



ST. HELENA

CHAPTER 9

COURTS (RULES) ORDINANCE and Related Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown

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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 9**COURTS (RULES) ORDINANCE***(Ordinances 3 of 1968 and 2 of 1989)*

AN ORDINANCE TO ENABLE THE CHIEF JUSTICE TO MAKE RULES OF COURT FOR THE SUPREME COURT AND SUBORDINATE COURTS.

Commencement*[24 January 1968]***Short title**

1. This Ordinance may be cited as the Courts (Rules) Ordinance.

Power to make rules of court

2. (1) The Chief Justice may make rules for the purpose of regulating the practice, procedure and administration of the Supreme Court and of all courts subordinate thereto.

(2) In particular and without prejudice to the generality of the power conferred by subsection (1) of this section, rules made under this Ordinance may provide for—

- (a) the powers and duties of officers of the courts;
- (b) the hours, dates and places of sittings of the courts;
- (c) the dates of vacations of the courts;
- (d) the forms to be used by and in courts, and the manner of keeping, and the custody and destruction of court records, archives and exhibits;
- (e) the issue, signature, service and enforcement of notices, summonses, warrants and other orders and documents of the courts;
- (f) the appointment and duties of court brokers and other agents of the courts, and their remuneration;
- (g) the scales of fees and charges payable to the courts in respect of proceedings;
- (h) the scales of fees or allowances payable to parties, witnesses, jurors, assessors, interpreters and other persons engaged in proceedings before the courts;
- (i) the payment, receipt, accounting and custody of fines, fees and deposits received by the courts.

(3)² Rules made under subsection (1) may prescribe and regulate the rights of audience before the courts, and may provide for licensing of advocates and prescribe the forms to be used and the fees to be paid for such licences, and may prescribe the evidence to be provided of professional qualifications; and such rules may make different provisions for applicants with different qualifications.

Provisions relating to exercise of power to make rules

3. (1) The power to make rules conferred by this Ordinance shall be in addition to and not in derogation of any power to make rules of court conferred by any other Ordinance:

Provided that rules made under this Ordinance shall not be inconsistent with the provisions of any other such Ordinance.

² Subsection (3) inserted by Ord. 2 of 1989

(2) Where a power is conferred by this Ordinance and by some other Ordinance to make rules relating to the same matter, rules relating to such matter may purport to be made under either or both of such Ordinances, and any rules so made shall be deemed to be properly made and their validity shall not be questioned in any court on the ground only that they were not made in exercise of a particular power or particular powers.

SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES

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SUPREME COURT (MISCELLANEOUS APPLICATIONS) RULES – SECTION 2

(Legal Notices 3 of 1992 and 29 of 2009)

Rules of court made by the Chief Justice in exercise of the powers conferred on him by section 268 of the Criminal Procedure Ordinance³, section 74 of the Civil Procedure Ordinance⁴ and section 2 of the Courts (Rules) Ordinance.

PART I
GENERAL

Short title

1. These rules of court may be cited as the Supreme Court (Miscellaneous Applications) Rules.

Requirement of leave to apply

2. No application shall be brought for—
(a) an order for the release of a person under restraint; or
(b) an order of judicial review; or
(c) an order of committal,
unless the leave of the Chief Justice has first been obtained.

Lodging and service of applications

3. (1) An application under these rules shall be lodged with the Registrar of the Supreme Court, accompanied by the supporting affidavit or affidavits and the prescribed fee.

(2) Except in the case of an application made *ex parte* under rule 8, a copy of an application lodged under subrule (1) and of the affidavit or affidavits accompanying it shall, within 48 hours after it has been lodged, be served on every person directly concerned.

Facsimile transmission

4. An application under these rules may in appropriate circumstances be lodged and a copy of an application or of an affidavit be served by facsimile transmission.

Place of hearing

5.⁵ ...

Forms

6. The forms set out in Schedule 1 shall be used for the purposes to which they are expressed to relate, with such modifications as the circumstances may require.

³ Cap. 23

⁴ Cap. 32

⁵ Section 5 revoked by Legal Notice 29 of 2009

Fees

7. The fees set out in Schedule 2 to the Supreme Court (Fees) Rules⁶ shall be payable in respect of the matters to which they are expressed to relate.

PART II APPLICATIONS FOR ORDERS FOR THE RELEASE OF PERSONS UNDER RESTRAINT

Mode of application for leave

8. (1) An application for leave to apply for an order for the release of a person under restraint shall be in the prescribed form and may be made to the Chief Justice in court or in chambers, except that where an application is made on behalf of a minor, it must be made otherwise than in court.

(2) An application for leave may be made *ex parte* and, subject to subrule (3), must be supported by an affidavit by the person restrained showing that it is made at his instance and setting out the nature of the restraint.

(3) Where the person restrained is unable for any reason to make the affidavit required by subrule (2), the affidavit may be made by some other person on his behalf and that affidavit must state that the person restrained is unable to make the affidavit himself and for what reason.

Powers where application *ex parte*

9. (1) Where an application under rule 8 is made *ex parte*, the Chief Justice may grant leave forthwith, or may direct that notice of the application be given and adjourn the proceedings so that such notice may be given.

(2) Where proceedings have been so adjourned, a copy of the application must be served on the person against whom the order is sought and on such other persons as the Chief Justice may direct and, unless the Chief Justice otherwise directs, there must be at least 8 clear days between the service of the copy and the date named therein for the hearing of the application.

Copies of affidavits to be supplied

10. Every party to an application under rule 8 must supply to every other party on demand and on payment of the proper charges copies of the affidavits which he proposes to use at the hearing of the application.

Power to order release

11. Without prejudice to rule 9(1), the Chief Justice hearing an application for leave to apply may in his discretion order that the person restrained be released, and such order shall be sufficient warrant to the person in charge of the prison or other person for the release of the person under restraint.

⁶ Page 27 of this Chapter

Service of order granting leave

12. (1) Subject to subrules (2) and (3), an order granting leave to apply must be served personally on the person against whom an order of release is sought.

(2) If it is not possible to serve such order personally or, if it is directed to the superintendent of the prison or other public official, it may be served by leaving it with a servant or agent of the person to whom it is directed at the place where the person restrained is confined or restrained.

(3) If the order is directed to more than one person, it must be served in the manner provided in this rule on the person first named in the order, and copies must be served on each of the other persons in the same manner.

(4) There must be served with the order a notice stating the date when the person restrained is to be brought before the Chief Justice and that in default of obedience, proceedings for committal of the party disobeying will be taken.

Acknowledgment of service

13. (1) The person on whom an order granting leave to apply is served shall endorse on it or attach to it an acknowledgment of service, stating all the causes of the detainer of the person restrained.

(2) The acknowledgment may be amended, or another acknowledgment substituted therefor, by leave of the Chief Justice.

Procedure at hearing

14. (1) An application for an order for the release of a person shall be heard in open court, unless the Chief Justice otherwise directs.

(2) When the application is heard, the representative of that person shall be heard first, then the Attorney General or his representative, and then the representative of the person restrained in reply.

Bringing up prisoner to give evidence, etc.

15. An application for an order to bring up a prisoner to give evidence in any cause or matter, civil or criminal, before any court or to answer a charge shall be made on affidavit to the Chief Justice, or other person by and before whom the Supreme Court may be held, in chambers.

PART III

APPLICATIONS FOR JUDICIAL REVIEW

Cases appropriate for judicial review

16. (1) An application for—

(a) an order of *mandamus*, *prohibition* or *certiorari*; or

(b) an injunction restraining a person from acting in any office in which he is not entitled to act,

shall be made by way of an application for judicial review in accordance with the provisions of this Part.

(2) An application for a declaration or an injunction (not being an injunction mentioned in subrule (1)(b)) may be made by way of an application for judicial review, and on such an application the Chief Justice may grant the declaration or injunction claimed if he considers that, having regard to—

- (a) the nature of the matters in respect of which relief may be granted by way of an order of *mandamus*, *prohibition* or *certiorari*,
- (b) the nature of the persons and bodies against whom relief may be granted by way of such an order, and
- (c) all the circumstances of the case,

it would be just and convenient for the declaration or injunction to be granted on an application for judicial review.

Mode of application for leave

17. (1) An application for leave to apply for an order of judicial review shall be in the prescribed form and shall be made *ex parte* to the Chief Justice and shall be supported—

- (a) by a statement, setting out the name and description of the applicant, the relief sought and the grounds on which it is sought; and
- (b) by affidavit, to be filed with the application, verifying the facts relied on.

(2) The applicant must give notice of the application to the Attorney General not later than the day before the application is made and must at the same time lodge with him copies of the statement and every affidavit in support.

(3) The Chief Justice may allow the applicant's statement to be amended, whether by specifying different or additional grounds of relief or otherwise, on such terms, if any, as he may think fit.

