the Judge in Chamber the applicant may appeal to the Court of Appeal by notice of motion which

shall be made within eight days after the decision appealed against, or if no Court to which such appeal can be made shall sit within such eight days, then on the first day on which such Court may be sitting after the expiration of such eight days. Such appeal shall be no stay of proceedings unless the Judge shall otherwise order.

5. Leave shall not be granted to apply for an order of certiorari to remove any judgment, order, conviction or other proceeding for the purpose of its being quashed, unless the application for leave is made not later than six months after the date of the proceeding or such shorter period as may be prescribed by any enactment; and where the proceeding is subject to appeal and a time is limited by law for the bringing of the appeal, the Judge may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

Times for applying for certiorari in certain cases.

6. (1) Where leave has been granted to apply for an order of mandamus, prohibition or certiorari, the application shall be made by notice of motion to the Judge of the Grand Court; and there shall, unless the Judge granting leave has otherwise directed, be at least eight clear days between the service of the notice of motion or summons and the day named therein for the hearing.

Application to be by notice of motion or summons.

(2) Unless the notice or summons is filed and served within fourteen days after leave has been granted, the leave shall lapse.

(3) The notice or summons shall be served on all persons directly affected, and where it relates to any proceedings in or before a court and the object is either to compel the court or an officer thereof to do any act in relation to the proceedings or to quash them or any order made therein, the notice of motion or summons shall be served on the Clerk of the Court and the other parties to the proceedings.

(4) Where any application is made for an Order of Prohibition addressed to any Stipendiary Magistrate's Court or to any Court of Petty Sessions, the Stipendiary

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Magistrate or the Justice of the Peace shall not be served with notice thereof and shall not, except by order of the Judge of the Grand Court -

- (a) be required to appear or be heard thereof; or
- (b) be liable to any order for the payment of the cost thereof.

(5) An affidavit stating the names and addresses of, and the place and date of service on, all persons who have been served with the notice or motion or summons shall be filed before the notice or summons is put in the list for hearing, and if any person who ought to be served under the provisions of subsection (3) hereof has not been served, the affidavit shall state that fact and the reason why service has not been effected, and the affidavit shall be before the Court on the hearing of the motion or summons.

(6) If on the hearing of the motion or summons the Judge is of opinion that any person who ought to have been served therewith has not been served, whether or not he is a person who ought to have been served under the foregoing provisions of this section, the Judge, in order that the notice or summons may be served on that person, may adjourn the hearing upon such terms (if any) as the Judge may direct.

Statements  
and affidavits.

7. (1) Copies of the statement and of any affidavits accompanying the application for leave shall be served with the notice of motion or summons, and no grounds shall, subject as hereafter in this section provided, be relied upon, or any relief sought, at the hearing of the motion or summons except the grounds and relief set out in the said statement.

(2) The Judge may on the hearing of the motion or summons allow the said statement to be amended, and may allow further affidavits to be used if they deal with new matter arising out of the affidavits of any other party to the application, and where the applicant intends to ask leave to amend his statement or use further affidavits, he shall give notice of his intention and of any proposed amendment of his statement, and shall serve copies of such further affidavits on all persons directly affected.

(3) Every party to the proceedings shall serve on every other party copies of the affidavits which he proposes to use at the hearing.

8. On hearing of any such motion or summons as aforesaid, any person who desires to be heard in opposition to the motion or summons and appears to the Judge to be a proper person to be heard shall be heard, notwithstanding that he has not been served with the notice or summons; and such person shall be liable to costs in the discretion of the Judge if the order should be made.

Right to be heard in opposition.

9. (1) In the case of an application for an order of certiorari to remove any proceedings for the purpose of their being quashed, the applicant shall not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion or summons he has filed in the office of the Clerk of Court a copy thereof verified by affidavit, or accounts to the satisfaction of the Judge hearing the motion or summons for his failure to do so.

Provisions as to orders of certiorari or quash proceedings.

(2) Where an order of certiorari is made in any such case as aforesaid the order shall direct that the proceedings shall be quashed forthwith on their removal into the Grand Court.

10. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

Saving for persons acting in obedience to mandamus.

11. The provisions in these Rules relating to certiorari and prohibition shall have effect so that the Judge hearing the application for leave may in special circumstances make in the first instance an order or certiorari or prohibition, as the case may be.

In special circumstances.

### HABEAS CORPUS

12. (1) An application for a writ of habeas corpus ad subjiciendum shall be made in the first instance to the Judge of the Grand Court, except that in cases where the application is made on behalf of a child, it shall be made in the first instance to the Judge sitting otherwise than in Court.

Application for habeas corpus ad subjiciendum.

(2) The application may be made ex parte and shall be accompanied by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint:

Provided that where the person is unable owing to the restraint to make the affidavit the application shall be accompanied by an affidavit to the like effect made by some other person which shall state that the person restrained is unable to make the affidavit himself.

Power to order immediate issue of writ or to direct summons or notice of motion.

13. The Judge to whom the application is made may make an order forthwith for the writ to issue, or may in a case where the application is made to the Judge sitting otherwise than in Court, direct that a summons for the writ be issued or that an application therefore be made by notice of motion to the Judge.

Service of summons or notice; copies of affidavits.

14.(1) The summons or notices of motion shall be served on the person against whom the issue of the writ is sought and on such other persons as the Judge may direct, and, unless the Judge otherwise directs, there shall be at least eight clear days between the service of the summons or notice and the date named therein for the hearing of applications.

