



Jersey

ROYAL COURT (AMENDMENT No. 7) RULES 2007**Arrangement****Rule**

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SCHEDULE**8**



Jersey

ROYAL COURT (AMENDMENT No. 7) RULES 2007

*Made**22nd October 2007**Coming into force**29th October 2007*

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

1 Interpretation

In these Rules “principal Rules” means the Royal Court Rules 2004².

2 Part 1 amended

In Rule 1/1(1) of the principal Rules the definition of “action” shall be deleted.

3 Part 3 amended

- (1) In Rule 3/1(1) of the principal Rules for the word “actions” in subparagraphs (a), (b), (c), (d) and (e) there shall be substituted the word “proceedings”.
- (2) In Rule 3/3 of the principal Rules –
 - (a) in the heading, for the word “**actions**” there shall be substituted the word “**proceedings**”;
 - (b) for the opening words “An action before” there shall be substituted the words “Proceedings before”; and
 - (c) for the words “action in vacation or the Court and the parties agree to” there shall be substituted the word “proceedings or the Court orders”.

4 Part 4 amended

In Rule 4/2 of the principal Rules –

- (a) in the heading, for the word “**Actions**” there shall be substituted the word “**Proceedings**”; and

- (b) in paragraph (1) for the words “any action” there shall be substituted the word “proceedings”.

5 Part 6 amended

- (1) In the heading to Rule 6/2 of the principal Rules for the word “action” there shall be substituted the word “proceedings”.
- (2) In Rule 6/4(2) of the principal Rules for the word “action” there shall be substituted the word “proceedings”.
- (3) In Rule 6/14 of the principal Rules –
 - (a) in paragraph (1) –
 - (i) after the words “any action” there shall be inserted the words “or representation”,
 - (ii) for the words “the proceedings” (in the 3 places they appear) there shall be substituted the words “action or representation”,
 - (b) in paragraph (2) and in paragraph (3) after the words “the action” there shall be inserted the words “or representation”;
 - (c) for paragraph (4) there shall be substituted the following paragraph –
 - “(4) Where a person seeks in an action or representation –
 - (a) relief which could have been sought by way of action or representation; and
 - (b) relief which could have been sought by way an application for judicial review,any person against whom such relief is sought may apply to the Court for an order striking out any claim relating to matters that could have been the subject of an application for judicial review and the Court shall make such an order if, having regard to all the circumstances of the case, it considers that the matter was not properly included in the action or representation or that it was not appropriate to include that claim in the action or representation rather than pursuing that claim by way of an application for judicial review.”; and
 - (d) in paragraph (5) and in paragraph (6) after the word “action” there shall be inserted the words “or representation”.
- (4) In Rule 6/20 of the principal Rules –
 - (a) in paragraph (1) for the words “any action” there shall be substituted the words “any proceedings”; and
 - (b) in paragraph (3) the words “in an action” shall be deleted.
- (5) In Rule 6/21(3) of the principal Rules, in sub-paragraph (b) –
 - (a) for the words “an action” there shall be substituted the word “proceedings”; and
 - (b) for the words “the action” there shall be substituted the words “the proceedings”.

- (6) In Rule 6/25 of the principal Rules –
- (a) for the heading there shall be substituted the heading “**Deemed withdrawal; dismissal**”;
 - (b) in paragraph (1) –
 - (i) for the words “an action has” there shall be substituted the words “proceedings have”;
 - (ii) for the words “the action” there shall be substituted the words “the proceedings”; and
 - (c) in paragraph (3) for the words “an action” there shall be substituted the words “any proceedings”.
- (7) At the end of Rule 6/26 of the principal Rules there shall be added the following paragraphs –
- “(14) A person who was a party to an action dismissed pursuant to paragraph (13) may apply to the Court for the action to be reinstated.
- (15) An application under paragraph (14) must be made by summons which –
- (a) states the grounds of the application; and
 - (b) is supported by an accompanying affidavit verifying the facts on which the application is based.
- (16) On an application under paragraph (14) the Court, if it reinstates the action, may do so on terms as to costs (including security for costs) and shall give such directions as it thinks fit as to the future course of the action.”.
- (8) At the end of Rule 6/32 of the principal Rules there shall be added the following paragraph –
- “(3) This Rule applies to the hearing of proceedings on a representation as it applies to the hearing of an action.”.
- (9) In Rule 6/33 of the principal Rules –
- (a) in paragraph (1) for the words “action before” there shall be substituted the word “proceedings before”;
 - (b) in paragraph (3) and in paragraph (4) for the words “the action” there shall be substituted the words “the proceedings”; and
 - (c) in paragraph (5) for the words “the action is” there shall be substituted the words “the proceedings are”.
- (10) After Rule 6/36 of the principal Rules there shall be inserted the following Rule –

“6/37 Procedure etc. in proceedings commenced by representation

- (1) In proceedings commenced by representation, the procedure to be followed shall be such as the Court may, in its discretion, determine in the particular case.