(4) The Chief Justice shall not grant leave unless he considers that the applicant has a sufficient interest in the matter to which the application relates.

(5) Where leave is sought to apply for an order of *certiorari* to remove for the purpose of its being quashed, any judgment, order, conviction or other proceeding which is subject to appeal and a time is limited for the bringing of the appeal, the Chief Justice may adjourn the application for leave until the appeal is determined or the time for appealing has expired.

(6) If the Chief Justice grants leave, he may impose such terms as to costs and as to giving security as he may think fit.

(7) Where leave to apply for judicial review is granted, then—

- (a) if the relief sought is an order of *prohibition* or *certiorari* and the Chief Justice so directs, the grant shall operate as a stay of the proceedings to which the application relates until the determination of the application or until the Chief Justice otherwise orders;
- (b) if any other relief is sought, the Chief Justice may at any time grant in the proceedings such interim relief as could be granted in an action begun by plaintiff.

Mode of and time for applying

18. (1) Subject to subrule (2), when leave has been granted to make application for judicial review, an application in the prescribed form shall be lodged with the Registrar.

(2) Copies of the application shall be served on all persons directly affected and where it relates to any proceedings in or before a court and the object of the application is either to compel the court or an officer of the court to do any act in relation to the proceedings or to quash them or any order made therein, the notice must also be served on the clerk or registrar of the court.

(3) An application shall be heard in open court, unless the Chief Justice shall otherwise direct.

(4) Unless the Chief Justice when granting leave has otherwise directed, there must be at least 10 days between the service of the copies and the day named therein for the hearing.

(5) An application must be entered for hearing within 14 days after the grant of leave: Provided that where the Chief Justice has given leave when sitting in the United Kingdom, such period of 14 days shall run, not from the date when the leave was granted, but from the first arrival thereafter of the Chief Justice in St. Helena or in the Dependency where the application is to be heard.

(6) An affidavit giving the names and addresses of, and the places and dates of service on, all persons who have been served with copies of the application must be filed before the application is entered for hearing and, if any person who ought to be served under this rule has not been served, the affidavit must state that fact and the reason for it; and the affidavit shall be before the Chief Justice on the hearing of the application.

(7) If on the hearing of the application the Chief Justice is of opinion that any person who has not been served ought, whether under this rule or otherwise, to have been served, he may adjourn the hearing on such terms (if any) as he may direct in order that the notice may be served on that person.

Effect of delay in applying for relief

19. (1) Subject to the provisions of this rule, where in any case the Chief Justice considers that there has been undue delay in making an application for judicial review or, in a case to which subrule (2) applies, the application for leave under rule 17 is made after the relevant period has expired, the Chief Justice may refuse to grant—

- (a) leave for the making of the application; or
- (b) any relief sought on the application,

if, in the opinion of the Chief Justice, the grant of the relief sought would be likely to cause substantial hardship to, or substantially to prejudice the rights of any person, or would be detrimental to good administration.

(2) In the case of an application for an order of *certiorari* to remove any judgment, order, conviction or other proceeding for the purpose of quashing it, the relevant period for the purpose of subrule (1) is three months after the date of the proceeding.

(3) Subrule (1) is without prejudice to any statutory provision which has the effect of limiting the time within which an application for judicial review may be made.

Joinder of claims for relief

20. On an application for judicial review any relief mentioned in rule 16(1) or (2) may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of or relates to or is connected with the same matter.

Statements and affidavits

21. (1) Copies of the statement in support of the application for leave under rule 17 must be served with the copies of the application and, subject to subrule (2), no grounds shall be relied upon or any relief sought at the hearing except the grounds and relief set out in the statement.

(2) The Chief Justice may on the hearing of the application allow the applicant to amend his statement, whether by specifying different or additional grounds or relief or

otherwise, upon such terms, if any, as he may think fit and may allow further affidavits to be used if they deal with new matters arising out of an affidavit of any other party to the application.

(3) Where the applicant intends to ask to be allowed to amend his statement or to use further affidavits, he shall give notice of his intention and of any proposed amendment to every other party.

(4) Each party to the application must supply to every other party on demand and on payment of the proper charges, copies of every affidavit which he proposes to use at the hearing, including, in the case of the applicant, the affidavit in support of his application for leave.

Discovery, interrogatories, etc.

22. (1) Unless the Chief Justice otherwise directs, any interlocutory application in proceedings on an application for judicial review may be heard by any person by and before whom the Supreme Court may be held, notwithstanding that the application for judicial review is to be heard by the Chief Justice.

(2) This rule is without prejudice to any statutory provision or rule of law restricting the making of an order against the Crown.

Hearing of application

23. (1) On the hearing of any application made under rule 18, any person who desires to be heard in opposition to the application and appears to the Chief Justice to be a proper person to be heard, shall be heard, notwithstanding that he has not been served with a copy of the application.

(2) Where the relief sought is or includes an order of *certiorari* to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, commitment, conviction, inquisition or record unless before the hearing of the motion he has lodged with the Attorney General a copy thereof verified by affidavit or accounts for his failure to do so to the satisfaction of the Chief Justice.

(3) Where an order of *certiorari* is made in any such case as is referred to in subrule (2), the order shall, subject to subrule (4), direct that the proceedings be quashed forthwith on their removal into the Supreme Court.

(4) Where the relief sought is an order of *certiorari* and the Chief Justice is satisfied that there are grounds for quashing the decision to which the application relates, he may, in addition to quashing it, remit the matter to the court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Chief Justice.

Claims for damages

24. On the application for judicial review the Chief Justice may award damages to the applicant if—

- (a) he has included in the statement in support of his application for leave under rule 17 a claim for damages arising from any matter to which the application relates; and
- (b) the Chief Justice is satisfied that if the claim had been made in any action begun by the applicant at the time of making his application, he could have been awarded damages.

This e-version of the text is not authoritative for use in court.

PART IV
APPLICATIONS FOR INJUNCTIONS

Applications for injunctions

25. (1) An application for the grant of an injunction may be made by any party to a cause or matter before or after the trial of the cause of the matter, whether or not a claim for an injunction was included in that party's plaint, originating summons, counterclaim or third party notice, as the case may be.

(2) Where the applicant is the plaintiff and the case is one of urgency, such application may be made *ex parte* on affidavit but, except as aforesaid, application shall be made in the prescribed form.

(3) The plaintiff may not make such an application before the issue of the plaint or originating summons by which the cause or matter is to be begun except where the case is one of urgency, and in that case the injunction applied for may be granted on terms providing for the issue of the plaint or summons and such other terms, if any, as the Court thinks fit.

PART V
APPLICATIONS FOR THE DETENTION, CUSTODY, PRESERVATION
OR INSPECTION OF THE SUBJECT-MATTER OF A CAUSE OR MATTER

26. (1) On the application of any party to a cause or matter, the Court may make an order for the detention, custody or preservation of any property which is the subject-matter of the cause or matter, or as to which any question may arise therein, or for the inspection of any such property in the possession of a party to the cause or matter.

(2) An application under subrule (1) may be made in the prescribed form or may be made informally during the course of the hearing of the cause or matter.

(3) For the purpose of enabling any order made under subrule (1) to be carried out, the Court may by the order authorise any person to enter upon any land or building in the possession of any party to the cause or matter.

(4) Where the right of any party to a specific fund is in dispute in a cause or matter, the Court may, on the application of a party to the cause or matter, order the fund to be paid into court or otherwise secured.

(5) Any order under this rule may be made on such terms, if any, as the Court thinks just.

(6) Unless the Court otherwise directs, an application by a defendant for such an order may not be made before he acknowledges service of the plaint or originating summons by which the cause or matter was begun.

PART VI
APPLICATIONS FOR COMMITTAL

Exercise of power to punish for contempt

27. The power of the Supreme Court to punish for contempt of court may be exercised by an order of committal made by the Chief Justice.

Mode of application for leave

28. (1) An application for leave to apply for an order of committal shall be in the prescribed form and shall be made *ex parte* to the Chief Justice and shall be supported by a statement setting out the name and description of the applicant, the name, description and address of the person sought to be committed and the grounds on which his committal is sought, and by an affidavit, to be filed before the application is made, verifying the facts relied on.

(2) Where the application is made by a person other than the Attorney General, the applicant must give notice of the application not later than the preceding day to the Attorney General and must at the same time serve on him copies of the statement and affidavit.

Application

29. (1) When leave has been granted to make application for an order of committal, an application in the prescribed form shall be lodged with the Registrar and a copy of it shall be served on the person sought to be committed.

