

Important civil procedure changes in Jersey

Update prepared by Stephen Alexander (Counsel, Jersey)
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// On 1 June 2017, following a consultation and drafting process lasting several years, the Royal Rules Amendment No.20 (Amendment No.20) and related Practice Directions will come into force in Jersey. The intent of the reforms is to improve access to justice for litigants and to reduce, where possible, the risks and costs associated with litigation in Jersey. The reforms, like much of the existing Royal Court Rules 2004, reflect developments in the civil procedure process of England and Wales.

The changes introduced by Amendment No.20 include the creation of an overriding objective for the Royal Court in dealing with proceedings (which is framed in substantially similar terms to the overriding objective in the English Civil Procedure Rules and which codifies the existing practice of the Royal Court, assisted by the litigants, in dealing with cases justly and at a proportionate cost), a new regime for the exchange of costs budgets for litigation with a value below £500,000, the widening in the scope of summary judgment (extending it to permit applications to be made by a defendant against a plaintiff and modifying the test to a real prospect of success based approach), together with a range of smaller changes, including the express power to order electronic discovery and service of court process by email.

The new practice directions include a pre-action protocol practice direction (which introduces a new regime of pre-action correspondence between potential litigants, the purpose of which is to encourage exchange of information about the legal action being considered and to allow parties an opportunity to settle the claim before the commencement of proceedings), a discovery and electronic discovery practice direction (which codifies the principles and process to be applied by parties in conducting hard copy and electronic discovery), a summary costs assessment practice direction (which introduces a new process by which the Master of the Royal Court will summarily assess the costs of interlocutory hearings) and a budget practice direction (which supplements the new cost budget rule in Amendment No.20). There are additional new practice directions addressing offers to settle, expert evidence, directions hearings, placing cases on the pending list and adjourning matters by consent and requests for information.

Contact



Stephen Alexander
Counsel, Jersey
+44 1534 676 172
stephen.alexander@mourantozannes.com

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