- (2) In the exercise of its discretion under paragraph (1), the Court may at any stage direct that any provision of these Rules governing procedure and pleadings in an action shall apply *mutatis mutandis* to the proceedings.”.

6 Part 15 amended

- (1) For paragraph (5) of Rule 15/3B of the principal Rules there shall be substituted the following paragraphs –

“(5) The respondent may, at the hearing of the appeal, appear and be heard –

- (a) by a senior officer of the Planning and Environment Department authorized by the respondent for that purpose; or
- (b) by a representative who, if not an advocate, has a relevant qualification and –
 - (i) is employed in an established post in the Law Officers Department, and
 - (ii) has been approved by the Greffier or by the Bailiff as a person appropriate to represent the respondent by reason of his or her expertise in planning law and practice.

(5A) A person has a relevant qualification for the purpose of paragraph (5)(b)(i) if he or she has been admitted –

- (a) as a solicitor (*écrivain*) of the Royal Court;
- (b) as an advocate of the Royal Court of Guernsey;
- (c) to the degree of the Utter Bar of one of the Inns of Court of England and Wales;
- (d) as a member of the Faculty of Advocates in Scotland;
- (e) as a solicitor of the Supreme Court of England and Wales;
- (f) to the Roll of Solicitors in Scotland;
- (g) as a member of the Bar of Northern Ireland; or
- (h) as a solicitor of the Supreme Court of Northern Ireland.”.

- (2) In Rule 15/3D of the principal Rules –
- (a) in paragraph (5)(b) after the words “served on the appellant” there shall be inserted the words “and on the respondent”; and
 - (b) in paragraph (6) after the words “joined as a party to the appeal” there shall be inserted the words “and the Greffier shall inform the appellant and the respondent that the applicant has been so joined”.

7 Part 20 amended

In Rule 20/4 of the principal Rules for the word “action” there shall be substituted the word “proceedings”.

8 Schedules 4 and 4A substituted

For Schedules 4 and 4A to the principal Rules there shall be substituted the Schedules so numbered set out in the Schedule (to these Rules).

9 Citation and commencement

These Rules may be cited as the Royal Court (Amendment No. 7) Rules 2007 and shall come into force 7 days after they are made.

P. MATTHEWS

Deputy Judicial Greffier

SCHEDULE

(Rule 8)

“SCHEDULE 4

(Rule 15/2(1))

**FORM OF NOTICE OF APPEAL FROM ADMINISTRATIVE
DECISION**

SCHEDULE 4A

(Rule 15/2(1))

FORM OF NOTICE OF APPEAL UNDER THE PLANNING AND BUILDING (JERSEY) LAW 2002

In the Royal Court of Jersey

Between Appellant
(full name)

And Respondent
The Minister for Planning and Environment

PART A *(to be completed by all appellants)*

TAKE NOTICE that in exercise of the right of appeal conferred by Article _____ of the Planning and Development (Jersey) Law 2002 I am appealing to the Royal Court against your decision on *(date of decision)* _____ 20 _____ to *(give details of, not reasons for, the decision)*

on the grounds that *(state grounds of appeal with sufficient particularity to make clear the nature of your case)*

AND FURTHER TAKE NOTICE that I shall apply to the Bailiff’s Secretary at [a.m.][p.m.] ¹¹ on _____ 20 _____ (which will be within 5 days of this notice having been served) to fix a time and place for the hearing on this appeal.

AND FURTHER TAKE NOTICE that I [do] [do not]¹ require an oral hearing of this appeal.

(signed)

[Appellant] [Advocate/solicitor for the appellant]¹¹ Date

The Appellant’s address for service is:

.....
.....
.....

To the above-named Respondent¹²

PART B (complete this Part **only** if you require an oral hearing of the appeal at which you do not wish to represent yourself or to have an advocate represent you)

I WISH TO APPOINT (full name of intended representative)

of (address of intended representative)

to represent me at the hearing of the appeal.

My intended representative is (delete whichever does not apply)

[a solicitor (*écrivain*) of the Royal Court] [an architect registered under the Architects (Jersey) Law 1954] [a member of the Royal Institution of Chartered Surveyors]

OR (if the intended representative is none of the above)

I APPLY for my intended representative to be approved as a person appropriate to represent me at the hearing of the appeal. My intended representative is (please specify the experience and qualifications of the intended representative in sufficient detail to enable the Court to determine whether he/she is a person appropriate to represent you at the appeal) -

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.....
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(signed)

(Appellant)

¹Delete as appropriate

²If the appeal is against the **grant** of planning permission, this notice must also be served on the person to whom the permission was granted”.

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- ¹ *chapter 07.770*
² *chapter 07.770.72*