



Jersey

ROYAL COURT (AMENDMENT No. 4) RULES 2006*Made**13th November 2006**Coming into force**in accordance with Rule 2*

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the Royal Court (Jersey) Law 1948¹ and Article 17(4) of the Human Rights (Jersey) Law 2000², has made the following Rules –

1 Part 9A inserted

After Part 9 of the Royal Court Rules 2004³ there shall be inserted the following Part –

“PART 9A**HUMAN RIGHTS (JERSEY) LAW 2000****9A/1 Interpretation and application**

(1) In this Part –

“Convention right” has the same meaning as in the Law;

“declaration of incompatibility” means a declaration of incompatibility under Article 5 of the Law;

“Law” means the Human Rights (Jersey) Law 2000;

“pleading” means –

(a) an order of justice, a notice, representation, petition, application, summons or other such process; or

(b) an answer or other document lodged or served by a party as a cross-claim or in reply to a pleading mentioned in subparagraph (a) except an acknowledgement of service in a matrimonial cause.

(2) This Part applies to proceedings in any division of the Court whether original or appellate.

9A/2 Content of pleadings

- (1) A party who seeks to rely on any provision of or right arising under the Law or seeks a remedy available under the Law must state that fact in that party's pleading and in that pleading must specify –
 - (a) precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
 - (b) the relief sought;
 - (c) whether the relief sought includes –
 - (i) a declaration of incompatibility, or
 - (ii) damages in respect of a judicial act to which Article 10(3) of the Law applies;
 - (d) if the relief sought includes a declaration of incompatibility, details of the legislative provision alleged to be incompatible and the grounds on which it is alleged to be incompatible;
 - (e) if the proceedings are brought following a finding by another court or tribunal that a public authority has acted in a way which is made unlawful by Article 7(1) of the Law, details of that finding; and
 - (f) if the proceedings relate to a judicial act which is alleged to have infringed a Convention right of a party as provided by Article 10 of the Law, details of the judicial act complained of and of the court or tribunal which is alleged to have performed that act.
- (2) A party who seeks to amend a pleading to include the matters referred to in paragraph (1) must, unless the Court orders otherwise, do so as soon as possible and in any event not less than 28 days before the hearing.

9A/3 Notice and directions

- (1) The Court shall not make a declaration of incompatibility unless 21 days' notice, or such other period of notice as the Court directs, has been given to the Attorney General.
- (2) When notice has been given to the Attorney General, the Attorney General or other person permitted by the Law, shall be joined as a party on giving notice to the Court.
- (3) If a party has included in a pleading –
 - (a) a claim for a declaration of incompatibility; or
 - (b) an issue for the Court to decide which may lead to the Court considering making a declaration of incompatibility,the Court may at any time consider whether notice should be given to the Attorney General and give directions for the content and service of the notice.
- (4) If a claim is made under the Law in respect of a judicial act, notice must be given to the Attorney General and, if the Attorney General has not, within 21 days or such other period as the Court directs

after the notice is served, applied to be joined as a party, the Court shall join the Attorney General as a party.

- (5) In the case of an appeal for which leave to appeal is required, the Court shall, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (3) when deciding whether to give leave.
- (6) If paragraph (5) does not apply and a hearing for directions would, but for this Rule, be held, the Court must, unless it decides that it is appropriate to do so at another stage in the proceedings, consider the issues and give the directions referred to in paragraph (3) at the hearing for directions.
- (7) If neither paragraph (5) nor (6) applies, the Court must consider the issues and give the directions referred to in paragraph (3) when it considers it appropriate to do so, and may fix a hearing for this purpose.
- (8) If a party amends a pleading to include a claim for a declaration of incompatibility, the Court must consider whether notice should be given to the Attorney General and give directions for the content and service of the notice.
- (9) The notice given under paragraph (1) must be in the form directed by the Court and, unless the Court orders otherwise, must be accompanied by –
 - (a) the direction given by the Court; and
 - (b) the pleadings in the proceedings.
- (10) Copies of the notice given under paragraph (1) must be served on all the parties.
- (11) Unless the Court orders otherwise, the Attorney General must, if he or she wishes to be joined as a party, give to the Court and every other party notice of that intention and, if the Attorney General has nominated a person to be joined as a party, the notice must be accompanied by the written nomination.

9A/4 Evidence

- (1) This Rule applies when a claim is heard by the Court which –
 - (a) is for a remedy under Article 8 of the Law in respect of a judicial act which is alleged to have infringed the claimant's Article 5 Convention rights; and
 - (b) is based on a finding by a court or tribunal that the claimant's Convention rights have been infringed.
- (2) The Court –
 - (a) may proceed on the basis of the finding of that court or tribunal that there has been an infringement but it is not required to do so; and

- (b) may reach its own conclusion in the light of that finding and of the evidence heard by that court or tribunal.”.

2 Citation and commencement

These Rules may be cited as the Royal Court (Amendment No. 4) Rules 2006 and shall come into force on the same day as Article 17(4) of the Human Rights (Jersey) Law 2000 comes into force.

ADVOCATE P. MATTHEWS

Deputy Judicial Greffier

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- ¹ *chapter 07.770*
² *L.19/2000*
³ *chapter 07.770.72*