

CAYMAN ISLANDS



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**THE GRAND COURT (APPLICATIONS  
FOR ORDERS OF MANDAMUS, PROHIBITION,  
CERTIORARI AND HABEAS CORPUS) RULES**

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PROHIBITION, CERTIORARI AND HABEAS CORPUS) RULES

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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 servant or agent of the person to whom the writ is directed at the place where the priosner 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.

16. (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.

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

18. 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.

19. The Grand Court Rules, 1965, are hereby revoked.

Made by the Rules Committee at Grand Cayman this 23rd day of March, 1977.

L.T. MOODY  
Judge

G.E. WADDINGTON  
Attorney-General

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Attorney-at-Law.

CAYMAN ISLANDS

THE GRAND COURT LAW  
(Law 8 of 1975)

THE GRAND COURT (APPLICATIONS FOR ORDERS OF MANDAMUS,  
PROHIBITION, CERTIORARI AND HABEAS CORPUS), RULES

In exercise of the powers conferred upon the Rules Committee under the provisions of section 21 of the Grand Court Law, the following Rules of Court are hereby made.

1. These Rules may be cited as the Grand Court (Applications for Orders of Mandamus, Prohibition, Certiorari and Habeas Corpus) Rules.

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

(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 Chambers 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, 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.

3. 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.

4. (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 a Judge of the Grand Court; and there shall, unless the Judge granting leave has

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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.

(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 Summary Court the Magistrate or the Justice of the Peace presiding thereover shall not be served with notice thereof and shall not, except by order of the Grand Court —

- (a) be required to appear or be heard thereon; 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 of 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 sub-rule (3) 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 rule, 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.

5. (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 rule provided, be relied upon, or any relief sought, at the hearing of the motion or summons except the grounds of 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.

Right to be heard in opposition.

6. 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.

Provisions as to orders of certiorari

7. (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

or to quash proceedings.

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.

(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.

Saving for persons acting in obedience to mandamus.

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

In special circumstances.

9. 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 of certiorari or prohibition, as the case may be.

HABEAS CORPUS

Application for habeas corpus ad subjiciendum.

10. (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.

(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.

11. 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 therefor be made by notice of motion to the Judge.

Service of summons or notice; copies of affidavits.

12. (1) The summons or notice 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 of person restrained.

13. 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.

14. 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.

15. (1) A sealed copy of the writ shall be served personally, if possible, upon