(2) Every party to the application shall serve on every other party copies of the affidavits which he proposes to use at the hearing of the application.

Power to order discharge or person restrained.

15. On the hearing of the application the Judge may, in his discretion, order that the person restrained be released, and the order shall be a sufficient warrant to any gaoler, constable or other person for the release of the person under restraint.

Directions as to return of writ.

16. Where the writ is ordered to issue, the Judge by whom the order is made shall give directions as to the return of the writ and every such writ shall be returnable immediately.

Service of writ and notice.

17.(1) A sealed copy of the writ shall be served personally, if possible, upon the person to whom it is directed, or if not possible or if the writ be directed to a gaoler or other public official, by leaving it with a ser-

stant or agent of the person to whom the writ is directed at the place where the prisoner is confined or restrained; and if the writ is directed to more than one person, sealed copies shall be served on each of the other persons.

(2) There shall be served or left with the sealed copy of the writ a notice stating the Judge before whom and the date on which the person restrained is to be brought, and that in default of obedience proceedings will be taken for attachment of the party disobeying.

18.(1) The return to the writ shall contain a copy of all the causes of the prisoner's detainer indorsed on or annexed to the writ, and the return may be amended, or another return substituted therefor, by leave of the Judge to whom the writ is returnable.

(2) When a return to the writ is made, the return shall first be read, and motion then made for discharging or remanding the prisoner or amending or quashing the return, and where the prisoner is brought up in accordance with the writ, his counsel shall be heard first, then the counsel for the Crown, and then one counsel for the prisoner in reply.

19. Applications for writs of habeas corpus ad testificandum or of habeas corpus ad respondendum shall be made on affidavit to the Judge in Chambers.

20. An application for an order to bring up a prisoner, otherwise than by habeas corpus, to give evidence in any cause or matter, civil or criminal, before any Court, justice or other tribunal, shall be made on affidavit to the Judge in Chambers.

Attachment for contempt.

21.(1) The procedure in applications for attachment for contempt of court in the cases to which this Title applies shall be the same as in applications for an order of mandamus and Rules 4, 6, 7 and 8 hereof shall apply accordingly to applications for attachment so far as they are applicable:

Provided that the notice of motion shall be personally served unless the Judge dispenses with such service.

(2) This Rule applies to cases where the contempt is committed -

Return to writ and procedure thereon.

Other writs of habeas corpus.

Order in lieu of habeas corpus for prisoner.

Procedure for attachment similar to procedure for mandamus.

- (a) in connection with proceedings to which this Title relates;
- (b) in connection with any other proceedings in the Grand Court, the Stipendiary Magistrate's Court, any Court of Petty Sessions or the disobedience to any Court order.

Return to writ of attachment

22. Every writ or attachment issued in a case to which Rule 21 hereof applies shall be made returnable before the Judge of the Grand Court. If a return of non est inventus is made, one or more writs may be issued on the return of the previous writ.

Abolition of interrogatories.

23. The defendant in proceedings for attachment shall not be put to answer interrogatories.

Service of documents.

24. (1) Any document required by this Title to be served on any person, not being a document required to be personally served, shall be deemed to be sufficiently served if it is left at the last known place of abode or business of that person or if it is sent by registered post addressed to him at that place, or if it is served in such other manner as the Judge may direct.

(2) Where service is effected by registered post as aforesaid it shall be deemed to be effected on the third day after the letter was handed in at a post office for posting.

Trial of issue.

25. On hearing of any motion or summons to which this Title relates, the Judge may direct any issue of fact in dispute to be referred to the Clerk of Court for his report thereon or to be tried by a Judge and jury or by a Judge alone in the same manner as other issues of fact are tried.

Issue and filing of writs.

26. (1) All writs issued in proceedings to which this Title relates shall be issued in the Office of the Clerk of Court and shall be attested in the name of the Judge of the Grand Court of the Cayman Islands and shall be filed in the said office together with the return thereto and a copy of any order made thereon.

(2) Every writ issued in the said Office shall be pre-



drawn up by the solicitor, law agent or party issuing out the writ, and shall, before being sealed, be indorsed with the name and address of the solicitor, law agent or party, and if issued out by the solicitor, law agent or party, with the name and address of the principal also.

(3) Every order to return any such writ as aforesaid shall require the return to be made within four days next after service of the order, if served, and within eight days in all other cases.

27.(1) All motions to which this Title relates shall be entered for hearing in the office of the Clerk of Court and entry shall be made when a copy of the notice of motion, and any other documents required to be lodged before entry, have been lodged in the said office.

Proceedings  
in and  
functions of  
the Clerk of  
the Court.

(2) All summonses to which this Title relates shall be issued at the said office, and all affidavits used in proceedings to which this Title relates shall be filed in the said office.

(3) All orders made by the Judge of the Grand Court in proceedings to which this Title relates shall be drawn up at the said office and a copy of every order made by the Judge in Chambers in any such proceedings shall be filed in the said office.

28. The party entering for hearing any motion to which this Title relates shall lodge in the office of the Clerk of Court copies of the proceedings for the use of the Judge.

Papers for  
Judge.

G.J. Horsfall  
JUDGE

Made this 27th day of May, 1965.

Approved by the Administrator in Executive Council this  
2nd day of June 1965.

J.A. Cumber  
ADMINISTRATOR.

Government Notice No. 73 of 1965  
Date of operation: 1st July, 1965.

