



**SUPREME COURT**  
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**CIRCULAR TO ALL CHAMBERS**

23 March 2020

Circ. 2 of 2020

**Notes on the Supreme Court (Covid-19 Contingency) Rules**

Enclosed please find Notes on the Supreme Court (Covid-19 Contingency) Rules issued by the Chief Justice.

A handwritten signature in blue ink, appearing to be 'Karl Tonna', with a long horizontal flourish extending to the right.

**KARL TONNA**  
Registrar

Enc. Notes on the Supreme Court (Covid-19 Contingency) Rules

## **Notes on the Supreme Court (Covid-19 Contingency) Rules**

- 1 These Notes seek to explain and supplement the Supreme Court (Covid-19 Contingency) Rules 2020 (“the Rules”). To the extent applicable they are also to be relied upon for the purposes of the Magistrates’ Court (Covid-19 Contingency) Rules 2020.
  
- 2.1 The Rules have been made in the context of an unprecedented and evolving situation arising from the Covid-19 pandemic. Because of the circumstances they have been drafted without the benefit of time or consultation. They have been intentionally drafted in broad terms so that they allow the Courts to operate in a way that is both flexible and resilient. Although the Registry and Public Counters have closed, the Judiciary and the Gibraltar Courts Service is committed to provide as wide a range of services as possible, the extent will evidently depend on the prevailing circumstances. The Rules provide a framework which allows for the Courts to deal with urgent matters even in the most strained of circumstances. Practitioners should bear in mind that what amounts to an “urgent” application will also depend on the prevailing circumstances.
  
- 2.2 The Rules may if necessary be subject to amendment and/or further Notes or Practice Directions may be issued. A Tab has been created in the Gibraltar Courts Service website containing all material in relation to Covid-19 contingency measures.

### **Closure of Supreme Court Registry etc.**

- 3.1 Rule 3 closes the Registry, but allows for it to be opened for limited purposes. In cases of urgency which may justify its opening, a request with a full explanation should be given to the Registrar and alternate facilities may be provided. Because the Registry is closed to the public, searches of action files may no longer be conducted. Searches of Action Books may be undertaken by emailing the Registrar with the search terms together with an undertaking to pay the fees.
  
- 3.2 The Rules vacate hearings listed during the period in which they are in force. Hearings listed for the period following the 30 days remain on the court diary, however, these

may also be vacated should the rules be extended to cover the period during which those matters are set down for hearing.

- 3.3 Only proceedings commenced prior to 17 March 2020 are automatically stayed. Evidently, if parties agree to continue to comply with pre-existing directions, for example disclosure, engaging experts or exchanging witness statements so as to progress their litigation, they may do so.
- 3.4 Applications filed since the 17 March 2020 are not automatically stayed and may only be stayed by specific order of the Court. After affording parties the opportunity to make representations, the Court may do so of its own motion.

#### **Issue of Claim forms etc.**

- 4.1 There are two principle reasons for Rule 5:
- (i) to allow for urgent applications, hence why applications filed since 17 March 2020 are not automatically stayed; and
  - (ii) to allow claims to be issued within their limitation period.
- 4.2 Lawyers must ensure that documents submitted electronically are regular and accompanied with an undertaking to pay the fees. Upon receipt, applications will in the first instance be reviewed by the Registrar and in the event of a determination that there are material irregularities will be rejected. Particular care should therefore be exercised when filing a Claim Form close to the expiry of a limitation period. The rules cannot and do not purport to extend any limitation period.
- 4.3 In the event that a party has to serve a Claim Form or other originating process, upon request and with an explanation as to why it is required, arrangements will be made for original sealed copies to be provided. A party served with a Claim Form or other originating process may liaise with the Registrar to Acknowledge Service or take any other necessary steps in the action. The Registrar may accept filing of any such document by email in pdf format.

## **Hearings**

- 5.1 Physical presence in court buildings should be kept to a minimum and, if coming to court is unavoidable, attendance should (where at all possible) be limited to advocates. If required, advocates may seek guidance from the Registrar. Telephone conference equipment may be used for applications heard by judges sitting in a court room and those proceedings will be recorded in the usual way.
- 5.2 The judiciary continues to have regard to the principle of open justice and the press will retain their pre-existing access to the courts so as to allow journalists to report on hearings.
- 5.3 If in extreme circumstances a hearing cannot be dealt with by a judge from a court room, any such application shall be heard by telephone or Skype video call. Unless specifically authorized by the judge, the provisions prohibiting recording applies to any such hearing. In the event that the hearing is not recorded the applicant shall provide a note of the hearing (if possible agreed with the opposing side) for approval by the judge.

## **Probate**

- 6.1 The Registrar will continue to receive and process urgent applications for grant of probate in simple form. In the first instance a request should be made by email to the Registrar, providing details as to why the matter has to be dealt with urgently.
- 6.2 Upon the Registrar being satisfied that the request is urgent, subject to an undertaking to pay the fees, arrangements will be made for the filing of the original documents.

## **Criminal Proceedings in the Supreme Court**

- 7 Any documents (including Indictments) may be filed by transmitting a copy in pdf format.

## **Filing of Documents**

- 8.1 The filing of any document in pdf format in accordance with the Rules shall be done by email to [urgentcontact@gcs.gov.gi](mailto:urgentcontact@gcs.gov.gi)
- 8.2 Communications with the Registrar should be undertaken through [registrar@judiciary.gi](mailto:registrar@judiciary.gi)

Anthony Dudley  
Chief Justice  
23 March 2020