(2) Unless within 14 days after such leave was granted the application is entered for hearing, the leave shall lapse:

Provided that where the Chief Justice has given leave—

- (a)** when sitting in the United Kingdom, such period of 14 days shall run, not from the date when the leave was granted, but from the date of the first arrival thereafter of the Chief Justice in St. Helena or in the Dependency where the application is to be heard, as the case may be;
- (b)** when sitting in St. Helena and the application is to be heard in one of the Dependencies, such period of 14 days shall run, not from the date when the leave was granted, but from the date of the first arrival thereafter of the Chief Justice in that Dependency.

(3) Unless the Chief Justice has otherwise directed, there must be at least 8 clear days between the service of the copy of the application and the day named therein for the hearing.

Provisions as to hearing

30. (1) Subject to subrule (2), the Chief Justice hearing an application for an order of committal may sit in private in the following cases, that is to say—

- (a)** where the application arises out of proceedings relating to the wardship or adoption of a minor or wholly or mainly to the guardianship, custody, maintenance or upbringing of a minor, or rights of access to a minor;
- (b)** where the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder within the meaning of the Mental Health Ordinance;
- (c)** where the application arises out of proceedings in which a secret process, discovery or invention was in issue;
- (d)** where it appears to the Chief Justice that in the interests of the administration of justice or for reasons of national security, the application should be heard in private,

but, except as aforesaid, the application shall be heard in open court.

(2) If the Chief Justice hearing an application in private by virtue of subrule (1) decides to make an order of committal against the person sought to be committed, he shall in open court state:

- (a) the name of that person;
- (b) in general terms the nature of the contempt of court in respect of which the order of committal is being made; and
- (c) the length of the period for which that person is being committed.

(3) Except with the leave of the Chief Justice, no grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 28 but the Chief Justice may at any stage and either of his own motion or on the application of any party, order that the statement be amended on such terms as to costs or otherwise as may be just and in such manner (if any) as he may direct.

(4) If, on the hearing of the application, the person sought to be committed expresses a wish to give oral evidence on his own behalf, he shall be entitled to do so.

Power to suspend execution

31. (1) The Chief Justice, when making an order of committal, may by order direct that the execution of the order of committal shall be suspended for such period and on such terms or conditions as he may specify.

(2) Where execution of an order of committal is suspended by an order under subrule (1), the applicant for the order of committal must, unless the Chief Justice otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the order under that subrule.

Discharge of person committed

32. The Chief Justice may, on the application of any person committed to prison for any contempt of court, discharge him.

Saving

33. Nothing in the foregoing provisions of these rules shall be taken as affecting the power of the Chief Justice or of the Supreme Court—

- (a) to make an order of committal of his or its own motion against a person guilty of contempt of court;
- (b) to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment, in like manner as if he had been guilty of contempt of the Supreme Court, to pay a fine or to give security for his good behaviour, and those provisions, so far as applicable and with the necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

SCHEDULE 1*(rule 6)***FORMS****FORM MA/1**

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

APPLICATION FOR LEAVE TO APPLY

Rules 8(1), 17(1), and 28(1).

To the Honourable the Chief Justice

In the matter of an intended application by *(Name)*

of *(Address)*

LEAVE is hereby sought to bring an application for (1)

..... ATTACHED are—

(a) the intended application in respect of which leave is sought;

(b) the affidavit of

Dated this day of, 20.....

.....
(Signature of Applicant)

(1) Insert whichever of the following is appropriate—

“an order for the release of at present under restraint
in the Common Gaol at Jamestown *(or as the case may be)*”

“an order of judicial review”

“an order of committal”.

FORM MA/2

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

**APPLICATION FOR AN ORDER FOR THE RELEASE
OF A PERSON UNDER RESTRAINT**

Rule 6.

To the Honourable the Chief Justice

I (*Name*) of (*Address*).....

APPLY for an order for the release of

at present detained in the Common Gaol at Jamestown on the grounds set out in
the accompanying affidavit(s). A copy of the application is being served on the
Superintendent of the Gaol.

Dated this, 20..... .

(*Signature*)

Applicant.

FORM MA/3

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

**APPLICATION FOR AN ORDER TO BRING UP
A PRISONER TO GIVE EVIDENCE**

Rule 15.

To the Honourable the Chief Justice

I (*Name*) of (*Address*).....
APPLY for an order directed to the Superintendent of the Common Gaol at
Jamestown to bring up (*Name*).....
a prisoner detained therein to give evidence before the (*Specify court*).....
Court on the day of, 20..... in the matter of
.....

(*Signature*)

Applicant.

FORM MA/4

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

APPLICATION FOR JUDICIAL REVIEW

Rule 16.

To the Honourable the Chief Justice

I (Name) of (Address).....

APPLY for an order (*Specify nature of order sought*) (1)

.....

.....

directed to of

on the grounds set out in the accompanying affidavit(s) made by

..... and

Dated this, 20..... .

(Signature)

Applicant.

-
- (1) Insert whichever of the following is or are appropriate, or as the case may be—
of *mandamus*
of *prohibition*
of *certiorari*
restraining the respondent from acting in the office of
in which he is not entitled to act.
-

FORM MA/5

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

APPLICATION FOR AN INJUNCTION

Rule 25.

To the Honourable the Chief Justice

I (Name) of (Address).....
 APPLY for the issue of an INJUNCTION to restrain (Name).....
 of (Address)..... from
 (Specify conduct complained of).....
 on the grounds set out in
 the accompanying affidavit(s) made by
 of and

(Signature)

Applicant.

FORM MA/6

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications)

**APPLICATION FOR THE DETENTION, CUSTODY,
PRESERVATION OR INSPECTION OF PROPERTY**

Rule 26.

To the Honourable the Chief Justice

I (Name) of (Address).....

Apply for an Order for the detention/custody/preservation/inspection of the
property specified in the Schedule on the grounds set out in the *affidavit(s)
of and

SCHEDULE*(Description of property)*

Dated this day of, 20.....

(Signature)

Applicant.

* Delete as appropriate

FORM MA/7

In the St. Helena Supreme Court.
Supreme Court (Miscellaneous Applications) Rules

APPLICATION FOR COMMITTAL

Rule 28.

To the Honourable the Chief Justice

I (*Name*) of (*Address*).....APPLY for an order for the committal of (*Name*)

to the Common Gaol for contempt of court.

The conduct complained of consists of (*Give details*)

.....

Attached is an affidavit made by me/

of verifying the facts alleged.

Dated this day of, 20.....

(*Signature*)

Applicant.

SUPREME COURT (FEES) RULES – SECTION 2*(Legal Notices 10/1984, 3/1992, 5/1992, 21/2008 and 7/2015)***Short title**

1. These rules may be cited as the Supreme Court (Fees) Rules.

Fees payable

2. The fees payable in respect of civil causes and matters in the Supreme Court shall be those set out in the Schedules to these rules.

Allowable costs

3.⁷ (1) In civil proceedings, the Registrar shall, unless the court otherwise orders, allow a party to include in his costs, in addition to reasonable travelling expenses, an allowance for each necessary witness and interpreter attending at the trial—

- | | |
|---|-------|
| (a) for each day or part of a day exceeding three hours | £7.00 |
| (b) for a half day of three hours or less | £3.50 |

Provided that, in the case of an expert witness, the allowance shall be such sum as, in the opinion of the Registrar, is appropriate having regard to the qualifications and experience of the expert.

(2) The expression “**necessary witness**” in subrule (1) may include a party to an action and a person who attended court as a witness but who was not called; it shall not include any person whose attendance the Registrar considers to have been unnecessary.

SCHEDULE 1⁸*(Rule 2)***GENERAL FEES****Actions and Originating Summonses**

For entering particulars of a plaint in the Action Book—

(a) where the claim is solely for a liquidated sum not exceeding £5,000	£25.00
(b) in any other case	£30.00
For issue of a writ of summons	£10.00
On entering defence	£10.00
On entering reply	£10.00
On application for execution	£20.00
On taking out an originating summons	£20.00

Matrimonial Causes

On presenting a petition	£20.00
On filing an answer	£15.00
On applying for a decree absolute	£10.00

⁷ Inserted by L.N. 5 of 1992

⁸ Schedule 1 substituted by L.N. 21 of 2008 and L.N. 7 of 2015

Probate Matters

On application for a grant, where the value of the personal property is sworn to be—

(a) under £500	£10.00
(b) £500 or over but under £750	£15.00
(c) £750 " " " " £1000	£20.00
(d) £1000 " " " " £5000	£30.00
(e) £5000 and over—	
for the first £5000	£30.00
for every £1000 or part thereof in excess of £5000	£6.50

Service of Process

For serving a writ—

(a) within Jamestown	£5.00
(b) outside Jamestown	£7.50
<i>For serving a summons on a witness—</i>	
(a) within Jamestown	£1.50
(b) outside Jamestown	£3.00

Taxation of Costs

On taxing costs for every £1 or fraction of £1 allowed, subject to a minimum of 50 pence	£0.50
--	-------

Appeals from the Magistrates' Court

On presenting a memorandum of appeal	£30.00
--	--------

Copies

For making a copy of any document or part of a document—

(a) if xerographic, for each sheet	£0.30
(b) if typewritten, for each page or part of a page as typed	£5.00

For certifying a copy to be a true copy of the original—

(a) if the copy is xerographic	£6.50
(b) if the copy is typewritten for each page or part of a page as typed	£6.50

SCHEDULE 2⁹**(RULE 2)****FEES UNDER SUPREME COURT (MISCELLANEOUS APPLICATIONS)
RULES**

⁹ Schedule 2 substituted by L.N. 21 of 2008 and L.N. 7 of 2015

This e-version of the text is not authoritative for use in court.

On lodging an application—

for leave to apply	£20.00
for an Order for the release of a person under restraint	£10.00
for an Order to bring up a prisoner to give evidence	Nil
for an Order for judicial review	£20.00
for an Order for an injunction under rule 25	£20.00
for an Order for the detention, custody, preservation or inspection of any property	£20.00
for committal	£20.00

COURTS (RIGHTS OF AUDIENCE AND ENROLMENT) RULES – SECTION 2(3)

(Legal Notices 4/1992, 14/1999, 21/2008 and 7/2015)

Short title

1. These rules may be cited as the Courts (Rights of Audience and Enrolment) Rules.

Right of audience as advocates

2. The following persons shall be entitled to appear and be heard as advocates before the Supreme Court, whether the court is sitting in St. Helena or in one of the Dependencies, and before the Magistrates' Courts of St. Helena, Ascension and Tristan da Cunha—

- (a) members of the Bar of England, Scotland or Northern Ireland;
- (b) solicitors of the Supreme Court in England or Northern Ireland and law agents admitted to practise in Scotland;
- (c) lawyers qualified to practice in any member state of the European Communities who enjoy the right to appear before the High Court in England or the Court of Session in Scotland or to practise as solicitors in England or Scotland; and
- (d) any other persons entitled to appear and be heard as advocates before any court of unlimited jurisdiction or to carry on practise as solicitors (by whatever name called), if licensed in that behalf by the Chief Justice.

Evidence of entitlement

3. (1) A person entitled to appear and be heard as an advocate under paragraph (a) or (b) of rule 2 shall, before so appearing for the first time, deliver to the Registrar a certified or photographic copy of the certificate or other document recording his call or admission.

(2) A person entitled to appear and be heard as an advocate under paragraph (c) of rule 2 shall, before so appearing for the first time, deliver to the Registrar a certified or photographic copy of the document evidencing his passing or being exempted from any necessary aptitude test.

Applications for licences

4. (1) A person seeking to be licensed under paragraph (d) of rule 2 shall deliver to the Registrar an application addressed to the Chief Justice, in whichever of the forms numbered RA1 and RA2 in Schedule 1, is appropriate.

(2) An application in the form RA1 shall be lodged not less than 14 days before the day set down for the hearing at which the applicant wishes to be heard, or such shorter period as the Chief Justice may allow.

(3) An application under subrule (1) shall be accompanied by—

- (a) a certified or a photographic copy of the certificate or other document recording the applicant's call or admission and, where such certificate or other document is not in the English language, a translation thereof in English certified to be correct; and
- (b) the prescribed fee (if any).

Form and duration of licences

5. (1) A licence issued pursuant to paragraph (c) of rule 2 shall be in form RA3 or form RA4 set out in Schedule 1, whichever is appropriate.

(2) A licence in the form RA3 shall be valid only for the proceeding to which it is expressed to relate, and any application or counterclaim relating thereto and any proceeding consolidated therewith or any appeal therefrom.

(3)¹⁰ A licence in the form RA4 shall be valid—

- (i) in the case of an Islander, until revoked;
- (ii) in the case of the holder of a work permit issued under the Immigration Control Ordinance or any statutory modification or re-enactment thereof for the time being in force, allowing him to practise in St. Helena, for any term not exceeding the term of the work permit.

Enrolment

6. (1) A person who is an Islander and who has a right of audience under rule 2, shall on application to the Chief Justice, be enrolled as an advocate of the Supreme Court of St. Helena.

(2) A person who is not an Islander but who has a right of audience under rule 2 may, in the discretion of the Chief Justice, be enrolled as an advocate of the Supreme Court of St. Helena.

(3)¹¹ The Chief Justice may direct the removal from the roll of the name of any person who—

- (a) has ceased to be entitled to appear and be heard before the Supreme Court or who has been suspended from practice in any territory; or
- (b) has ceased to hold a work permit required by the Immigration Control Ordinance or any statutory modification or re-enactment thereof for the time being in force; or
- (c) has been guilty of serious professional misconduct.

(4) An application for enrolment as an advocate of the Supreme Court of St. Helena shall be in the form RA5 set out in Schedule 1.

(5)¹² For the purposes of this rule, “the roll” means the Roll of Advocates containing the names of those persons who are for the time being enrolled as such pursuant to the provisions of these rules, compiled and maintained by the Registrar.

Effect of the enrolment

7. Persons enrolled as advocates under rule 6 may, within St. Helena and its Dependencies, perform all the functions of barristers and solicitors.

Attorney General

8. The Attorney General shall be entitled *ex officio* to appear and be heard before the Supreme Court, whether the court is sitting in St. Helena or in one of the Dependencies, and before the Magistrates’ Courts of St. Helena, Ascension and Tristan da Cunha.

¹⁰ Rule 5(3)(ii) amended by L.N. 14/1999

¹¹ Rule 6(3) amended by L.N. 14 of 1999

¹² Rule 6(5) inserted by L.N. 14 of 1999

Additional rights of audience

9.¹³ (1) The Crown Prosecutor, any person appointed to be a public prosecutor pursuant to section 52 of the Criminal Procedure Ordinance¹⁴ and the Public Prosecutor shall be entitled to appear and be heard as advocates in the same Courts and in like manner as those persons, or classes of persons, who have such entitlement under either rule 2 or 8 of these rules.

(2) For the purposes of sub-rule (1) of this rule, the right of audience of a person appointed to be a public prosecutor shall be subject to the provisions of sections 52 to 55 (inclusive) of the Criminal Procedure Ordinance.

(3) In this rule references to the Criminal Procedure Ordinance shall be deemed to include any statutory modification or re-enactment thereof for the time being in force.

Fees

10. The fees set out in Schedule 2 shall be payable in respect of the matters to which they are expressed to relate.

Savings

11. (1) Nothing in these rules shall apply to or in any way affect any person holding the office of Lay Advocate under the Lay Advocates and Legal Assistance Ordinance.

(2) Nothing in these rules shall affect the right of any party to appear in person and be heard in any proceedings in the Supreme Court, whether the court is sitting in St. Helena or in one of the Dependencies, and before the Magistrates' Courts of St. Helena, Ascension and Tristan da Cunha or, with the leave of the court, to be represented by any other person not being an advocate or a lay advocate.

¹³ Rule 9 substituted by L.N. 14 of 1999

¹⁴ Cap. 23

SCHEDULE 1**FORM RA1****COURTS (RIGHTS OF AUDIENCE AND ENROLMENT) RULES****Rule 4.****APPLICATION FOR LICENCE**

I (*Name*)
of (*Address*)
being a (*Professional qualification*)
of the Court of
APPLY for a licence to appear on behalf of (*Client*)
before the St. Helena Supreme Court/the Magistrates' Court of
in the case of v
(Case No /19/20.....) .

Attached is a copy of the certificate evidencing my call/admission.

(*Signature*)

(*Date*), 20..... .

FORM RA2

COURTS (RIGHTS OF AUDIENCE AND ENROLMENT) RULES

Rule 4.

APPLICATION FOR LICENCE TO APPEAR AND BE HEARD GENERALLY

I (Name)
 of (Address)
 being (*delete as appropriate*)

an Islander

the holder of a work permit issued under the Immigration Control
 Ordinance entitling me to practice as an advocate for years,
 and being a (*Professional qualification*) of
 the Court of

APPLY for a licence permitting me to appear and be heard before the St. Helena
 Supreme Court and the Magistrates' Courts of St. Helena and its Dependencies.

Attached are—

(*delete where inappropriate*)

- (1) a copy of the certificate evidencing my call/admission;
- (2) a copy of my work permit

(Date), 20.....

(Signature)

FORM RA3

Courts (Rights of Audience and Enrolment) Rules

Rule 5.

LICENCE

..... of

a of the Court of

is licensed to appear and be heard as an advocate before the St. Helena Supreme Court/the Magistrates' Court of on behalf of

in the case of v

(Case No. /19/20.....) and any application or counterclaim relating thereto and any proceeding consolidated therewith or any appeal therefrom.

Dated this day of, 20..... .

Chief Justice.

FORM RA4

Courts (Rights of Audience and Enrolment) Rules

Rule 5.

LICENCE TO APPEAR AND BE HEARD GENERALLY

(Name)

of (Address)

IS LICENSED to appear and be heard as an advocate before the St. Helena
Supreme Court and the Magistrates' Courts of St. Helena and its Dependencies.

This licence * will continue in force until revoked.
.....
will expire on the day of, 20..... .

Dated this day of, 20..... .

Chief Justice.

* Delete as appropriate

FORM RA5

Courts (Rights of Audience and Enrolment) Rules

Rule 6.

APPLICATION FOR ENROLMENT

To— The Honourable the Chief Justice.

I (*Name*)of (*Address*)being a (*Professional Qualification*)

of the Court of

and being—

(Delete as appropriate)

(a) an Islander

(b) the holder of a subsisting work permit issued under the Immigration

Control Ordinance on (*Date*) (*Number*)

authorising me to practise as an advocate in St. Helena,

apply to be enrolled as an advocate of the Supreme Court of St. Helena.

(Signature)*(Date)*, 20..... .**SCHEDULE 2¹⁵***(Rule 10)***FEES**

- | | |
|---|---------|
| 1. On lodging an application for a licence under rule 4 | £20.00 |
| 2. On lodging an application for enrolment under rule 6 | £200.00 |

¹⁵ Schedule 2 substituted by L.N. 21/2008 and L.N. 7/2015

ADMIRALTY RULES

(Order in Council 16 December 1912)

RULES OF COURT FOR REGULATING THE PRACTICE AND PROCEDURE (INCLUDING FEES AND COSTS) OF THE SUPREME COURT OF ST. HELENA IN THE EXERCISE OF ITS JURISDICTION, POWERS AND AUTHORITY AS A COURT OF ADMIRALTY, MADE UNDER SECTION 7 OF THE “COLONIAL COURTS OF ADMIRALTY ACT, 1890.”

1. The Officers of the Court shall be designated the Judge, the Registrar, and the Marshal duly appointed by the Governor for the time being.

2. In all matters of practice not provided for in these rules the manner of procedure in the Supreme Court shall, as far as possible, be adopted.

3. A form of writ and of the endorsements thereon will be found in the Appendix hereto, No. A.

4. In an action *in rem*, the writ of Summons shall be served—

(a) upon ship, or upon cargo, freight, or other property, if the cargo or other property is on board a ship, by attaching the writ for a short time to the mainmast or the single mast, or to some other conspicuous part of the ship, and by leaving a copy of the writ attached thereto;

(b) upon cargo, freight, or other property, if the cargo or other property is not on board a ship, by attaching the writ for a short time to such cargo or property and by leaving a copy of the writ attached thereto;

(c) upon freight in the hands of any person, by showing the writ to him and by leaving with him a copy;

(d) upon proceeds in court, by showing the writ to the Registrar and by leaving with him a copy thereof.

5. If access cannot be obtained to the property on which it is to be served, the writ may be served by showing it to any person appearing to be in charge of such property, and by leaving with him a copy of the writ.

6. A warrant for the arrest of property may be issued by the Registrar at the time of, or at any time after, the issue of the Writ of Summons, on the Registrar being satisfied as to the facts.

7. A form of Warrant will be found in the Appendix hereto, No. B.

8. The warrant shall be served by the Marshal in the manner prescribed by these Rules, for the service of a Writ of summons, and thereupon the property shall be deemed to be arrested.

9. No service of a writ or warrant shall be required when the defendant by his Attorney undertakes in writing to accept service thereof and enter an appearance thereto, or to put in bail, or to pay money into court in lieu of bail; and any attorney not entering an appearance or putting in bail or paying money into court in lieu of bail in pursuance of his written undertaking so to do shall be liable to attachment.

10. A release for property arrested by warrant may be issued by order of the Judge.

11. A release may also be issued by the Registrar, unless there is a caveat outstanding against the release of the property—

(a) on payment into court of the amount claimed, or of the appraised value of the property arrested or, where cargo is arrested for freight only of the amount of the freight verified by affidavit;

(b) on one or more bail bonds being filed for the amount claimed, or for the appraised value of the property arrested, and on the allowance of the same if objected to; or if

This e-version of the text is not authoritative for use in court.

not objected to on proof that twenty-four hours' notice of the names and addresses of the sureties has been previously served on the party at whose instance the property has been arrested;

- (c) on the application of the party at whose instance the property has been arrested;
- (d) on consent in writing being filed signed by the party at whose instance the property has been arrested;
- (e) on discontinuance or dismissal of the action in which the property has been arrested.

12. The Registrar may refuse to issue a release without the order of the judge.

13. The release shall be prepared in the registry and shall be signed by the Registrar, and issued under the seal of the court. A form of release will be found in the Appendix hereto, No. C.

14. The release shall be served on the Marshal, either personally, or by leaving it at his office by the party by whom it is taken out.

15. On service of the release and on payment to the Marshal of all fees due to, and the charges incurred by him in respect of the arrest and custody of the property, the property shall be at once released from arrest.

16. The judge, on the application of any party, or without any such application if he considers the nature of the case requires it, may appoint one or more assessors to advise the court upon any matters requiring nautical or other professional knowledge.

17. Any person desiring to prevent the arrest of any property may file a notice, undertaking within three days after being required to do so, to give bail to any action or counter-claim that may have been or may be brought against the property, and thereupon the Registrar shall enter a caveat in the Action book. Forms of notice and of caveat warrant will be found in the Appendix hereto, Nos. D and E.

18. Any person desiring to prevent the release of any property under arrest, shall file a notice, and thereupon the Registrar shall enter a caveat in the Action book. Forms of notice and of caveat release will be found in the Appendix hereto, Nos. F and G.

19. Any person desiring to prevent the payment of money out of court shall file a notice and thereupon the Registrar shall enter a caveat in the Action book. Forms of notice and of caveat payment will be found in the Appendix hereto, Nos. H and I.

20. The party at whose instance a caveat release or caveat payment is entered, shall be condemned in all costs and damages occasioned thereby, unless he shall show to the satisfaction of the judge good and sufficient reason to the contrary.

21. A caveat shall not remain in force for more than six months from the date of entering the same.

22. The judge may overrule any caveat.

23. The forms shown in the Appendix hereto shall be employed as far as possible, with such alterations as circumstances may require, but no deviation from the prescribed forms shall invalidate the proceedings unless the judge shall be of opinion that such deviation was material.

24. The fees set forth in the table of fees in the Appendix hereto shall be allowed on taxation.¹⁶

¹⁶ *The Table of Fees is not reproduced in this Edition. It may be found at pages 929 and 930 of the 1951 Revised Edition.*

APPENDIX**FORMS**

FORM A

*(Rule 3)***WRIT OF SUMMONS**

(L.S.)

In the Supreme Court of St. Helena in Admiralty

(TITLE OF ACTION)

Queen Elizabeth II, by the Grace of GOD, of the United Kingdom of Great Britain and Northern Ireland, and of the British Overseas Territories, Queen, Defender of the Faith.

To the owners and all others interested in the ship (her cargo and freight, etc., or as the case may be).

We command you that, within one week after the service of this writ, exclusive of the day of such service, you do cause an appearance to be entered for you in the said Court in Admiralty, in the above named action: and take notice that in default of your so doing the said action may proceed, and judgment be given in your absence.

Given at St. Helena in Our said Court in Admiralty under the seal thereof, this day of, 20..... .

Registrar

MEMORANDUM TO BE SUBSCRIBED ON THE WRIT

This writ may be served within twelve months from the date thereof, exclusive of the day of such date, but not afterwards.

The Defendant (or Defendants) may appear hereto by entering an appearance (or appearances) either personally or by Attorney at the said Court.

ENDORSEMENT TO BE MADE ON THE WRIT

The Plaintiff claims £ etc. (as usual endorsement).

(L.S.)

FORM B

(Rule 6)

WARRANT

(TITLE OF COURT AND ACTION)

Queen Elizabeth II, by the Grace of GOD, of the United Kingdom of Great Britain and Northern Ireland, and of the British Overseas Territories, Queen, Defender of the Faith.

To the Marshal of the said Court.

We hereby command you to arrest the ship (her cargo and freight, etc., or as the case may be) and to keep the same under safe arrest, until you shall receive further orders from Us.

Given at, in our said court under the seal thereof, this day of, 20..... .

Warrant.

Taken out by

(Signed)

Registrar

FORM C

(Rule 10)

RELEASE

(TITLE OF COURT AND ACTION)

Queen Elizabeth II, by the Grace of GOD of the United Kingdom of Great Britain and Northern Ireland, and of the British Overseas Territories, Queen, Defender of the Faith, Emperor of India.

To the Marshal of the said Court.

GREETING.

Whereas by Our Warrant issued in the above-named action on the day of, 20....., we did command you to arrest (state name and nature of property arrested) and to keep the same under safe arrest until you should receive further orders from us. We do hereby command you to release the said (state name and nature of property to be released) from the said arrest upon payment being made to you of all fees due to and charges incurred by you in respect of the arrest and custody thereof.

Given at, in Our said Court, under the seal thereof, this day of, 20..... .

Release.

Taken out by

(Signed)

Registrar.

FORM D

*(Rule 17)***NOTICE FOR CAVEAT WARRANT**

(TITLE OF COURT AND ACTION)

Take notice that I, apply for a caveat against the issue of any warrant for the arrest of (*state name and nature of property*), and I undertake within three days after being required to do so, to give bail to any action or counter-claim that may have been or may be brought against the same in this court in a sum not exceeding £, or to pay such sum into court.

My address for service
is..... .

Dated the day of, 20..... .

(Signed)

FORM E

(Rule 17)

CAVEAT WARRANT

(TITLE OF COURT, OR TITLE OF COURT AND ACTION)

(State Name of Ship, etc.)

Caveat entered this day of, 20....., against the issue of any warrant for the arrest of *(state name and nature of property)* without notice being first given to

 *(state name and address of person to whom, and address at which, notice is to be given)*, who has undertaken to give bail to any action or counter-claim that may have been or may be brought in the said court against the said
 *(state name and nature of property)*.

On withdrawal of caveat add:—

Caveat withdrawn the day of
 20..... .

FORM F

(Rule 18)

NOTICE FOR CAVEAT RELEASE

(TITLE OF COURT AND ACTION)

Take notice that I,, Plaintiff
or (Defendant) in the above-named action, apply for a caveat against the release
of
..... (state name and nature of property).

(If the person applying for the caveat is not a party to the action, he must also
state his address and an address for service within the Island of St. Helena.)

Dated the day of, 20..... .

(Signed)

FORM G

(Rule 18)

CAVEAT RELEASE

(TITLE OF COURT AND ACTION)

Caveat entered this day of, 20.....,
against the issue of any release on (state name and
nature of property) by
..... (state name and address of person
entering caveat, and his address for service).

On withdrawal of Caveat, add:—

Caveat withdrawn this day of, 20..... .

FORM H

(Rule 19)

NOTICE FOR CAVEAT PAYMENT

(TITLE OF COURT AND ACTION)

Take notice that I,, Plaintiff (or Defendant) in the above-named action, apply for a caveat against the payment of any money (*if for costs, add for costs, or as the case may be*) out of the proceeds of the sale of (*state whether ship or cargo, and name of ship, etc.*) now remaining in court, without notice being first given to me.

(If the person applying for the caveat is not a party to the action, he must also state his address, and an address for service within the Island of St. Helena.)

Dated the day of, 20..... .

(Signed)

FORM I

(Rule 19)

CAVEAT PAYMENT

(TITLE OF COURT AND ACTION)

Caveat entered this day of, 20....., against the payment of any money (*if for costs, add for costs, or as the case may be*) out of the proceeds of the sale of (*state whether ship or cargo, and name of ship, etc.*) now remaining in court, without notice being first given to (*state name and address of person to whom, and address at which, notice is to be given*).

On withdrawal of the caveat, add:—

Caveat withdrawn this day of, 20..... .

COURTS (WELFARE OF CHILDREN)(FORMS) RULES, 2010*(Legal Notices 6 of 2010 and 4 of 2012)***Citation**

1. These Rules may be cited as the Courts (Welfare of Children) (Forms) Rules, 2010.

Forms

2. The forms set out in the Schedule shall be used for the purposes to which they are expressed to relate, with such modifications as the circumstances may require.

SCHEDULE¹⁷

FORM A
APPLICATION BY BIOLOGICAL FATHER FOR PARENTAL RESPONSIBILITY <i>(Section 12(1)(b) of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... am the biological father of: (Name of Child)..... of (Address)..... and APPLY for an order declaring that I shall have parental responsibility for such child on the grounds set out in the accompanying statement.
Dated this, 20.....
<i>(Signature)</i> Applicant.

¹⁷ Forms A to W in the Schedule amended by LN 4 of 2012

FORM B
APPLICATION FOR ORDER WITH RESPECT TO CHILDREN <i>(Section 18 and 20 of the Welfare of Children Ordinance, 2008)</i>
To.....
I (Name) of (Address)..... APPLY for an order <i>(Specify nature of order sought)⁽¹⁾</i>..... with respect to (Name of Child)..... of (Address) on the grounds set out in the accompanying statement(s) made by and
Dated this, 20.....
_____ (Signature) Applicant
(1) Insert whichever of the following is or are appropriate, or as the case may be— <i>Residence order</i> <i>Contact order</i> <i>Prohibited steps order</i> <i>Specific issue order</i> <i>Leave to apply for section 18 order</i>

FORM C
In the St. Helena Supreme Court. APPLICATION FOR ORDER TO MAKE CHILD WARD OF COURT <i>(Section 27 of the Welfare of Children Ordinance, 2008)</i>
To the Honourable the Chief Justice
I (Name) of (Address)..... APPLY for an order declaring that (Name of Child)..... of (Address)..... shall be made a ward of court. This application is made on the grounds set out in the accompanying statement(s) made by..... and
Dated this, 20.....
_____ (Signature) Applicant.

FORM D
APPLICATION FOR CHILD TO BE KEPT IN SECURE ACCOMMODATION <i>(Section 34(2) of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for an order to keep (Name of Child)..... of (Address)..... in secure accommodation at (Address) on the grounds set out in the accompanying statement(s) made by and
Dated this, 20.....
_____ (Signature) Applicant.

FORM E
APPLICATION FOR CARE OR SUPERVISION ORDER <i>(Section 42 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for a care order / supervision order* in respect of (Name of Child) of (Address)
I am satisfied on the grounds set out in the accompanying statement(s) made by and that— (a) that the child is suffering, or likely to suffer, significant harm; and (b) that the harm, or likelihood of harm, is attributable to— (i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to him; or (ii) the child being beyond parental control. I further declare that the child has not reached the age of 17 (or 16, in the case of a child who is married).
Dated this, 20.....
_____ (Signature) Applicant *(Delete whichever is not applicable)

FORM F
APPLICATION FOR CONTACT ORDER <i>(Section 44 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY for a contact order in respect of (Name of Child) of (Address) with respect to the following person(s) and on the following basis: The grounds for this application are set out in the accompanying statement(s) made by..... and
Dated this, 20..... .
_____ (Signature) Applicant.

FORM G
APPLICATION FOR VARIATION OR REVOCATION OF CARE OR SUPERVISION ORDER <i>(Section 48 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY for an order that the Care Order / Supervision Order* (<i>delete whichever is not applicable</i>) which was granted on (Date)..... in respect of (Name of Child)..... of (Address)..... shall be varied / revoked* (<i>delete whichever is not applicable</i>) on the grounds set out in the accompanying statement(s) made by
Dated this, 20.....
_____ (Signature) Applicant.

FORM H
APPLICATION FOR CHILD ASSESSMENT ORDER <i>(Section 52 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for a child assessment order in respect of (Name of Child) of (Address) I am satisfied on the grounds set out in the accompanying statement(s) made by and that— (a) there is reasonable cause to suspect that the child is suffering, or likely to suffer, significant harm; and (b) an assessment of the state of the child's health or development, or of the way in which he has been treated, is required to enable the Department to determine whether or not the child is suffering, or likely to suffer, significant harm; and (c) it is unlikely that such an assessment will be made, or be satisfactory, in the absence of an assessment order.
Dated this, 20.....
(Signature) Applicant

FORM I
APPLICATION FOR EMERGENCY PROTECTION ORDER (Section 53 of the Welfare of Children Ordinance, 2008)
To
I (Name) of (Address)..... hereby apply for an emergency protection order in respect of: (Name of Child) of (Address)..... I am satisfied on the grounds set out in the accompanying statement(s) made by and that— (a) there is reasonable cause to believe that the child will suffer, or be likely to suffer, significant harm if— (i) he is not removed to accommodation provided by or on behalf of the applicant; or (ii) he does not remain in the place in which he is then being accommodated; or (b) in the case of an application made by the Department— (i) enquiries are being made with respect to the child under section 36; and (ii) such enquiries are being frustrated by access to the child being unreasonably refused to a person authorised by the Department to seek access in connection with the enquiries; and (iii) the Department has reasonable cause to believe that such access is required as a matter of urgency.
Dated this, 20.....
_____ (Signature) Applicant

FORM J
APPLICATION FOR EXTENSION OF EMERGENCY PROTECTION ORDER <i>(Section 55 of the Welfare of Children Ordinance, 2008)</i>
To.....
I (Name) of (Address)..... APPLY for extension / revocation* <i>(delete whichever is not applicable)</i> of the emergency protection order granted on (Date)..... in respect of (Name of Child) of (Address) on the grounds set out in the accompanying statement(s) made by and
Dated this, 20.....
_____ (Signature) Applicant

FORM K
APPLICATION FOR RECOVERY ORDER <i>(Section 60 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... hereby apply for a recovery order in respect of: <i>(Name of Child)</i> <i>(Responsible person in relation to the child):</i> I am satisfied on the grounds set out in the accompanying statement(s) made by and that such child— (a) has been unlawfully taken away or is being unlawfully kept away from the responsible person; or (b) has run away or is staying away from the responsible person; or (c) is missing.
Dated this, 20.....
_____ (Signature) Applicant

FORM L
APPLICATION FOR ORDER TO CANCEL OR IMPOSE CONDITION ON REGISTRATION AS DAY CARE OR CHILD MINDING PROVIDER <i>(Section 78 of the Welfare of Children Ordinance, 2008)</i>
To.....
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for an Order to cancel / impose condition on* (<i>delete whichever is not applicable</i>) the registration of: (Name of person)..... as a child minder or day care provider on the grounds set out in the accompanying written statement.
Dated this, 20..... .
_____ (Signature) Applicant

FORM M	
APPLICATION FOR ADOPTION ORDER <i>(Section 98 to 102 of the Welfare of Children Ordinance, 2008)</i>	
To	
I/We (Name/s) of (Address)..... wish to adopt: (Name of Child)..... of (Address) and give the following details in support of my/our application:	
PART 1: DETAILS OF APPLICANT/S	
First Applicant:	Second Applicant:
(a) Full Names: (b) Address: (c) Telephone Number: (d) Nationality: (e) Occupation: (f) Domicile and habitual residence:	a) Full Names: (b) Address: (c) Telephone Number: (d) Nationality: (e) Occupation: (f) Domicile and habitual residence:
Status of Applicant: <i>If you are applying to adopt as a couple, please go straight to Part 2 About the child. Paragraphs (g) to (m) do not apply to you.</i> <i>If you are applying to adopt alone, please tick the boxes at (g) to (m) below that applies to you.</i>	
	(g) I am the partner of the child's: Father / Mother / Other parent* (Delete whichever is not applicable) <i>If you have ticked box (g), please continue straight to Part 2 About the child. Paragraphs (h) to (m) do not apply to you.</i>
	(h) I am the partner (not the spouse or civil partner) of a person who is not the child's parent and I am applying to adopt alone because: (Please give reasons below, continuing on a separate sheet if necessary)

	<i>If you have ticked box (h), please continue to Part 2 About the Child. Paragraphs (i) to (m) do not apply to you.</i>
	(i) I am not married/I do not have a civil partner
	(j) I am divorced/my civil partnership has been dissolved
	(k) I am a widow/a widower/a surviving civil partner
	(l) I am married/I have a civil partner, and I can satisfy the court that: (i) my spouse cannot be found; or (ii) we have separated and are living apart, and the separation is likely to be permanent; or (iii) my spouse is by reason of ill-health, whether physical or mental, incapable of making an application for an adoption order.
	(m) I am applying alone for an adoption order in respect of my own child and I can satisfy the court that: (i) the other natural parent has died; or (ii) the other natural parent cannot be found; or (iii) the other natural parent's exclusion from this application is justified (<i>Please give reasons below</i>):
PART 2: DETAILS OF CHILD	
Sex of child: Date of birth: Place of birth: Nationality of child: I/we confirm that the child is the person to whom the attached certified copy of the entry in the Register of Live Births relates. (<i>Attach copy of birth record</i>) I/we confirm that the child is not and has never been married or a civil partner. I/we confirm that: (<i>check whichever is applicable</i>)	
	(a) a freeing order was made under section 103 in respect of the child on (<i>date</i>)
	(b) each parent or guardian of the child freely, and with full understanding of what is involved, agrees unconditionally to the making of an adoption order (whether or not he knows the identity of the applicants).

	(c) The parent or guardian of the child: (i) cannot be found or is incapable of giving agreement; (ii) is withholding his agreement unreasonably; (iii) has persistently failed without reasonable cause to discharge the parental responsibilities in relation to the child; (iv) has abandoned or neglected the child; (v) has persistently ill-treated the child; (vi) has seriously ill-treated the child.
Dated this, 20.....	
_____ (Signature) Applicant _____ (Signature) Applicant	

FORM N
APPLICATION TO FREE CHILD FOR ADOPTION <i>(Section 103 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for an order to declare (Name of Child) of (Address) free for adoption on the grounds set out in the accompanying statement(s) made by and
Please indicate whether— (a) this application is made with the consent of a parent or guardian of a child; or (b) the child is in the care of the Department and the Department is applying under section 103(1)(b) of the Ordinance for dispensation of the agreement of each parent or guardian of the child.
Dated this, 20.....
_____ (Signature) Applicant

FORM O
APPLICATION TO REVOKE SECTION 103 ORDER <i>(Section 105 of the Welfare of Children Ordinance, 2008)</i>
To.....
I (Name) of (Address)..... APPLY for the order granted on (Date)..... declaring (Name of Child) of (Address) free for adoption to be revoked on the grounds set out in the accompanying statement(s) made by and
Dated this, 20.....
_____ (Signature) Applicant

FORM P
APPLICATION FOR ORDER TO RETURN CHILD UNLAWFULLY REMOVED FROM CUSTODY <i>(Section 113 of the Welfare of Children Ordinance, 2008)</i>
In the matter between: APPLICANT: and RESPONDENT:
To
I (Name) of (Address)..... (a) on behalf of the Public Health and Social Services Department*; or (b) on my own behalf being the person from whose actual custody the child mentioned below has been or is about to be removed in breach of section 111 or 112 of the Ordinance*, hereby apply for an order to direct Respondent to return such child to, or refrain from removing such child from, the actual custody of: (Name)..... of (Address) (Name of Child) The accompanying statement(s) made by and are attached in support of the application. (*Delete whichever is not applicable)
Dated this, 20.....
_____ (Signature) Applicant

FORM Q
APPLICATION FOR ORDER FOR REMOVAL OF PROTECTED CHILD FROM UNSUITABLE SURROUNDINGS
<i>(Section 116 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY on behalf of the Public Health and Social Services Department for an order for the removal of (Name of Child) to the care of the Department until he can be restored to a parent, relative or guardian of his or other arrangements can be made with respect to such child. I am satisfied on the grounds set out in the accompanying statement(s) made by and that such child is a protected child and that he/she is being kept or is about to be received— (a) by a person who is unfit to have his care; or (b) in any premises or any environment detrimental or likely to be detrimental to him.
Dated this, 20.....
_____ (Signature) Applicant

FORM R
APPLICATION FOR ATTACHMENT OF EARNINGS ORDER <i>(Sections 151 and 152 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... APPLY for an order directing (Name of employer)..... who is the employer of (Name of payer)..... (a) to make periodical deductions from the payer's earnings in accordance with the payment order; and (b) to pay the amounts deducted to the Clerk of the Peace. A payment order was made under the Ordinance against the payer on (Date)..... in respect of (Name of Child) of (Address) The number of periodical deductions and amount of payment requested are as follows:
Dated this, 20.....
_____ (Signature) Applicant.

FORM S
APPLICATION FOR SEARCH WARRANT <i>(Section 162 of the Welfare of Children Ordinance, 2008)</i>
To
I (Name) of (Address)..... hereby apply for a search warrant to be issued in respect of: (Name of Child)..... of (Address)..... and authorising any constable to assist in the exercise of— (a) the powers under the emergency protection order granted on (Date).....; or (b) the powers under section 100, and that such constable may use reasonable force if necessary. I am satisfied on the grounds set out in the accompanying statement(s) made by and that the person attempting to exercise such powers has been or is likely to be prevented from doing so by being refused entry to premises or refused access to such child.
Dated this, 20..... .

FORM T	
WARRANT TO SEARCH FOR CHILD <i>(Section 162 of the Welfare of Children Ordinance, 2008)</i>	
To the Chief of Police ¹⁸ and to each and every Constable:	
Whereas it appears to me, a Justice of the Peace for St. Helena, on information on oath laid by ^(a) that there is reasonable cause to suspect that ^(b) who is attempting to exercise powers under an emergency protection order or a power under section 100, has been or is likely to be prevented from doing so by being refused entry to premises or refused access to a child, I hereby authorising you to assist such person in the exercise of those powers, using reasonable force if necessary. *And you are further authorised to enter, if need be by force, the premises situated at ^(c) and to search for ^(d) and to remove him/her therefrom. *And I direct that you be accompanied during the search by ^(e), a duly qualified medical practitioner. *(Delete if not required)	
And for so doing this shall be your Warrant.	
Given under my hand this day of, 20..... .	
Justice of the Peace.	
(a)	Insert name of informant.
(b)	Insert name of person attempting to exercise powers.
(c)	Insert particulars of the premises to be searched.
(d)	Insert name of child, if known.
(e)	Insert designation or name of medical practitioner.
*	Delete if not required.

¹⁸ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

FORM U
APPLICATION FOR STOP ORDER <i>(Section 164 of the Welfare of Children Ordinance, 2008)</i>
In the matter between: APPLICANT: and RESPONDENT:
To
I (Name) of (Address)..... (a) on behalf of the Public Health and Social Services Department*; or (b) being a relative or step parent of the child named below *, hereby apply for an order forbidding the Respondent who has the parental responsibility for the child from leaving the Island without the court's consent. (Name of Child) The accompanying statement(s) made by and are attached in support of the application. (*Delete whichever is not applicable)
Dated this, 20.....
_____ (Signature) Applicant

FORM V
APPLICATION FOR ORDER FOR FINANCIAL PROVISION IN RESPECT OF CHILD <i>(Schedule 1 of the Welfare of Children Ordinance, 2008)</i>
Between: APPLICANT: and RESPONDENT:
To
I (Name) of (Address)..... APPLY for the following order for financial provision against the Respondent in respect of (Name of Child) of (Address) Details of order for financial provision applied for: The grounds for this application are set out in the accompanying statement(s) made by..... and
Dated this, 20.....
_____ (Signature) Applicant.

FORM W
APPLICATION FOR CONTRIBUTION ORDER <i>(Schedule 3 of the Welfare of Children Ordinance, 2008)</i>
Between: APPLICANT: and RESPONDENT:
To
I (Name) of (Address)..... APPLY for a contribution order against the Respondent in respect of (Name of Child) of (Address) The Respondent was served with a contribution notice on (Date) and has— (a) failed to reach any agreement with the Department as mentioned in paragraph 2(6) of Schedule 3 of the Ordinance within the period of one month beginning with the day on which the contribution notice was served; or (b) served a notice under paragraph 2(7) of Schedule 3 withdrawing his agreement, as set out in the accompanying statement(s) made by..... and Details of contribution order applied for:
Dated this, 20.....
_____ (Signature) Applicant.

MAGISTRATES' COURT (FEES) RULES

(Legal Notice 11A of 1984 and Rules made 22/11/2000 and LN 3/2001, 21/2008 and 7/2015)

In exercise of the powers conferred upon the Chief Justice by section 2 of the Courts (Rules) Ordinance, the following rules are hereby made—

Short title

1. These rules may be cited as the Magistrates' Court (Fees) Rules.

Fees payable in civil proceedings

2. The fees payable in respect of actions and other matters within the civil jurisdiction of the Magistrates' Court shall be those set out in items 1 and 2 of the Schedule to these rules.

Fees for copies, etc

3. The fees payable for copies and the certification of copies of the proceedings, or any part of the proceedings, in civil and criminal matters or of other documents in the custody of the Magistrates' Court shall be those set out in items 3 and 4 of the Schedule:

Provided that no fees shall be payable for copies of proceedings furnished under section 249(1) of the Criminal Procedure Ordinance to appellants and respondents.

SCHEDULE¹⁹

1. On instituting an action—	£
(a) Claim for small debt up to £200	5.00
(b) Claim up to £1,000	10.00
(c) Claim over £1,000	20.00
2. On applying for execution.....	15.00
3. For making copies (per page).....	1.00
4. For providing certified copies (per page).....	5.00

¹⁹ Schedule substituted by L.N. 21/2008 and L.N. 7/2015

SOUND RECORDINGS RULES

(Legal Notice 13 of 1989)

Rules of court made by the Chief Justice in exercise of the powers conferred upon him by section 2 of the Courts (Rules) Ordinance.

Short title

1. These rules of court may be cited as the Sound Recordings Rules.

Summary to be kept

2. When in a criminal trial or inquiry in the Magistrates' Court a sound recording is being made of the oral evidence, in accordance with section 140(4)(b) of the Criminal Procedure Ordinance (hereinafter in these rules referred to as the Ordinance), the presiding magistrate shall ensure that, in addition, there is kept a record of the names of the witnesses, with a summary, in narrative form, of the evidence given by each.

Procedure in case of power failure, etc

3. (1) If, during any such trial or inquiry, the sound recording is interrupted by a power failure, mechanical breakdown or other cause, the person making the summary referred to in rule 2 shall desist from making such summary and shall instead begin recording the evidence in accordance with section 140(4)(a) of the Ordinance.

(2) If it appears that some part of the evidence has not been recorded because such failure, breakdown or other cause was not immediately detected, the witness or witnesses whose evidence has been lost shall be recalled.

Transcripts for the purpose of appeal

4. (1) Where, following a trial at which sound recording was used, a petition of appeal is lodged with the Registrar under section 245(1) of the Ordinance, the Registrar shall cause a transcript to be made of the recording and after satisfying himself that it is correct, he shall certify it.

(2) A transcript so made and certified shall be deemed to be a copy of the proceedings for the purposes of section 249(1) of the Ordinance.

Other transcripts

5. Any person may require a transcript of any proceedings held in open court on payment of the prescribed charges.

Audition of sound recordings

6. (1) Any person who has the right to appeal against the decision of the Magistrates' Court in any criminal trial or inquiry, or his advocate or lay advocate, may require the sound recording of the evidence given in such proceeding, or any part thereof, to be played over in his hearing.

(2) Any person on whom a transcript of the sound recording made during a trial or inquiry has been served under section 249(1) of the Ordinance or who has required such transcript under rule 5, may require the recording to be played over in his hearing.

(3) An application for a sound recording to be played over shall be in writing, addressed to the Clerk to the Court, and the applicant shall deposit such sum towards the prescribed fee as the clerk may determine.

(4) The balance of the fee shall become payable when the playing of the recording has been completed:

Provided that where, on the playing over of a recording in response to a requirement made under subsection (2), it appears that the transcript was incorrect in some material particular, no fee shall be payable and any deposit made shall be refunded.

COURTS (CHARITIES) RULES – SECTION 2

(Legal Notice 1 of 2015)

Citation

1. These Rules may be cited as the Courts (Charities) Rules, 2015.

Time for noting appeal

2. Any person or organisation aggrieved by a decision of the Charity Commission of St Helena either refusing to register an organisation under section 7 of the Charities Ordinance, 2005, or cancelling the registration of an organisation under section 8 of that Ordinance, may appeal to the Supreme Court within 28 days of the date when the Commission made the decision.

Form of notice of appeal

3. (1) An appeal against any decision of the Commission shall be made on notice in the form prescribed in Form A in the Schedule to these Rules.

(2) The notice shall be supported by affidavit setting out the grounds for the appeal and all facts and matters relied upon in support thereof.

Lodging and service of notice

4. The notice and affidavit in support shall be lodged with the Registrar of the Supreme Court and shall be served upon the Chairman of the Commission and all other parties or organisations interested in the appeal.

Response to affidavit

5. Any affidavit in response to the Appellant's affidavit shall be lodged with the Registrar of the Supreme Court and served upon the Appellant and all other parties or organisations within 28 days thereafter.

Determination of appeal

6. For the purposes of determining an appeal the Supreme Court may do so upon a consideration of such affidavits as have been served alone or in the Court's discretion after a hearing.

Leave to appeal out of time

7. (1) If a person or organisation aggrieved by a decision fails to lodge and to serve a notice of appeal within the 28 days stipulated therefor, the person or organisation may nevertheless apply to the Supreme Court for leave to appeal out of time.

(2) Any application for leave to appeal out of time shall be made on notice and shall be supported by an affidavit setting out the reasons for the failure to lodge and to serve the notice of appeal within the 28 days stipulated therefor and the grounds of appeal and all facts and matters relied upon in support thereof.

This e-version of the text is not authoritative for use in court.

(3) An application for leave to appeal shall be lodged with the Court and shall be served upon the Chairman of the Commission and any other person or organisation interested in the appeal.

(4) Any affidavit in response to the application for leave to appeal out of time shall be served within 14 days of the date of service of the application.

(5) For the purposes of determining an application for leave to appeal out of time, the Court may do so upon a consideration only of the affidavits served in connection therewith, or in the Court's discretion after a hearing.

SCHEDULE

FORM A
NOTICE OF APPEAL
<i>(Section 9 of the Charities Ordinance, 2005)</i>
To
TAKE NOTICE that <i>(Name)</i> of <i>(Address)</i> appeals against the decision of the Charities Commission dated the day of 20... and that the grounds of the appeal are set out in the affidavit sworn by and annexed hereto.
_____ Signed